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**Reader Aids**
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

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# Rules and Regulations

Federal Register

Vol. 66, No. 164

Thursday, August 23, 2001

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

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

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

### 7 CFR Part 20

**RIN 0551–AA51**

### Export Sales Reporting Requirements

**AGENCY:** Office of the Secretary, USDA.

**ACTION:** Delay of the effective date.

**SUMMARY:** On July 25, 2001, USDA published a final rule in the **Federal Register** (66 FR 38526–38528) amending the Export Sales Reporting Requirements Regulation (7 CFR part 20) to add fresh, chilled, or frozen muscle cuts of beef to such regulation, effective August 24, 2001. At that time, USDA believed the current reporting system used for all other agricultural commodities covered by the regulation would require only minor modifications to accommodate beef reporting. The desired changes, however, are more extensive than originally anticipated, and USDA is not fully prepared to begin accepting and reporting export sales of beef. The delay of the effective date would provide USDA the additional time needed to modify and test its reporting system and develop detailed reporting instructions for the reporting entities. This notice advises the public the effective date of the final rule will be delayed.

**DATES:** The effective date of the amendment to 7 CFR part 20 published at 66 FR 38526–38528 has been delayed to January 11, 2002.

**FOR FURTHER INFORMATION CONTACT:** Denise Huttenlocker, Director, Marketing Operations Staff, Foreign Agricultural Service, 1400 Independence Avenue SW., Stop 1042, U.S. Department of Agriculture, Washington, DC 20250–1021, or telephone at 202–720–4327, or e-mail at HuttenlockerD@fas.usda.gov.

Signed at Washington, DC on August 21, 2001.

**Mattie R. Sharpless,**

*Acting Administrator, Foreign Agricultural Service.*

[FR Doc. 01–21422 Filed 8–22–01; 8:45 am]

BILLING CODE 3410–10–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 2001–NM–257–AD; Amendment 39–12385; AD 2001–16–16]**

**RIN 2120–AA64**

### Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A330 and A340 series airplanes. This action requires a one-time inspection to detect cracking of the bogie beams of the main landing gear (MLG), and follow-on actions, if necessary. This action is necessary to detect and correct cracking of the MLG bogie beams, which could result in failure of the beams and consequent loss of the landing gear wheels and brakes, and structural damage to the MLG strut and airframe. This action is intended to address the identified unsafe condition.

**DATES:** Effective September 7, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–257–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–257–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A330 and A340 series airplanes. The DGAC advises that, during a C-check on a Model A330 series airplane, a crack was discovered in the upper part of the left-hand bogie beam of the main landing gear (MLG), in the area of the forward bogie stop pad. The crack was 120 mm (6 inches) long and 12 mm (0.4 inch) deep, and extended longitudinally along the bogie, underneath the stop pad. The airplane had accumulated a total of approximately 10,000 flight hours and 6,000 flight cycles.

The retraction link on that MLG had previously failed, leading to an undamped extension of the MLG. The failure occurred approximately 1,000 flight cycles and 11 months before the crack was discovered in the bogie beam. Analysis has shown that, due to the retraction link failure, loading in this area of the bogie is significantly greater than normally expected. Detailed analysis has not identified any other situation in which the load would cause such damage.

There have been four in-service retraction link failures. In two cases, the

affected landing gears were replaced. There was a similar visible crack discovered on one of the bogies, which was installed on an airplane that had accumulated approximately 16,000 total flight hours and 7,000 total flight cycles. Another was put in storage following the retraction failure and was subsequently inspected, revealing a crack. Inspection of a number of spare bogies that had been removed from service and had not been involved in retraction link failure incidents has revealed no similar cracks. It should be noted, however, that no proven connection has been made between failure of the retraction links and cracking in the bogie beams.

Cracking of the MLG bogie beam could result in failure of the beam and consequent loss of the landing gear wheels and brakes, and structural damage to the MLG strut and airframe.

**Explanation of Relevant Service Information**

Airbus has issued All Operators Telex (AOT) A330–32A3137, dated July 19, 2001; and AOT A340–32A4174, dated July 19, 2001. The AOTs describe procedures for a one-time visual inspection to detect cracking of the bogie beams of the MLG, in the area around the bogie stop pad. The AOTs also describe procedures for follow-on actions for certain conditions, if necessary. The DGAC classified these AOTs as mandatory and issued French telegraphic airworthiness directive T2001–320(B), dated July 20, 2001, to ensure the continued airworthiness of these airplanes in France.

**FAA's Conclusions**

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

**Explanation of Requirements of Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to detect and correct cracking of the MLG bogie beams, which could result in failure of the beams and consequent loss of the landing gear wheels and brakes, and structural damage to the MLG strut and airframe. This AD requires accomplishment of the actions specified in the AOTs described previously, except as discussed below.

**Difference Between AD and AOTs**

Although the AOTs specify that the manufacturer may be contacted for disposition of certain inspection findings, this AD requires follow-on actions to be accomplished in accordance with a method approved by either the FAA or the DGAC (or its delegated agent).

**Interim Action**

This is considered to be interim action. The manufacturer has indicated its intent to investigate the cracked MLG bogie beams and any additional findings to confirm the cause of the cracking. If final action is developed in the future to address the identified unsafe condition, the FAA may consider further rulemaking.

**Determination of Rule's Effective Date**

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

**Comments Invited**

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket 2001–NM–257–AD.'' The postcard will be date stamped and returned to the commenter.

**Regulatory Impact**

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

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

**List of Subjects in 14 CFR Part 39**

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

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation

Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2001–16–16 **Airbus Industrie:** Amendment 39–12385. Docket 2001–NM–257–AD.

*Applicability:* All Model A330 and A340 series airplanes, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To detect and correct cracking of the bogie beams of the main landing gear (MLG), which could result in failure of the beams and consequent loss of the landing gear wheels and brakes, and structural damage to the MLG strut and airframe, accomplish the following:

**Inspection**

(a) Within 14 days or 50 flight cycles after the effective date of this AD, whichever occurs first: Perform a one-time general visual inspection to detect cracking of both MLG bogie beams, in accordance with Airbus All Operators Telex (AOT) A330–32A3137 (for Model A330 series airplanes) or A340–32A4174 (for Model A340 series airplanes), both dated July 19, 2001.

(1) If any cracking of the base metal is detected, prior to further flight, replace the bogie beam assembly with a new assembly, in accordance with the AOT.

(2) If any cracking is detected, but it is not possible to determine whether the crack is in the base metal, or only in the paint finish and/or sealant: Prior to further flight, perform follow-on actions in accordance with a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the Direction Générale de l'Aviation Civile (DGAC) (or its delegated agent).

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

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

**Incorporation by Reference**

(d) Except as required by paragraph (a)(2) of this AD: The actions shall be done in accordance with Airbus All Operators Telex A330–32A3137, dated July 19, 2001; or Airbus All Operators Telex A340–32A4174, dated July 19, 2001; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 4:** The subject of this AD is addressed in French telegraphic airworthiness directive T2001–320(B), dated July 20, 2001.

**Effective Date**

(e) This amendment becomes effective on September 7, 2001.

Issued in Renton, Washington, on August 15, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21105 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–223–AD; Amendment 39–12384; AD 2001–16–15]**

**RIN 2120–AA64**

## Airworthiness Directives; BAe Systems (Operations) Limited Model Avro 146–RJ85A and 146–RJ100A Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain BAe Systems (Operations) Limited Model Avro 146–RJ85A and 146–RJ100A series airplanes. This action requires replacement of bolts in the wing rear spar at the center fuel tank. This action is prompted by mandatory continuing airworthiness information from a foreign civil airworthiness authority. This action is necessary to prevent the failure of bolts in the wing rear spar at the center fuel tank, which could result in reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Effective September 7, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–223–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–223–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from British

Aerospace Regional Aircraft American Support, 13850 Mclearan Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, Renton, Washington; telephone (425) 227–1175; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain BAe Systems (Operations) Limited Model Avro 146–RJ85A and 146–RJ100A series airplanes. The CAA advises that it has received a manufacturer's quality alert which identifies batches of bolts which possibly are of low strength. These bolts are on the wing rear spar at the center fuel tank. This condition, if not corrected, could lead to failure of the bolts on the wing rear spar at the center fuel tank, which could result in reduced structural integrity of the airplane.

## Explanation of Relevant Service Information

BAe Systems (Operations) Limited has issued Inspection Service Bulletin ISB.57–064, dated March 8, 2001, which describes procedures for replacement of 8 bolts (4 on the left and 4 on the right side) on the wing rear spar at the center fuel tank with new bolts. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 004–03–2001, in order to assure the continued airworthiness of these airplanes in Great Britain.

## FAA's Conclusions

These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

## Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent failure of the bolts on the wing rear spar at the center fuel tank. This AD requires replacement of 8 bolts on the wing rear spar at the center fuel tank. The actions are required to be accomplished in accordance with the service bulletin described previously.

## Cost Impact

None of the Model Avro 146–RJ85A and 146–RJ100A series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 3 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $180 per airplane.

## Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

## Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–223–AD.'' The postcard will be date stamped and returned to the commenter.

## Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules

Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2001–16–15 BAE Systems (Operations) Limited (Formerly British Aerospace Regional Aircraft):** Amendment 39–12384. Docket 2001–NM–223–AD.

*Applicability:* Model Avro 146–RJ85A series airplanes, serial numbers E2302, E2303, E2304, E2305, and E2306; and Avro 146–RJ100A series airplanes, serial number E3301; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent failure of the bolts in the wing rear spar at the center fuel tank, which could result in reduced structural integrity of the airplane, accomplish the following:

**Replacement**

(a) At the next internal access of the center fuel tank but no later than 4,000 flight cycles after the effective date of this AD: Replace the 8 bolts in the wing rear spar at the center fuel tank with new bolts, in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.57–064, dated March 8, 2001.

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Manager, International Branch.

**Special Flight Permits**

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

**Incorporation by Reference**

(d) The replacement shall be done in accordance with BAe Systems (Operations) Limited Inspection Service Bulletin ISB.57–064, dated March 8, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in British airworthiness directive 004–03–2001.

**Effective Date**

(e) This amendment becomes effective on September 7, 2001.

Issued in Renton, Washington, on August 15, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21104 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–70–AD; Amendment 39–12382; AD 2001–16–13]**

**RIN 2120–AA64**

## Airworthiness Directives; Airbus Model A330 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Model A330 series airplanes. This action requires a one-time roto-test inspection of fastener holes of certain fuselage joints for cracks and reinforcement of the fuselage between frames 31 and 37.1. If cracks are detected, this action requires a follow-up high frequency eddy current (HFEC) inspection and repair. This action is necessary to prevent fatigue cracking of the fuselage longitudinal buttstrap, which could result in reduced structural integrity of the fuselage. This action is intended to address the identified unsafe condition.

**DATES:** Effective September 7, 2001.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket Number 2001–NM–70–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–70–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Dan Rodina, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:** The Direction Generale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA

that an unsafe condition may exist on certain Airbus Model A330 series airplanes. The DGAC advises that during fatigue testing on the fuselage, cracks were detected in the longitudinal buttstrap at stringer 9 after 60,051 simulated flights, at frame 31 after 87,876 simulated flights, and at frame 37.1 after 69,570 simulated flights. This condition, if not corrected, could result in propagation of existing cracks and initiation of additional cracks of the fuselage longitudinal buttstrap, which could result in reduced structural integrity of the airplane.

**Explanation of Relevant Service Information**

Airbus Industrie has issued Service Bulletin A330–53–3090, Revision 02, dated January 9, 2001, which describes procedures for a one-time roto-test inspection for cracks at fastener holes of the affected fuselage joints and installation of additional doublers and wedges to reinforce the circumferential joint at frames 31/37.1 and of the longitudinal joint at stringer 9 on both the left-hand and right-hand sides. If cracks are detected by the roto-test inspection, the service bulletin also describes procedures for an additional high frequency eddy current (HFEC) inspection to determine the length of the cracks. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 2001–075(B), dated March 7, 2001, in order to assure the continued airworthiness of these airplanes in France.

**FAA's Conclusions**

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

**Explanation of Requirements of the Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design that may be registered in the United States at some time in the future, this AD is being issued to prevent fatigue cracking of the fuselage longitudinal buttstrap, which could result in reduced structural integrity of the fuselage. This AD requires a roto-test inspection of fastener holes of certain fuselage joints for cracks and reinforcement of the fuselage structure between frames 31 and 37.1. If cracks are detected, this action requires a follow-up HFEC inspection and corrective action. The actions are required to be accomplished in accordance with the service bulletin described previously, except as described below.

**Differences Between Proposed Rule and Foreign Airworthiness Directive**

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for instructions regarding repair of cracks, this AD requires the repair of cracks to be accomplished per a method approved by either the FAA, or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this AD, a repair method approved by either the FAA or the DGAC would be acceptable for compliance with this AD.

**Cost Impact**

None of the Model A330 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 321 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. The cost of required parts is approximately $6,187. Based on these figures, the cost impact of this AD would be $25,447 per airplane.

**Determination of Rule's Effective Date**

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register**.

**Comments Invited**

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001-NM–70-AD.'' The postcard will be date stamped and returned to the commenter.

**Regulatory Impact**

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

For the reasons discussed above, I certify that this action (1) is not a

''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

### List of Subjects in 14 CFR Part 39

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

### Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2001–16–13 Airbus Industrie:** Amendment 39–12382. Docket 2001–NM–70–AD.

*Applicability:* Model A330 airplanes, serial numbers 301, 321, 322, 323, 341, 342, and 343, certificated in any category; except airplanes on which Airbus Industrie Modification 46636 has been accomplished in production or which have been modified in service in accordance with Airbus Service Bulletin A330–53–3090, dated March 9, 1999; Revision 01, dated July 6, 1999; or Revision 02, dated January 9, 2001.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the fuselage longitudinal buttstrap, which could result in reduced structural integrity of the fuselage, accomplish the following:

**Inspection**

(a) Prior to the accumulation of 15,000 total flight cycles: Perform a roto-test inspection to detect cracks of the fastener holes at frame 31, frame 37.1, and stringer 9, in accordance with Airbus Service Bulletin A330–53–3090, Revision 02, dated January 9, 2001.

**Reinforcement**

(b) If no cracks are detected during the inspection performed in accordance with paragraph (a) of this AD, prior to further flight, reinforce the fuselage structure between frames 31 and 37.1, in accordance with Airbus Service Bulletin A330–53–3090, Revision 02, dated January 9, 2001.

**Follow-up Inspection**

(c) If any crack is detected during the inspection performed in accordance with paragraph (a) of this AD, prior to further flight, perform a high frequency eddy current (HFEC) inspection to determine the crack length, in accordance with Airbus Service Bulletin A330–53–3090, Revision 02, dated January 9, 2001. Prior to further flight, repair the crack in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Generale de l'Aviation Civile (or its delegated agent).

**Alternative Methods of Compliance**

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

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

**Incorporation by Reference**

(f) Except as required by paragraph (c) of this AD, the actions shall be done in accordance with Airbus Service Bulletin A330–53–3090, Revision 02, dated January 9, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

**Note 3:** The subject of this AD is addressed in French airworthiness directive 2001–075(B), dated March 17, 2001.

### Effective Date

(g) This amendment becomes effective on September 7, 2001.

Issued in Renton, Washington, on August 15, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21103 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NE–15–AD; Amendment 39–12405; AD 2001–17–14]**

**RIN 2120–AA64**

## Airworthiness Directives; CFM International CFM56 Series Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD) that is applicable to CFM International (CFMI) CFM56–5C4/1 series turbofan engines. This action requires that the LPT conical support, P/N 337–002–407–0, installed in CFM56–5C4/1 engines, be removed from service at or before reaching the cyclic life limit of 9,350 cycles-since-new (CSN). This amendment is prompted by the discovery of an error in the Time Limits Section of Chapter 5 of the CFM56–5C Engine Shop Manual. The manual incorrectly lists the published cyclic life limit of the CFMI CFM56–5C4/1 LPT conical support, (P/N) 337–002–407–0, as 15,000 CSN, rather than the certified value of 9,350 CSN. The actions specified in this AD are intended to prevent LPT conical supports from remaining in service beyond their certified cyclic life limit, which could result in an uncontained engine failure and damage to the airplane.

**DATES:** Effective September 7, 2001.

Comments for inclusion in the Rules Docket must be received on or before October 22, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation

Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 2001–NE–15–AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9–ane–adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Diane Cook, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7133; fax (781) 238–7199.

**SUPPLEMENTARY INFORMATION:** The FAA has been informed by CFMI that the cyclic life limit of the CFM56–5C4/1 Low Pressure Turbine (LPT) conical support, P/N 337–002–407–0, published in the Time Limits Section of Chapter 5 of the CFM56–5C Engine Shop Manual is incorrect, and will be corrected at the next revision to the manual. The incorrect published cyclic life reads 15,000 cycles since new (CSN) instead of the certified value of 9,350 CSN. This condition, if not corrected, could result in the LPT conical support remaining in service beyond its certified cyclic life limit, which could result in an uncontained engine failure and damage to the airplane. Currently, the CFMI fleet has not incorporated LPT Conical Support, P/N 337–002–407–0, into any of the CFM56–5C4/1 engines. Therefore, this AD will not result in any economic impact on the U.S. operators. However, as the operators convert CMF56–5C engines into different model configurations, there is a potential that LPT Conical Support, P/N 337–002–407–0, will be installed in the CFM56–5C4/1 engine model.

## FAA's Determination of An Unsafe Condition and Proposed Actions

Although this affected engine model is not used on any airplanes that are registered in the United States, the possibility exists this engine model could be used on airplanes that are registered in the United States in the future. This AD reestablishes the certified cyclic life limit for LPT conical support P/N 337–002–407–0, by requiring the replacement of LPT conical support P/N 337–002–407–0, at or before accumulating 9,350 CSN. This AD is being issued to prevent LPT conical supports from remaining in service beyond their certified cyclic life limit, which could result in an uncontained engine failure and damage to the airplane.

## Immediate Adoption of This AD

Since there are no domestic operators of this engine model, notice and opportunity for prior public comment are unnecessary. Therefore, a situation exists that allows the immediate adoption of this regulation.

## Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NE–15–AD.'' The postcard will be date stamped and returned to the commenter.

## Regulatory Impact

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**2001–17–14 CFM International:** Amendment 39–12405. Docket 2001–NE–15–AD.

### Applicability

This airworthiness directive (AD) is applicable to CFM International (CFMI) CFM56–5C4/1 series turbofan engines with low pressure turbine (LPT) conical support, part number (P/N) 337–002–407–0, installed. These engines are installed on, but not limited to Airbus Industrie A320 series airplanes.

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

been eliminated, the request should include specific proposed actions to address it.

**Compliance**

Compliance with this AD is required as indicated.

To prevent an LPT conical support from remaining in service beyond its certified cyclic life limit, which could result in an uncontained engine failure and damage to the airplane, accomplish the following:

(a) Remove LPT conical support, P/N 337–002–407–0, at or before accumulating 9,350 cycles-since-new (CSN) and replace with a serviceable part.

(b) After the effective date of this AD, do not install any LPT conical support, P/N 337–002–407–0 with 9,350 CSN or greater, into CFM56–5C4/1 model engines.

(c) This AD reestablishes the certified cyclic life limit for LPT conical support, P/N 337–002–407–0, which was published incorrectly in the Time Limits Section of Chapter 5 of the CFM56–5C Engine Shop Manual. This Manual will be revised to correct this error. Thereafter, except as provided in paragraph (d) of this AD, no alternative cyclic retirement life limits may be approved for LPT conical support, P/N 337–002–407–0.

**Alternative Methods of Compliance**

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

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

**Effective Date of This AD**

(e) This amendment becomes effective on September 7, 2001.

Issued in Burlington, Massachusetts, on August 15, 2001.

**Jay J. Pardee,**

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

[FR Doc. 01–21221 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 97

**[Docket No. 30265; Amdt. No. 2066]**

## Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matter incorporated by reference in the amendment is as follows:

*For Examination*—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

*For Purchase*—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200). FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:** Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

**The Rule**

This amendment to part 97 of the Federal Aviation Regulations (14 CFR pat 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPS contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the

close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

**Conclusion**

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

**List of Subjects in 14 CFR Part 97**

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on August 17, 2001.

**Nicholas A. Sabatini,**

*Director, Flight Standards Service.*

**Adoption of the Amendment**

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

**Authority:** 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

**§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, AND 97.35— [Amended]**

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective upon Publication*

| FDC Date | State | City | Airport | FDC No. | Subject |
|---|---|---|---|---|---|
| 07/24/01 | NM | Albuquerque | Albuquerque Intl Sunport | 1/7485 | ILS Rwy 3, Orig–C |
| 07/30/01 | LA | Ryan Field | Baton Rouge Metropolitan | 1/7666 | ILS Rwy 13, Amdt 26 |
| 07/30/01 | LA | Baton Rouge | Baton Rouge Metropolitan | 1/7666 | ILS Rwy 13, Amdt 26 |
| 08/01/01 | TX | Fort Worth | Fort Worth Alliance | 1/7760 | RNAV (GPS) Rwy 34R, Orig |
| 08/01/01 | TX | Fort Worth | Fort Worth Alliance | 1/7761 | RNAV (GPS) Rwy 16L, Orig |
| 08/01/01 | TX | Fort Worth | Fort Worth Alliance | 1/7768 | ILS Rwy 34R, Amdt 4 |
| 08/01/01 | TX | Fort Worth | Fort Worth Alliance | 1/7769 | ILS Rwy 16L, Amdt 5 |
| 08/02/01 | WI | Oshkosh | Wittman Regional | 1/7800 | LOC/DME BC Rwy 18, Amdt 6A |
| 08/02/01 | WV | Charleston | Yeager | 1/7841 | ILS Rwy 23, Amdt 28 |
| 08/02/01 | WV | Charleston | Yeager | 1/7843 | VOR or GPS–A, Amdt 12 |
| 08/03/01 | IL | Mount Vernon | Mount Vernon | 1/7866 | VOR Rwy 5, Amdt 16A |
| 08/03/01 | MI | Manistee | Manistee County-Blacker | 1/7869 | ILS Rwy, Orig |
| 08/03/01 | OK | Oklahoma City | Will Rogers World | 1/7878 | NDB Rwy 17R, Amdt 24A |
| 08/06/01 | CA | Sacramento | Sacramento Mather | 1/7945 | VOR or GPS Rwy 4R, Orig–B |
| 08/06/01 | CA | Sacramento | Sacramento Mather | 1/7950 | ILS Rwy 22L, Amdt 1A |
| 08/06/01 | MD | Churchville | Harford County | 1/7952 | GPS Rwy 10, Orig |
| 08/06/01 | MD | Churchville | Harford County | 1/7953 | VOR/DME–A, Amdt 1 |
| 08/06/01 | NV | Las Vegas | Las Vegas/McCarran Intl | 1/7969 | VOR/DME–A, Orig–A |
| 08/06/01 | UT | Provo | Provo Muni | 1/7971 | GPS Rwy 13, Orig |
| 08/06/01 | UT | Provo | Provo Muni | 1/7972 | VOR Rwy 13, Amdt 2 |
| 08/06/01 | WV | Charleston | Yeager | 1/7975 | ILS Rwy 5, Amdt 4A |
| 08/06/01 | WV | Charleston | Yeager | 1/7976 | VOR/DME RNAV or GPS Rwy 33, Amdt 2 |
| 08/06/01 | WV | Charleston | Yeager | 1/7977 | VOR/DME RNAV or GPS Rwy 15, Amdt 2 |
| 08/07/01 | WA | Hoquiam | Bowerman | 1/8001 | VOR or GPS Rwy 6, Amdt 14 |
| 08/07/01 | WA | Hoquiam | Bowerman | 1/8002 | ILS/DME Rwy 24, Amdt 1 |
| 08/07/01 | WA | Hoquiam | Bowerman | 1/8003 | VOR/DME or GPS Rwy 24, Amdt 5 |
| 08/07/01 | IL | Salem | Salem-Leckrone | 1/8012 | RNAV (GPS) Rwy 18, Orig |
| 08/07/01 | IL | Salem | Salem-Leckrone | 1/8013 | RNAV (GPS) Rwy 36, Orig |
| 08/07/01 | IL | Salem | Salem-Leckrone | 1/8014 | NDB Rwy 18, Amdt 10 |
| 08/08/01 | SC | Myrtle Beach | Myrtle Beach Intl | 1/8042 | ILS Rwy 17, Amdt 1B |
| 08/08/01 | SC | Myrtle Beach | Myrtle Beach Intl | 1/8043 | ILS Rwy 35, Amdt 1A |
| 08/08/01 | SC | Myrtle Beach | Myrtle Beach Intl | 1/8044 | VOR/DME or GPS–A, Orig–A |
| 08/08/01 | SC | Myrtle Beach | Myrtle Beach Intl | 1/8045 | RNAV (GPS) Rwy 17, Orig–B |
| 08/08/01 | SC | Myrtle Beach | Myrtle Beach Intl | 1/8046 | RNAV (GPS) Rwy 35, Orig–A |
| 08/08/01 | SC | Myrtle Beach | Myrtle Beach Intl | 1/8047 | Radar–1, Orig–B |
| 08/08/01 | NE | Scribner | Scribner State | 1/8059 | VOR Rwy 35, Amdt 1 |
| 08/08/01 | NE | Freemont | Freemont Muni | 1/8060 | VOR Rwy 13, Orig–C |
| 08/08/01 | IA | Ottumwa | Ottumwa Industrial | 1/8071 | LOC/DME BC Rwy 13, Amdt 3 |
| 08/09/01 | IL | Mattoon-Charleston | Coles County Memorial | 1/8079 | VOR or GPS Rwy 24, Amdt 10C |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8089 | GPS Rwy 16, Orig–A |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8090 | VOR/DME Rwy 16, Amdt 4A |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8091 | VOR/DME Rwy 34, Amdt 5B |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8092 | VOR or GPS Rwy 34, Amdt 4A |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8093 | VOR Rwy 5R, Amdt 13B |

| FDC Date | State | City | Airport | FDC No. | Subject |
|---|---|---|---|---|---|
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8094 | NDB Rwy 5R, Amdt 15B |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8095 | ILS Rwy 23L, Amdt 4A |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8096 | VOR/DME or GPS Rwy 23L, Amdt 6C |
| 08/09/01 | RI | Providence | Theodore Francis Green State | 1/8097 | ILS/DME Rwy 34, Amdt 9A |
| 08/09/01 | PR | Aguadilla | Rafael Hernandez | 1/8104 | VOR/DME Rwy 8, Amdt 1 |
| 08/09/01 | PR | Aguadilla | Rafael Hernandez | 1/8105 | VOR Rwy 8, Amdt 5A |
| 08/09/01 | OR | Eugene | Mahlon Sweet Field | 1/8107 | VOR/DME or TACAN Rwy 16, Amdt 4A |
| 08/09/01 | GA | Columbus | Columbus Metropolitan | 1/8113 | ILS Rwy 5, Amdt 24A |
| 08/09/01 | CA | Sacramento | Sacramento Mather | 1/8122 | VOR/DME or GPS Rwy 22L, Orig–B |
| 08/10/01 | IL | Greenwood/Wonder Lake | Galt Field | 1/8168 | RNAV (GPS)–B, Orig |
| 08/10/01 | TX | Waco | McGregor Executive | 1/8169 | VOR Rwy 17, Amdt 10 |
| 08/10/01 | TX | Waco | McGregor Executive | 1/8171 | Radar–1, Amdt 1 |
| 08/13/01 | TX | Fort Worth | Fort Worth Spinks | 1/8281 | VOR/DME RNAV Rwy 35L, Orig–A |
| 08/13/01 | TX | Fort Worth | Dallas-Fort Worth Intl | 1/8289 | ILS Rwy 17R, Amdt 20 |
| 08/13/01 | TX | Fort Worth | Dallas-Fort Worth Intl | 1/8290 | Converging ILS Rwy 17R, Amdt 6 |
| 08/13/01 | TX | Fort Worth | Dallas-Fort Worth Intl | 1/8291 | Converging ILS Rwy 35L, Amdt 1C |
| 08/13/01 | TX | Fort Worth | Dallas-Fort Worth Intl | 1/8292 | ILS Rwy 35L, Amdt 2B |
| 08/14/01 | RI | Pawtucket | North Central State | 1/8318 | VOR or GPS–A, Amdt 6 |
| 08/14/01 | SC | Pickens | Pickens County | 1/8321 | VOR/DME or GPS–A, Orig–C |

[FR Doc. 01–21295 Filed 8–22–01; 8:45 am]
BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 97

**[Docket No. 30264; Amdt. No. 2065]**

### Standard Instrument Approach Procedures; Miscellaneous Amendments

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

**DATES:** An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

**ADDRESSES:** Availability of matters incorporated by reference in the amendment is as follows:

*For Examination*—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

*For Purchase*—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

*By Subscription*—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

**FOR FURTHER INFORMATION CONTACT:** Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

**SUPPLEMENTARY INFORMATION:** This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

## The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

## Conclusion

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

## List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on August 17, 2001.

**Nicholas A. Sabatini,**

*Director, Flight Standards Service.*

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

## PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

**Authority:** 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

### §§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33. 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective September 6, 2001*

Phoenix, AZ, Phoenix Sky Harbor Intl, ILS RWY 7R, Amdt 1
Phoenix, AZ, Phoenix Sky Harbor Intl, ILS RWY 8, Orig
Phoenix, AZ, Phoenix Sky Harbor Intl, ILS RWY 25L, Amdt 1
Phoenix, AZ, Phoenix Sky Harbor Intl, ILS RWY 26, Orig
Phoenix, AZ, Phoenix Sky Harbor Intl, ILS RWY 26, Amdt 1A, CANCELLED
Rochester, NY, Greater Rochester Intl, RNAV (GPS) RWY 22, Orig

** * * Effective October 4, 2001*

Burbank, CA, Burbank-Glendale-Pasadena, VOR RWY 8, Amdt 10C
Burbank, CA, Burbank-Glendale-Pasadena, RNAV (GPS) RWY 8, Orig
New York, NY, John F. Kennedy Intl, VOR/DME OR GPS RWY 31L, Amdt 13, CANCELLED

** * * Effective November 1, 2001*

West Memphis, AR, West Memphis Muni, GPS RWY 17, Orig-B
West Memphis, AR, West Memphis Muni, GPS RWY 35, Orig-B
San Jose, CA, San Jose Intl, GPS RWY 30L, Orig-A
Jacksonville, FL, Craig Muni, VOR/DME OR GPS RWY 32, Orig-B
Miami, FL, Miami Intl, RNAV (GPS) RWY 9R, Orig
Miami, FL, Miami Intl, RNAV (GPS) RWY 9L, Orig
Miami, FL, Miami Intl, RNAV (GPS) RWY 12, Orig
Miami, FL, Miami Intl, RNAV (GPS) RWY 27L, Orig
Miami, FL, Miami Intl, RNAV (GPS) RWY 27R, Orig
Miami, FL, Miami Intl, RNAV (GPS) RWY 30, Orig
Miami, FL, Miami Intl, GPS RWY 9R, Orig-D, CANCELLED
Miami, FL, Miami Intl, GPS RWY 27R, Orig-B, CANCELLED
St. Petersberg-Clearwater, FL, St. Petersberg-Clearwater Intl, NDB RWY 17L, Amdt 20C
Macon, GA, Herbet Smart Downtown, LOC RWY 10, Amdt 5
Macon, GA Herbert Smart Downtown, RADAR–1, Amdt 3
Welsh, LA, Welsh, VOR/DME OR GPS RWY 7, Amdt 3B
Helena, MT, Helena Regional, RNAV (GPS) RWY 9, Orig
Helena, MT, Helena Regional, RNAV (GPS) RWY 27, Orig
Farmington, NM, Four Corners Regional, GPS RWY 25, Orig-A
Wilmington, NC, Wilmington Intl, LOC BC RWY 17, Amdt 7B
Ponca City, OK, Ponca City Muni, NDB RWY 17, Amdt 4B
Ponca City, OK, Ponca City Muni, NDB RWY 35, Amdt 3A
Ponca City, OK, Ponca City Muni, VOR/DME RNAV RWY 35, Amdt 2A
Ponca City, OK, Ponca City Muni, GPS RWY 35, Orig-A
San Juan, PR, Fernando Luis Ribas Dominicci, RNAV (GPS) RWY 9, Orig
San Juan, PR, Fernando Luis Ribas Dominicci, GPS RWY 9, Orig, CANCELLED
Myrtle Beach, SC, Myrtle Beach Intl, RADAR–1, Amdt 1

[FR Doc. 01–21294 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

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## DEPARTMENT OF TRANSPORTATION

## Coast Guard

## 33 CFR Part 165

**[CGD09–01–043]**

**RIN 2115–AA97**

## Safety Zone; Festa Italiana 2001, Milwaukee Harbor, WI

**AGENCY:** Coast Guard, DOT.

**ACTION:** Temporary final rule; correction.

**SUMMARY:** The Coast Guard published a temporary final rule on July 2, 2001, creating a safety zone for the Festa Italiana 2001 fireworks in Milwaukee Harbor, Milwaukee, WI. The section number in that rule was incorrect. This document corrects the section number.

**DATES:** Effective on August 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander Timothy Sickler, Port Operations Chief, Marine Safety Office Milwaukee, 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207. The phone number is (414) 747–7155.

**SUPPLEMENTARY INFORMATION:**

## Background and Purpose

The Coast Guard published a temporary safety zone in the **Federal**

**Register** on July 2, 2001 (66 FR 34841), adding temporary § 165.T09–930.

**Need for Correction**

As published, that section number was incorrect. That section number is assigned to another CFR section. This document corrects the section number.

**Correction of Publication**

In rule FR Doc. 01–16586 published on July 2, 2001 (66 FR 34841). Make the following corrections. On page 34842, in the second column, on lines 43 and 45, change the section number of the temporary safety zone to read § 165.T09–974.

**M.R. DeVries,**

*Commander, U.S. Coast Guard, Captain of the Port Milwaukee, Milwaukee, WI.*

[FR Doc. 01–21355 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–15–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[MO 0133–1133a; FRL–7041–8]**

## Approval and Promulgation of Implementation Plans; State of Missouri; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Correcting amendments.

**SUMMARY:** On March 23, 2001 (66 FR 16137), EPA published a final action approving revisions to the Missouri State Implementation Plan (SIP). In the March 23, 2001, rule, EPA inadvertently omitted a statement in the Explanation column for rule 10 CSR 10–6.065. We are making a correction to the explanation in this document.

**DATES:** This action is effective August 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Wayne Kaiser at (913) 551–7603.

**SUPPLEMENTARY INFORMATION:** EPA published a SIP revision for Missouri that included a revision to rule 10 CSR 10–6.065 on March 23, 2001. In § 52.1320(c), Chapter 6, the Explanation column for this rule should have included a statement that Section (6), Part 70 Operating Permits, has been approved as an integral part of the operating permit program and has not been approved as part of the SIP. Therefore, in this correction notice we are adding this information to the table for Chapter 6.

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedures are impracticable, unnecessary, or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is such good cause for making today's rule final without prior proposal and opportunity for comment because we are merely reinserting an explanation which was included in a previous action. Thus, notice and public procedure are unnecessary.

**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 merely corrects an incorrect citation in a previous action, 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). For the same reason, this rule also does not significantly or uniquely affect the communities of tribal governments, as specified by Executive Order 13084 (63 FR 27655, May 10, 1998). This rule will 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), because it merely corrects a citation in 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 (CAA). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, our role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the state to use voluntary consensus standards (VCS), we have no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, we have taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. 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 (CRA), 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. As stated previously, we made such a good cause finding, including the reasons therefore and established an effective date of August 23, 2001. We will submit a report containing this rule and other required information to the United States Senate, the United States House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This correction to the Missouri SIP table is not a ''major rule'' as defined by 5 U.S.C. 804 *et seq* (2).

Dated: August 10, 2001.

**William W. Rice,**

*Acting Regional Administrator, Region 7.*

Chapter I, title 40 of the Code of Federal Regulations is amended as follows:

## PART 52—[AMENDED]

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

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

## Subpart AA—Missouri

2. In § 52.1320(c) the table is amended under Chapter 6 by revising the entry for rule ''10–6.065'' to read as follows:

**§ 52.1320 Identification of plan.**

* * * * *

(c) * * *

EPA-APPROVED MISSOURI REGULATIONS

| Missouri citation | Title | State effective date | EPA approval date | Explanation |
|---|---|---|---|---|
| **Missouri Department of Natural Resources** | | | | |
| * | * | * | * | * |
| **Chapter 6—Air Quality Standards, Definitions, Sampling and Reference Methods, and Air Pollution Control Regulations for the State of Missouri** | | | | |
| * | * | * | * | * |
| 10–6.065 ... | Operating Permits ..... | 5/30/00 | 3/23/01, 66 FR 16139 ..... | The state rule has sections (4)(A), (4)(B), and (4)(H)-Basic State Operating Permits. EPA has not approved those sections. Section (6), Part 70 Operating Permits, has been approved as an integral part of the operating permit program and has not been approved as part of the SIP. |
| * | * | * | * | * |

[FR Doc. 01–21196 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 81

**[Docket ID–01–003; FRL–7042–5]**

## Finding of Attainment for PM–10; Shoshone County (City of Pinehurst and Pinehurst Expansion Area)

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Direct final rule.

**SUMMARY:** EPA has determined that two areas in Shoshone County, Idaho, have attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than, or equal to a nominal ten micrometers (PM–10) by the respective attainment dates for the areas. One area is the City of Pinehurst, which has an attainment date of December 31, 1994. The other area is an area immediately adjacent to the City of Pinehurst, known as the ''Pinehurst expansion area,'' which has an attainment date of December 31, 2000.

**DATES:** This direct final rule will be effective October 22, 2001, unless EPA receives adverse comment by September 24, 2001. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

**ADDRESSES:** Written comments should be mailed to Steven K. Body, Office of Air Quality, Mailcode OAQ–107, EPA Region 10, 1200 Sixth Avenue, Seattle, Washington, 98101. Copies of documents relevant to this action are available for public review during normal business hours (8 a.m. to 4:30 p.m.) at this same address.

**FOR FURTHER INFORMATION CONTACT:** Steven K. Body, Office of Air Quality, EPA Region 10, 1200 Sixth Avenue, Seattle Washington, 98101 (206) 553–0782.

**SUPPLEMENTARY INFORMATION:** Throughout this notice, the words ''we,'' ''us,'' or ''our'' means the Environmental Protection Agency (EPA). The words ''Pinehurst PM–10 nonattainment area'' means the City of Pinehurst in Shoshone County, Idaho, that is designated nonattainment for PM–10 in 40 CFR 81.313. The words ''Pinehurst expansion area'' or ''Pinehurst expansion PM–10 nonattainment area'' mean that portion of Shoshone County, Idaho, immediately adjacent to the City of Pinehurst, that is designated nonattainment for PM–10 in 40 CFR 81.313.

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- B. How Does EPA Make Attainment Determinations?
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- D. What Does the Monitoring Data Show?
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- 2. TEOM Sampler

II. EPA's Action
- A. Pinehurst PM–10 Nonattainment Area
- B. Pinehurst Expansion PM–10 Nonattainment Area
- C. Effect of EPA's Findings

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## I. Background

### *A. Designation and Classification of PM–10 Nonattainment Areas*

Areas meeting the requirements of section 107(d)(4)(B) of the Clean Air Act (CAA) were designated nonattainment for PM–10 by operation of law and classified ''moderate'' upon enactment of the 1990 Clean Air Act Amendments. *See generally* 42 U.S.C. 7407(d)(4)(B). These areas included all former Group I PM–10 planning areas identified in 52 FR 29383 (August 7, 1987), as further clarified in 55 FR 45799 (October 31, 1990), and any other areas violating the NAAQS for PM–10 prior to January 1, 1989. A **Federal Register** document announcing the areas designated

nonattainment for PM–10 upon enactment of the 1990 Amendments, known as ''initial'' PM–10 nonattainment areas, was published on March 15, 1991 (56 FR 11101) and a subsequent **Federal Register** document correcting the description of some of these areas was published on August 8, 1991 (56 FR 37654). *See also* 56 FR 56694 (November 6, 1991). The Pinehurst PM–10 nonattainment area was one of these initial PM–10 nonattainment areas. All initial PM–10 nonattainment areas, such as the Pinehurst PM–10 nonattainment area, had the same applicable attainment date of December 31, 1994 and were classified as moderate nonattainment areas by operation of law. *See* CAA sections 188(a) and (c).

In 1991, Idaho requested that EPA expand the Pinehurst PM–10 nonattainment area to include an area adjacent to the City of Pinehurst because Idaho believed other areas of the Silver Valley contributed to violations of the PM–10 NAAQS in the Pinehurst PM–10 nonattainment area. EPA declined to expand the boundaries of the original nonattainment area because there was no evidence that the original description of the nonattainment problem was in error. Instead, EPA considered the information submitted by Idaho as an unsolicited request by the State to create a new nonattainment area under section 107(d)(3)(D) of the Act. Accordingly, after notice and an opportunity for public comment, EPA designated the area identified by the State, which lies in Shoshone County, Idaho, and adjacent to the City of Pinehurst as nonattainment for PM–10, effective January 20, 1994. *See* 58 FR 67334, 67339 (December 21, 1993). As discussed above, this area is generally known as the ''Pinehurst expansion area.'' EPA published a correction to the boundary description for the Pinehurst area on May 11, 1995. *See* 60 FR 25146.

As a newly designated PM–10 nonattainment area, the Pinehurst expansion area was classified as a moderate nonattainment area by operation of law. *See* CAA section 188(a). Pursuant to section 188(c)(1) of the Act, the attainment date for the Pinehurst expansion area was to be no later than the end of the sixth calendar year after the area was designated nonattainment. Because the Pinehurst expansion area was designated nonattainment for PM–10 effective January 20, 1994, the attainment date for the Pinehurst expansion area is December 31, 2000.

*B. How Does EPA Make Attainment Determinations?*

All PM–10 nonattainment areas are initially classified ''moderate'' by operation of law when they are designated nonattainment. *See* section 188(a). Pursuant to sections 179(c) and 188(b)(2) of the Act, we have the responsibility of determining within six months of the applicable attainment date whether, based on air quality data, PM–10 nonattainment areas attained the PM–10 NAAQS by the attainment date. Determinations under section 179(c)(1) of the Act are to be based upon the area's ''air quality as of the attainment date.'' Section 188(b)(2) is consistent with this requirement.

Generally, we determine whether an area's air quality is meeting the PM–10 NAAQS for purposes of section 179(c)(1) and 188(b)(2) based upon data gathered at established state and local air monitoring stations (SLAMS) and national air monitoring stations (NAMS) in the nonattainment area and entered into the EPA Aerometric Information Retrieval System (AIRS). Data entered into the AIRS has been determined to meet federal monitoring requirements (*see* 40 CFR 50.6; 40 CFR part 50, appendix J; 40 CFR part 53; 40 CFR part 58, appendix A & B) and may be used to determine the attainment status of an area. We will also consider air quality data from other air monitoring stations in the nonattainment area provided that the stations meet the federal monitoring requirements for SLAMS. All data are reviewed to determine the area's air quality status in accordance with our guidance at 40 CFR part 50, appendix K.

Attainment of the annual PM–10 standard is achieved when the annual arithmetic mean PM–10 concentration over a three-year period [1] is equal to or less than 50 micrograms per cubic meter (μg/m3). Attainment of the 24-hour standard is determined by calculating the expected number of days in a year with PM–10 concentrations greater than 150 μg/m3. The 24-hour standard is attained when the expected number of days with levels above 150 μg/m3 (averaged over a three-year period) is less than or equal to one. Three consecutive years of air quality data are generally required to show attainment of the annual and 24-hour standards for PM–10. *See* 40 CFR part 50 and appendix K.

[1] For example 1992, 1993, and 1994 for areas with a December 31, 1994 attainment date and 1998, 1999, and 2000 for areas with a December 31, 2000 attainment date.

*C. What PM–10 Planning H has Occurred for the Pinehurst PM–10 Nonattainment Area and the Pinehurst Expansion PM–10 Nonattainment Area?*

The State of Idaho has addressed the PM–10 planning requirements for the Pinehurst PM–10 nonattainment area and the Pinehurst expansion PM–10 nonattainment area as part of a single planning process. After the original initial Pinehurst area was designated nonattainment for PM–10, the State of Idaho, in cooperation with local officials, developed a control strategy that consisted of a residential wood combustion emission reduction program for the City of Pinehurst and the adjacent area. The program included public education and outreach efforts on how to burn wood with reduced emissions as well as a voluntary wood stove curtailment program designed to reduce wood burning during periods of adverse meteorology. In addition, through a combination of federal, state, and local grant and loan programs, the State of Idaho worked with local residents to improve home weatherization and to convert a number of residences from reliance on wood stoves to cleaner heating devices, such as natural gas furnaces, pellet stoves, and phase II wood stoves. Idaho submitted a SIP revision for the two areas containing these control measures in April 1992. On August 25, 1994, EPA took final action approving the PM–10 SIP for the Pinehurst PM–10 nonattainment area. *See* 59 FR 43745. On May 26, 1995, EPA took final action approving the PM–10 SIP for the Pinehurst expansion area. *See* 60 FR 27891.

*D. What Does the Monitoring Data Show?*

As discussed above, the State of Idaho has addressed the PM–10 planning requirements for the Pinehurst PM–10 nonattainment area and the Pinehurst expansion PM–10 nonattainment area as part of a single planning process. The areas are covered by the same ambient air quality monitoring network, which consists of one monitoring site, located at the Pinehurst elementary school in the City of Pinehurst. There is no monitor located in the Pinehurst expansion area. The Pinehurst elementary school monitoring site has been determined to represent air quality for both nonattainment areas and to measure maximum PM–10 levels expected to occur in both areas. The monitoring site meets EPA SLAMS network design and siting requirements, set forth at 40 CFR part 58, appendices

D and E, and continues to monitor for PM–10.

The State of Idaho has operated two different types of PM–10 samplers at the Pinehurst elementary school site. Since 1988, the State has operated a sampler (called the Hi-Vol SSI) that collects particulate matter on a filter over a 24-hour period. The filter is then analyzed in a laboratory to determine the mass concentration. The Hi-Vol SSI sampler in Pinehurst does not sample every day. Instead, the sampling frequency varies depending on the season.

Since July 1, 1998, the State has also operated a continuous sampler (called a TEOM) that collects PM–10 and provides hourly PM–10 concentrations which are then averaged for a 24-hour PM–10 concentration. The TEOM provides continuous, ''real time'' data and is often used for residential wood smoke curtailment programs. Both samplers are Federal Reference or Equivalent samplers and provide data that can be used in determining compliance with the NAAQS for PM–10. A listing of samplers designated as federal reference method or equivalent can be found at the EPA website, ''www.epa.gov/ttn/amtic/pm.html''.

1. Hi-Vol SSI Sampler

Between January 1, 1992 through December 31, 2000, there has been only one exceedance of the level of the 24-hour standard measured by the Hi-Vol SSI sampler: a level of 177 μg/m3 on February 19, 1998. During the time the exceedance was measured in February 1998, the sampler was operating every third day. Therefore, each exceedance is counted as three expected exceedances.

2. TEOM Sampler

A review of the PM–10 data in AIRS from the TEOM sampler at the Pinehurst elementary school site shows no exceedances of the 24-hour standard from July 1, 1998 for the remainder of the year and no exceedances of the 24-hour standard during 2000. During 1999, a 24-hour exceedance of 290 μg/m3 was recorded at the TEOM sampler on September 25, 1999. The Hi-Vol SSI sampler did not operate on September 25, 1999.

Under section 107(d)(4)(B)(ii) of the CAA and 40 CFR part 50, appendix K, section 2.4, specific exceedances due to uncontrollable natural events, such as unusually high winds, may be discounted or excluded entirely from decisions regarding an area's air quality status in appropriate circumstances. *See* Memorandum from EPA's Assistant Administrator for Air and Radiation to EPA Regional Air Directors entitled ''Areas Affected by Natural Events,'' dated May 30, 1996 (EPA's Natural Events Policy). Under the policy, where a state believes natural events have caused a violation of the NAAQS, the state enters the exceedance in the AIRS data base, flags the exceedance as being attributable to a natural event, documents a clear causal relationship between the measured exceedance and the natural event, and develops a natural events action plan (NEAP) to address future natural events. In the case of high-wind events where the sources of dust are anthropogenic, the state should also document that Best Available Control Measures (BACM) were required for those sources and that sources were in compliance with BACM at the time-of the high-wind event. EPA's Natural Events Policy also contains guidance for notifying the public of the occurrence of natural events and the health effects of such events, as well as minimizing public exposure to high concentrations of PM–10 due to natural events.

The State of Idaho submitted a letter to EPA dated October 29, 1999, requesting that EPA concur in Idaho's determination that the September 25, 1999 exceedance was attributable to high winds under EPA's Natural Events Policy.[2] EPA concurred with the State's determination in a letter dated September 20, 2000.[3] Therefore, EPA has excluded this exceedance from consideration in making attainment determinations for the Pinehurst PM–10 nonattainment area and the Pinehurst expansion area.

## II. EPA's Action

As discussed above, whether an area has attained the PM–10 NAAQS is based exclusively upon measured air quality levels over the most recent and complete three calendar year period. *See* 40 CFR part 50 and 40 CFR part 50, appendix K.

### *A. Pinehurst PM–10 Nonattainment Area*

The attainment date for the Pinehurst PM–10 nonattainment area is December 31, 1994. Therefore, EPA considers the data reported for calendar years 1992, 1993, and 1994 in making the attainment determination. A review of the PM–10 data in AIRS for the Hi-Vol SSI sampler at the Pinehurst elementary school site for this period shows the three-year arithmetic average of the annual PM–10 average for 1992, 1993, and 1994 is 42.7 μg/m3, which is below the level of the annual standard of 50 μg/m3. The TEOM sampler was not in place during this time. Therefore, EPA finds that the Pinehurst PM–10 nonattainment area attained the annual PM–10 standard as of the December 31, 1994 attainment date for the area.

There were also no exceedences of the 24-hour standard in AIRS for the Hi-Vol SSI sampler during 1992, 1993, and 1994. As discussed above, the TEOM sampler was not in place during this time. EPA therefore also has determined that the Pinehurst PM–10 nonattainment area attained the 24-hour PM–10 standard as of the December 31, 1994 attainment date for the area.

### *B. Pinehurst Expansion PM–10 Nonattainment Area*

The attainment date for the Pinehurst expansion area is December 31, 2000. Therefore, EPA considers the data reported for calendar years 1998, 1999, and 2000 in making the attainment determination. The three-year average of the annual average for 1998 through 2000 from the Hi-Vol SSI is 22.7 μg/m3, which is below the level of the annual standard of 50 μg/m3.There is currently insufficient data from the TEOM to make an attainment determination for the annual standard because the sampler was not operating during the first two quarters of 1998. Therefore, based on the available data from the Hi-Vol SSI sampler, EPA believes that the Pinehurst expansion area attained the annual PM–10 standard as of December 31, 2000.

As discussed above, there was one exceedance of the 24-hour PM–10 standard recorded at the Hi-Vol SSI sampler at the Pinehurst elementary school site in February 1998. At that time, the Hi-Vol SSI sampler was monitoring once every three days. Therefore, this measured exceedance is counted as three expected exceedances, resulting in an expected exceedance rate for the 1998 calendar year of 3.0. No measured values above the level of the 24-hour NAAQS were recorded in the remainder of 1998, 1999, or 2000, which results in a three-year average (1998, 1999, 2000) expected exceedance rate at the Hi-Vol SSI sampler of 1.0. Because the expected exceedance rate at the Hi-Vol SSI sampler does not exceed 1.0, the data from this sampler show that the Pinehurst extension PM–10 nonattainment area attained the 24-hour PM–10 standard by the attainment date of December 31, 2000.

[2] Idaho only recently entered the data from the TEOM sampler, including the September 25, 1999 exceedance, into the AIRS data base. In doing so, Idaho flagged the September 25, 1999 exceedance as attributable to a natural event.

[3] Now that the Idaho has entered the September 25, 1999 exceedance into the AIRS data base, EPA intends to attach a concurrence flag for the exceedance in AIRS.

As discussed above, the TEOM sampler recorded an exceedance on September 25, 1999, which has been claimed by Idaho and determined by EPA to be attributable to a natural event. No other exceedances of the 24-hour standard were recorded at the TEOM sampler from 1998 through 2000. Therefore, the data from the TEOM sampler does not indicate a violation of the 24-hour PM–10 standard. Even if the September 25, 1999 exceedance was not excluded from consideration as a natural event, however, there is insufficient data from the TEOM to make an unambiguous determination that the Pinehurst expansion area did not attain the standard because the TEOM did not begin operating until July 1998. There are therefore not three full years of data from the TEOM for the period from 1998 though 2000.

*C. Effect of Finding*

In summary, EPA finds that the Pinehurst PM–10 nonattainment area was in attainment of the PM–10 standards as of its attainment date of December 31, 1994. EPA also finds that the Pinehurst expansion PM–10 nonattainment area attained the PM–10 standards as of its attainment date of December 31, 2000. Consistent with CAA section 188, the areas will remain moderate PM–10 nonattainment area sand will avoid the additional planning requirements that apply to serious PM–10 nonattainment areas.

These findings of attainment should not be confused, however, with a redesignation to attainment under CAA section 107(d) because Idaho has not, for either the Pinehurst PM–10 nonattainment area or the Pinehurst expansion PM–10 nonattainment area, submitted a maintenance plan as required under section 175(A) of the CAA or met the other CAA requirements for redesignations to attainment. The designation status in 40 CFR part 81 will remain moderate nonattainment for both areas in Shoshone County until such time as Idaho meets the CAA requirements for redesignations to attainment.

**III. Administrative Requirements**

Under Executive Order 12866, ''Regulatory Planning and Review'' (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). Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Administrator certifies that this action will not have a significant economic impact on a substantial number of small entities because it merely makes a determination based on air quality data and does not impose any requirements. This action does not contain any unfunded mandates and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) because it does not impose any enforceable duties.

This action 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, ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it will 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, ''Federalism'' (64 FR 43255, August 10, 1999). The action merely makes a determination based on air quality data and does not impose any requirements and therefore does not alter the relationship or the distribution of power and responsibilities between the state and the Federal government established in the Clean Air Act.

This action 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 a significant regulatory action under Executive Order 12866.

This action does not involved technical standards. 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. In addition, this action does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective October 22, 2001 unless EPA receives adverse written comments by September 24, 2001.

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 October 22, 2001. 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* CAA section 307(b)(2).

**List of Subjects in 40 CFR Part 81**

Environmental protection, Air pollution control, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: August 3, 2001.

**Charles E. Findley,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 01–21334 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

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**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

**[FRL–7040–5]**

## Florida: Final Authorization of State Hazardous Waste Management Program Revision

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Immediate final rule.

**SUMMARY:** Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior

proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we get written comments which oppose this authorization during the comment period, the decision to authorize Florida's changes to their hazardous waste program will take effect. If we get comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

**DATES:** This Final authorization will become effective on October 22, 2001 unless EPA receives adverse written comment by September 24, 2001. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

**ADDRESSES:** Send written comments to Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8440. You can view and copy Florida's application from 8 am to 5 pm at the following addresses: The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400 and from 8:30 am to 3:45 pm, EPA Region 4, Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960, Phone number (404) 562–8190, Kathy Piselli, Librarian.

**FOR FURTHER INFORMATION CONTACT:** Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960; (404) 562–8440.

**SUPPLEMENTARY INFORMATION:**

### A. Why Are Revisions to State Programs Necessary?

States which have received final authorization from EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, States must change their programs because of changes to EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 266, 268, 270, 273 and 279.

### B. What Decisions Have We Made in This Rule?

We conclude that Florida's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Florida Final authorization to operate its hazardous waste program with the changes described in the authorization application. Florida has responsibility for permitting Treatment, Storage, and Disposal Facilities (TSDFs) within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, EPA will implement those requirements and prohibitions in Florida, including issuing permits, until the State is granted authorization to do so.

### C. What Is the Effect of Today's Authorization Decision?

The effect of this decision is that a facility in Florida subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Florida has enforcement responsibilities under its state hazardous waste program for violations of such program, but EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses or reports.
- Enforce RCRA requirements and suspend or revoke permits.
- Take enforcement actions regardless of whether the State has taken its own actions.

This action does not impose additional requirements on the regulated community because the regulations for which Florida is being authorized by today's action are already effective, and are not changed by today's action.

### D. Why Wasn't There a Proposed Rule Before Today's Rule?

EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to thisrule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the state program changes.

### E. What Happens If EPA Receives Comments That Oppose This Action?

If EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. EPA will base any further decision on the authorization of the state program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time.

If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw that part of this rule but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

### F. What Has Florida Previously Been Authorized for?

Florida initially received Final authorization on January 29, 1985, effective February 12, 1985 (50 FR 3908), to implement the RCRA hazardous waste management program. We granted authorization for changes to their program on December 1, 1987, effective March 3, 1988 (52 FR 45634), December 16, 1988, effective January 3, 1989 (53 FR 50529), December 14, 1990, effective February 12, 1991 (55 FR 51416), February 5, 1992, effective April 6, 1992 (57 FR 4371), February 7, 1992, effective April 7, 1992 (57 FR 4738), May 20, 1992, effective July 20, 1992 (57 FR 21351), November 9, 1993, effective January 10, 1994, (58 FR 59367), July 11, 1994, effective September 9, 1994 (59 FR 35266), August 16, 1994, effective October 17, 1994 (59 41979), October 26, 1994, effective December 27, 1994 (59 FR 53753), April 1, 1997, effective June 2, 1997 (62 FR 15407). The

authorized Florida program was incorporated by reference into the CFR on January 20, 1998, effective March 23, 1998 (63 FR 2896). Florida received corrective action authority on September 18, 2000, effective November 17, 2000 (65 FR 56256).

**G. What Changes Are We Authorizing With Today's Action?**

On September 10, 1998, Florida submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. Florida's revisions consist of provisions contained in RCRA Clusters V., VI., and Used Oil. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Florida's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Florida Final authorization for the following program changes:

| Description of Federal requirement | FEDERAL REGISTER | Analogous state authority | Effective date |
|---|---|---|---|
| Checklist 112, Recycled Used Oil Management Standards. | 9/10/92, 57 FR 41566–41626 ..... | 403.061(7), 403.087, 403.704(15), 403.704(16) 403.72(1), 403.721(2), 403.721(7), 403.7545, 403.8055, Florida Statute (F.S.) (1995 and 1996 Supplement). | |
| | | Rules 62.730.020(1), 62–730.030(1) and 62–730.181, Florida Administrative Code (F.A.C). | 4/30/97 |
| | | Rule 62–710.210(2) F.A.C ..... | 3/25/97 |
| Checklist 122, Recycled Used Oil Management Standards. | 5/3/93, 58 FR 26420–26426 amended 6/17/93, 58 FR 33341–33342. | 403.061(7), 403.087, 403.704(15), 403.704(16) 403.72, 403.721(2), 403.721(6), 403.7545, 403.8055, Florida Statute (F.S.) (1995 and 1996 Supplement). | |
| | | Rules 62.730.020(1), 62–730.030(1), 62–730.180(1), 62–730.180(2) Florida Administrative Code (F.A.C). | 4/30/97 |
| | | Rule 62–710.210(2) F.A.C ..... | 3/25/97 |
| Checklist 130, Recycled Used Oil Management Standards Technical Amendments and Corrections II. | 3/4/94, 59 FR 10550–10560 ..... | 403.061(7), 403.087, 403.704(15),403.704(16) 403.721(2), 403.721(6), 403.721(7), 403.7545, 403.8055, Florida Statute (F.S.) (1995 and 1996 Supplement). | |
| | | Rule 62–710.210(2), Florida Administrative Code (F.A.C). | 3/25/97 |
| Checklist 135, Recovered Oil Exclusion. | 7/28/94, 59 FR 38536–38545 ..... | 403.72(1) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rule 62–730.030(1), F.A.C. 403.721(2), 403.8055, F.S. | 4/30/97 |
| | | Rule 62–730.181(1) | |
| Checklist 136, Removal of the Conditional Exemption for Certain Slag Residues. | Amended 8/24/94, 59 FR 43496–43500. | 403.721(2) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rules 62–730.181(1) and 62–730.183, F.A.C ..... | 4/30/97 |
| Checklist 137, Universal Treatment Standards for Organic Toxicity Characteristics Wastes and Newly Listed Wastes. | 9/19/94, 59 FR 47982–48110, amended 1/3/95, 60 FR 242–302. | 403.201, 403.72(1), and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rules 62.730.021(1)(a) and 62–730.030(1), F.A.C. 403.721(2) and 403.8055, F.S. (1995 and 1996 Supplement). | 4/30/97 |
| | | Rule 62–730.181(1), F.A.C.403.721(2), (3) & (6) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rules 62–730.180(1), 62–730.180(2), and 62–730.183, F.A.C. 403.721(2) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rule 62–730.181(1) | |
| Checklist 139, Testing and Monitoring Activities Amendment I. | 1/13/95, 60 FR 3089–3095 ..... | 403.721(2) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rule 62–730.021(1)(a), F.A.C ..... | 4/30/97 |
| Checklist 140, Carbamate Production Identification and Listing of Hazardous Waste. | 2/9/95, 60 FR 7824–7859 amended 4/17/95, 60 FR 119165, amended 5/12/95, 60 FR 25619. | 403.72(1) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rule 62–730.030(1), F.A.C ..... | 4/30/97 |
| Checklist 141, Testing and Monitoring Activities Amendment II. | 4/4/95, 60 FR 17001–17004 ..... | 403.721(2), 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rule 62–730.021(1)(a), F.A.C ..... | 4/30/97 |
| Checklist 144, Removal of Legally Obsolete Rules. | 6/29/95, 60 FR 33912–33915 ..... | 403.087(2), 403.704(16), 403.72(1), 403.721(2), and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rules 62–730.030(1), 62–730.181(1), and 62–730.220(3), F.A.C. | 4/30/97 |
| Checklist 145, Liquids in Landfills III | 7/11/95, 60 FR 35703–35706 ..... | 403.721(2) & (6) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rules 62–730.180(1) and 62–730.180(2), F.A.C ..... | 4/30/97 |
| Checklist 148, RCRA Expanded Public Participation. | 12/11/95, 60 FR 63417–63434 ..... | 403.087(2), (3), & (6), 403.704(16), 403.722(12), and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rules 62–730.184 and 62–730.220(3), F.A.C ..... | 4/30/97 |
| Checklist 150, Amendments to the Definition of Solid Waste; Amendment II. | 3/26/96, 61 FR 13103–13106 ..... | 403.72(1) and 403.8055, F.S. (1995 and 1996 Supplement). | |
| | | Rule 62–730.030(1), F.A.C ..... | 4/30/97 |

**H. Where Are the Revised State Rules Different From the Federal Rules?**

We consider the following State requirement to be more stringent than the Federal requirement:

• 62–710.850(1) because the State prohibits the disposal of used oil filters in solid waste landfills or the commingling of such filters with other solid waste for disposal in a landfill.

These requirements are part of Florida's authorized program and are federally enforceable.

**I. Who Handles Permits After the Authorization Takes Effect?**

Florida will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization until the permits expire or are terminated. We will not issue any more new permits or new portions of permits for the provisions listed in the Table above after the effective date of this authorization. EPA will continue to implement and issue permits for HSWA requirements for which Florida is not yet authorized.

**J. How Does Today's Action Affect Indian Country (18 U.S.C. 115) in Florida?**

Florida is not authorized to carry out its hazardous waste program in Indian country within the State, which includes:

• Seminole Tribe of Florida.

• Miccosukee Tribe of Indians of Florida.

Therefore, this action has no effect on Indian country. EPA will continue to implement and administer the RCRA program in these lands.

**K. What Is Codification and Is EPA Codifying Florida's Hazardous Waste Program as Authorized in This Rule?**

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the Code of Federal Regulations. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart K for this authorization of Florida's program changes until a later date.

**L. Administrative Requirements**

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action 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 action authorizes 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). For the same reason, this action does not have tribal implications within the meaning of Executive Order 13175 (65 FR 67249, November 6, 2000). It does not have substantial direct effects on tribal governments, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. This action will 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), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. 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. As required by section 3 of Executive Order 12988 (61 F.R. 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 F.R. 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document 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 in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective October 22, 2001.

**List of Subjects in 40 CFR Part 271**

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

**Authority:** This action is issued under the authority of sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: August 13, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01–21193 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

# Proposed Rules

Federal Register
Vol. 66, No. 164
Thursday, August 23, 2001

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

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 39

**[Docket No. 2001–NM–90–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; BAe Systems (Operations) Limited Model Avro 146–RJ Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain BAe Systems (Operations) Limited Model Avro 146–RJ series airplanes. This proposal would require a one-time inspection of the S4 and S5 static pipes of the pitot static system for discrepancies, and follow-on corrective actions, if necessary. This action is necessary to prevent such discrepancies, which could result in holes in the static pipes, erroneous input to the instrumentation and warning systems associated with the pilot's instruments, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–90–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–90–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–90–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain BAe Systems (Operations) Limited Model Avro 146–RJ series airplanes. The CAA advises that several reports of chafing of the S4 and S5 static pipes against the starboard outboard pipe clamp at frame 18 of the avionics rack were received. Such chafing has been attributed to installation of the pipes with inadequate clearance between the pipes and adjacent structure during manufacture. Such discrepancies, if not corrected, could result in holes in the static pipes, erroneous input to the instrumentation and warning systems associated with the pilot's instruments, and consequent reduced controllability of the airplane.

### Explanation of Relevant Service Information

The manufacturer has issued BAe Systems (Operations) Limited Inspection Service Bulletin SB.34–338, dated February 14, 2001, which describes procedures for a general visual inspection of the S4 and S5 static pipes of the pitot static system for discrepancies (i.e., chafing, damage to pipes, inadequate clearance), and follow-on corrective actions, if necessary. If no chafing is found, follow-on actions consist of ensuring that a minimum clearance of 0.10 inch exists between the static pipes and the adjacent avionics structure, and repositioning the pipes if necessary to achieve this clearance. If any chafing is found and has a depth of less than 0.005

inch, follow-on actions include repairing the chafing damage, adding protective coating, and verifying a minimum clearance of 0.10 inch. If any chafing is found and exceeds a depth of 0.005 inch and/or only one pipe has a hole worn through, follow-on actions include replacing discrepant parts with new parts, ensuring that a minimum clearance of 0.10 inch exists between the static pipes and the adjacent avionics structure, and doing a functional test of the pitot static system. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The CAA classified the British Aerospace service bulletin as mandatory and issued British airworthiness directive 008–02–2001 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

### FAA's Conclusions

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

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously, except as discussed below.

### Difference Between This Proposed AD and the Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished per a method approved by either the FAA or the CAA (or a delegated agent of the CAA). In light of the type of repair that would be required to address the identified unsafe condition, and in consonance with existing bilateral airworthiness agreements, the FAA has determined that, for this proposed AD, a repair approved by either the FAA or the CAA would be acceptable for compliance with this proposed AD.

### Cost Impact

The FAA estimates that 42 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $2,520, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**BAE Systems (Operations) Limited** (Formerly British Aerospace Regional Aircraft): Docket 2001–NM–90–AD.

*Applicability:* Model Avro 146-RJ series airplanes, certificated in any category, on which modification HCM01080W has been performed.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent discrepancies of the S4 and S5 static pipes, which could result in holes in the pipes, erroneous input to the instrumentation and warning systems associated with the pilot's instruments, and consequent reduced controllability of the airplane; accomplish the following:

**General Visual Inspection/Follow-On Corrective Actions**

(a) Within 90 days after the effective date of this AD, do a general visual inspection of the S4 and S5 static pipes of the pitot static system for discrepancies (i.e., chafing, damage to pipes, inadequate clearance), per BAe Systems (Operations) Limited Inspection Service Bulletin SB.34–338, dated February 14, 2001.

**Note 2:** For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) If any chafing is found, before further flight, do the applicable follow-on actions per

the Accomplishment Instructions of the service bulletin. Where the service bulletin specifies to contact the manufacturer for disposition of certain repair conditions, the repair of those conditions is to be accomplished per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority (or its delegated agent).

(2) If no chafing is found and the clearance between the static pipes and the adjacent avionics structure is less than 0.10 inch, before further flight, do the applicable follow-on actions per the Accomplishment Instructions of the service bulletin.

(3) If no chafing is found and a minimum clearance of 0.10 inch exists between the static pipes and the adjacent avionics structure, no further action is required by this AD.

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

**Note 3:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

**Special Flight Permits**

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

**Note 4:** The subject of this AD is addressed in British airworthiness directive 008–02–2001.

Issued in Renton, Washington, on August 16, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21226 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–189–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 767–200, –300, and –300F Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Boeing Model 767–200, –300, and –300F series airplanes. This proposal would require examination of maintenance records to determine if Titanine JC5A corrosion inhibiting compound (''C.I.C'') was ever used; inspection for cracks or corrosion and corrective action, if applicable; repetitive inspections and C.I.C. applications; and modification of the aft trunnion area of the outer cylinder, which terminates the need for the repetitive inspections and C.I.C. applications. This action is necessary to prevent severe corrosion in the main landing gear (MLG) outer cylinder at the aft trunnion, which could develop into stress corrosion cracking and consequent collapse of the MLG. This action is intended to address the identified unsafe condition. The FAA is also planning to issue additional rulemaking to exclude the use of Titanine JC5A for compliance with previously issued ADs.

**DATES:** Comments must be received by September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–189–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–189–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** John Craycraft, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2782; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–189–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–189–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

The FAA has received reports indicating that an approved corrosion inhibiting compound (''C.I.C.'') has caused severe corrosion in the main landing gear (MLG) at the outer cylinder aft trunnion on Boeing Model 767 series airplanes. The corrosion was found on

landing gear that were previously reworked using the C.I.C. Titanine JC5A (hereafter referred to as ''JC5A'') during accomplishment of Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996 (which were referenced in AD 96–21–06, amendment 39–9783 (61 FR 55080, October 24, 1996), as the appropriate source of service information for accomplishing the terminating action). During general maintenance; overhaul; accomplishment of Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; or when assembled new, JC5A was commonly used as a substitute for C.I.C. BMS 3–27 (Mastinox 6856K) on aft trunnion components.

Over time, the JC5A deteriorates and becomes hard and dry. If moisture enters the outer cylinder aft trunnion and mixes with JC5A, a series of chemical reactions occur and the reaction products degrade the primer and cadmium plating. This may lead to corrosion in the aft trunnion where the JC5A was used. There is more potential for corrosion in aft trunnions with an undercut on the inner diameter of the aft trunnion in the area of the bushing, which serves as a lubrication reservoir, which certain airplanes had as delivered. The presence of JC5A on the aft trunnion, if not corrected, could result in severe corrosion in the MLG outer cylinder at the aft trunnion, which could develop into stress corrosion cracking and consequent collapse of the MLG.

**Explanation of Relevant Service Information**

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. The service bulletin describes procedures for examination of airplane records to determine if JC5A C.I.C. was ever used; application of a different C.I.C.; inspections for cracks or corrosion of the cross bolt hole inner chamfer and cross bolt bushing holes and chamfers; and corrective and follow-on actions, if necessary. Corrective and follow-on actions include corrosion repair; repetitive inspections and C.I.C. applications; and modification of the aft trunnion area of the outer cylinder, which terminates the need for the repetitive inspections and C.I.C. applications. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

**Cost Impact**

There are approximately 806 airplanes of the affected design in the worldwide fleet. The FAA estimates that 489 airplanes of U.S. registry would be affected by this proposed AD. The approximate work hours required to accomplish the proposed actions are indicated in the table below. It is estimated that the average labor rate is $60 per work hour. Cost of required parts per airplane and the estimated cost impact of the proposed AD on U.S. operators is indicated in the table below.

ESTIMATED COSTS

| Category | Labor costs (at $60 per hour) | Parts costs | Total cost per airplane | Total fleet cost (489 airplanes) |
|---|---|---|---|---|
| 1 | Inspection—Bushings Removed—25 hours/$1,500 | [Reserved] | $1,500 | $733,500 |
| 1 | Inspection—Bushings Not Removed—20 hours/$1,200 | [Reserved] | 1,200 | 586,800 |
| 1 | C.I.C. Application—5 hours/$300 | [Reserved] | 300 | 146,700 |
| 1 | Terminating Action—218 hours/$13,080 | $6,356 | 19,436 | 9,504,204 |
| 2 | Inspection—Bushings Not Removed—20 hours/$1,200 | [Reserved] | 1,200 | 586,800 |
| 2 | C.I.C. Application—5 hours/$300 | [Reserved] | 300 | 146,700 |

Category 1: Airplanes with an undercut in the aft trunnion bore.
Category 2: Airplanes without an undercut in the aft trunnion bore.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

**Regulatory Impact**

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 2001–NM–189–AD.

*Applicability:* All Model 767–200, –300, and –300F series airplanes, certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent severe corrosion in the main landing gear (MLG) outer cylinder at the aft trunnion, which could develop into stress corrosion cracking and consequent collapse of the MLG, accomplish the following:

**Records Examination**

(a) Within 90 days after the effective date of this AD, examine airplane records to determine if Titanine JC5A (hereafter referred to as ''JC5A'') corrosion inhibiting compound (''C.I.C.'') was used in the aft trunnion area of the MLG outer cylinder during general maintenance; overhaul; or incorporation of Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996 (required by paragraph (e) of AD 96–21–06, amendment 39–9783), in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. If records do not show conclusively which compound was used, assume JC5A was used. Refer to Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001, for the line numbers of airplanes which were assembled new using JC5A.

**Note 2:** Prior to January 31, 2001, if BMS 3–27 was ordered from Boeing, Boeing shipped JC5A as a substitute.

**MLGs on Which JC5A Was Not Used**

(b) Except as provided by paragraph (1) of this AD, if, according to the criteria of paragraph (a) of this AD, JC5A was never used, no further action is required by this AD.

**C.I.C. Applications, Inspections, and Corrective Actions if Necessary**

(c) For Category 1 MLG outer cylinders as identified in Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001: If, according to the criteria of paragraph (a) of this AD, JC5A may have been used, perform the actions specified in both paragraphs (d) and (e) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

(d) For MLGs and MLG outer cylinders identified in paragraphs (d)(1), (d)(2), and (d)(3) of this AD: Within 90 days after the effective date of this AD, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. Thereafter, repeat at intervals not to exceed 180 days until the terminating action required by paragraph (i) of this AD has been accomplished.

(1) MLG outer cylinders that are less than 3 years old since new.

(2) MLGs that have been overhauled less than 3 years ago.

(3) MLGs on which rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996, was accomplished less than 3 years ago.

(e) Before the MLG outer cylinder is 3 years old since new; since last overhaul; since rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; or within 90 days after the effective date of this AD; whichever is later, perform a detailed visual inspection for cracks and corrosion of the cross bolt bushing holes and chamfers in accordance with ''Part 1—Cross Bolt Hole Inspection—Bushings Removed'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

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

(1) If no crack or corrosion is found during the detailed visual inspection required by paragraph (e) of this AD, perform the actions in paragraphs (e)(1)(i), (e)(1)(ii), and (e)(1)(iii) of this AD, at the applicable times indicated.

(i) Before further flight, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the landing gear in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin.

(ii) Within 18 months after performing the detailed visual inspection required by paragraph (e) of this AD, and thereafter at intervals not to exceed 18 months, perform the detailed visual inspection for cracks and corrosion of the cross bolt hole inner chamfer, in accordance with ''Part 2—Cross Bolt Hole Inner Chamfer Inspection—Bushings Not Removed'' of the Accomplishment Instructions of the service bulletin, until the terminating action required by paragraph (i) of this AD has been accomplished.

(iii) Before the MLG cylinder is 6½years since new; since last overhaul; or since rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; whichever is later, perform the terminating action described in paragraph (i) of this AD.

(2) If any corrosion is found on the cross bolt holes or outer chamfers during the detailed visual inspection required by paragraph (e) of this AD, before further flight, remove the corrosion per Figure 2 of the service bulletin.

(i) If all of the corrosion can be removed, before further flight, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin, and perform the terminating action described in paragraph (i) of this AD, at the applicable time specified in paragraphs (e)(2)(i)(A) or (e)(2)(i)(B) of this AD.

(A) If the MLG outer cylinder is less than 5 years old since new; if the MLG was last overhauled less than 5 years ago; or, if rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996, was accomplished less than 5 years ago: Within 18 months after performing the detailed visual inspection required by paragraph (e) of this AD.

(B) If the MLG outer cylinder is 5 years old or more since new; if the MLG was last overhauled 5 years ago or more; or, if rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996, was accomplished 5 years ago or more: Before the MLG outer cylinder is 6½ years old since new; since last overhaul; or since rework per Boeing Alert Service Bulletin 767–32A0148, dated December 21, 1995, or Revision 1, dated October 10, 1996; whichever is later.

(ii) If corrosion cannot be removed, before further flight, perform the terminating action described in paragraph (i) of this AD.

(3) If any crack is found anywhere during the detailed visual inspection required in paragraph (e) of this AD, or if corrosion in the inner cross bolt hole chamfers is found, before further flight, perform the terminating action described in paragraph (i) of this AD.

(f) For Category 2 MLG outer cylinders as identified in Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001: If, according to the criteria of paragraph (a) of this AD, JC5A may have been used, perform the actions specified in both paragraphs (g) and (h) of this AD, as applicable, in accordance with Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

(g) For MLGs and MLG outer cylinders identified in paragraphs (g)(1) and (g)(2) of this AD: Within 90 days after the effective date of this AD, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. Thereafter, repeat the application at intervals not to exceed 180 days until the terminating action required by paragraph (i) of this AD has been accomplished.

(1) MLG outer cylinders that are less than 3 years old since new.

(2) MLGs that have been overhauled less than 3 years ago.

(h) Before the MLG outer cylinder is 3 years old since new or since the last

overhaul, or within 90 days of the effective date of this AD, whichever is later, perform a detailed visual inspection for cracks and corrosion of the cross bolt hole inner chamfer, in accordance with ''Part 2—Crossbolt Hole Inner Chamfer Inspection—Bushings Not Removed'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001.

(1) If no crack or corrosion is found during the inspection required by paragraph (h) of this AD, before further flight, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin, until the next MLG overhaul. After the next MLG overhaul has been completed, no further action is required by this AD.

(2) If any corrosion is found during the detailed visual inspection required by paragraph (h) of this AD, prior to further flight, remove the cross bolt bushings and perform the detailed visual inspection specified in paragraph (e) of this AD, and remove the corrosion per Figure 2 of the service bulletin.

(i) If all of the corrosion can be removed, perform the actions specified in paragraph (h)(2)(i)(A) and (h)(2)(i)(B) of this AD, at the applicable times indicated.

(A) Prior to further flight, and thereafter at intervals not to exceed 180 days, perform the C.I.C. application on the MLG in accordance with ''Part 3—C.I.C. Application'' of the Accomplishment Instructions of the service bulletin.

(B) Within 18 months after the corrosion removal required by paragraph (h)(2) of this AD, perform the terminating action described in paragraph (i) of this AD.

(ii) If all the corrosion cannot be removed, before further flight, perform the terminating action required by paragraph (i) of this AD.

(3) If any crack is found during the detailed visual inspection required by paragraph (h) of this AD, before further flight, perform the terminating action described in paragraph (i) of this AD.

**Terminating Action**

(i) Perform the terminating action (including removal of the existing bushings, repair of the aft trunnion area of the outer cylinder, and machining and installation of new bushings) in accordance with ''Part 4—Terminating Action'' of the Accomplishment Instructions of Boeing Alert Service Bulletin 767–32A0192, dated May 31, 2001. Completion of the terminating action terminates the requirements for the repetitive inspection and C.I.C. applications of this AD.

(j) Accomplishment of the actions specified in paragraph (i) of this AD is considered acceptable for compliance with the requirements of paragraph (e) of AD 96–21–06, amendment 39–9783.

**Spares**

(k) As of the effective date of this AD, no person shall install on any airplane an MLG outer cylinder unless it complies with either paragraph (b) or paragraph (i) of this AD, as applicable.

(l) As of the effective date of this AD, no person shall use on any airplane the corrosion inhibiting compound Titanine JC5A.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

Issued in Renton, Washington, on August 16, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21225 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 99–NE–51–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Honeywell International, Inc. (formerly AlliedSignal Inc., and Textron Lycoming) ALF502 and LF507 Series Turbofan Engines

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes to adopt a new airworthiness directive (AD) that is applicable to Honeywell International, Inc. (formerly AlliedSignal Inc. and Textron Lycoming) ALF502 and LF507 series turbofan engines. This proposal would require removing from service certain gas producer turbine (GPT) components prior to reaching new, lower cyclic life limits using drawdown plans, and replacing with serviceable parts. This proposal is prompted by continuous analysis of field-returned hardware indicating smaller service life margins than originally expected. The actions specified by the proposed AD are intended to prevent GPT component failure, which could result in an uncontained engine failure and damage to the airplane.

**DATES:** Comments must be received by October 22, 2001.

**ADDRESSES:** Submit comments to the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99-NE–51-AD, 12 New England Executive Park, Burlington, MA 01803–5299. Comments may also be sent via the Internet using the following address: ''9-ane-adcomment@faa.gov''. Comments sent via the Internet must contain the docket number in the subject line. Comments may be inspected at this location between 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Robert Baitoo, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712; telephone (562) 627–5245; fax (562) 627–5210.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99-NE–51-AD.'' The postcard will be date stamped and returned to the commenter.

**Availability of NPRM's**

Any person may obtain a copy of this NPRM by submitting a request to the FAA, New England Region, Office of the Regional Counsel, Attention: Rules Docket No. 99–NE–51–AD, 12 New England Executive Park, Burlington, MA 01803–5299.

**Discussion**

Honeywell International, Inc. (formerly AlliedSignal Inc.), the manufacturer of LF507 series turbofan engines and current type certificate holder of ALF502 series turbofan engines, has advised the FAA that continuous analysis of field-returned hardware indicates smaller service life margins than originally intended for certain first turbine rotor sealing plates, first turbine rotor discs, and turbine spacers. This analysis is supported by component tests. To date there has been no in-service failure of these components. This condition, if not corrected, could result in GPT component failure, which could result in an uncontained engine failure and damage to the airplane.

**Proposed Actions**

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require removing from service the first turbine rotor sealing plate, first turbine rotor disc, and turbine spacer prior to reaching new, lower cyclic life limits using drawdown plans, and replacing with serviceable parts. The actions would be required to be accomplished in accordance with the SB described previously.

**Economic Analysis**

There are approximately 1,600 engines of the affected design in the worldwide fleet. The FAA estimates that 300 engines installed on airplanes of U.S. registry would be affected by this proposed AD, and that the prorated cost of the life reduction per engine would be approximately $7,980. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $2,394,000.

**Regulatory Impact**

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Honeywell International, Inc.** (formerly AlliedSignal Inc., and Textron Lycoming): Docket No. 99–NE–51–AD.

*Applicability:* This airworthiness directive (AD) is applicable to Honeywell International, Inc. (formerly AlliedSignal Inc. and Textron Lycoming) ALF502 and LF507 series turbofan engines, with certain first turbine rotor sealing plates, first turbine rotor discs, and turbine spacers installed. These engines are installed on, but not limited to, Bombardier (Canadair) CL600–1A11, and British Aerospace BAe 146 series and AVRO 146-RJ series airplanes.

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

**Compliance**

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

To prevent gas producer turbine (GPT) component failure, which could result in an uncontained engine failure and damage to the airplane, do the following:

**Drawdown Schedule for First Turbine Rotor Sealing Plate**

(a) Remove from service first turbine rotor sealing plate according to the drawdown plan described in the following Table 1 of this AD, and replace with serviceable parts:

TABLE 1.—FIRST TURBINE ROTOR SEALING PLATE P/N 2–121–075–15, –21, –27, –28, AND –36

| Engine model | Cycles-in-service since new (CSN) on the effective date of this AD | Replace |
|---|---|---|
| (1) ALF502R, LF507–1F, and LF507–1H series | (i) Fewer than 15,000 CSN | Before accumulating 20,000 CSN. |
| | (ii) 15,000 or more CSN | Within 5,000 cycles-in-service (CIS) after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 25,000 CSN. |
| (2) All ALF502L series | (i) Fewer than 17,500 CSN | Before accumulating 18,000 CSN. |
| | (ii) 17,500 or more CSN | Within 500 CIS after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 23,000 CSN. |

**Drawdown Schedule for First Turbine Rotor Disc**

(b) Remove from service first turbine rotor disc according to the drawdown plan described in the following Table 2 of this AD, and replace with serviceable parts:

TABLE 2.—FIRST TURBINE ROTOR DISC P/N 2–121–051–18, –24, –25, –R35, –36, –37, –44, –R52, AND –R55

| Engine model | Cycles-in-service since new (CSN) on the effective date of this AD | Replace |
|---|---|---|
| (1) ALF502R, LF507–1F, and LF507–1H series | (i) Fewer than 15,000 CSN | Before accumulating 20,000 CSN. |
| | (ii) 15,000 or more CSN | Within 5,000 CIS after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 25,000 CSN. |
| (2) All ALF502L series | (i) Fewer than 13,500 CSN | Before accumulating 14,000 CSN. |
| | (ii) 13,500 or more CSN | Within 500 CIS after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 21,000 CSN. |

**Drawdown Schedule for Turbine Spacer**

(c) Remove from service turbine spacers according to the drawdown plan described in the following Table 3 of this AD, and replace with serviceable parts:

TABLE 3.—TURBINE SPACER P/N 2–121–071–36, –37, AND –42

| Engine model | First turbine rotor assembly P/N | Cycles-in-servicesince new (CSN) on the effective date of this AD | Replace |
|---|---|---|---|
| (1) ALF502R series, (except ALF502R–3) LF507–1F, and LF507–1H series. | P/N 2–121–090–63, –64, –65, –R66, or –R67. | (i) Fewer than 10,000 CSN | Before accumulating 15,000 CSN. |
| | | (ii) 10,000 or more CSN | Within 5,000 CIS after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 20,000 CSN. |
| (2) ALF502R series with turbine spacer P/N 2–121–071–36, –37 installed. | P/N 2–121–090–41 or –42 or if rotor assembly P/N cannot be determined. | | Before accumulating 12,000 CSN. |
| (3) ALF502R–3 with turbine spacer P/N 2–121–071–36 installed. | P/N 2–121–090–63, –64, –65, –R66, or –R67. | (i) Fewer than 10,000 CSN | Before accumulating 15,000 CSN. |
| | | (ii) 10,000 or more CSN | Within 5,000 CIS after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 20,000 CSN. |
| (4) All ALF502L series | P/N 2–121–090–63, –64, –65, –R66, –R67, –91, –R92. | (i) Fewer than 13,500 CSN | Before accumulating 14,000 CSN. |
| | | (ii) 13,500 or more CSN | Within 500 CIS after the effective date of this AD or at the next access after the effective date of this AD, whichever is earlier, but do not exceed 19,500 CSN. |
| (5) All ALF502L series | P/N 2–121–090–41, –42 or if rotor assembly P/N cannot be determined. | | Before accumulating 10,800 CSN. |

**Reduced Life Limits**

(d) Except for the drawdown provisions of paragraphs (a), (b), and (c) of this AD and the approvals granted under the provisions of paragraph (f) of this AD, no first turbine rotor sealing plates, first turbine rotor discs, or turbine spacers may remain in service beyond the cyclic life limits provided in paragraph (a), (b), or (c) of this AD.

**Definitions**

(e) For the purposes of this AD, access is defined as when the engine has been disassembled to where the affected part may be removed.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

(g) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a

location where the requirements of this AD can be accomplished.

Issued in Burlington, Massachusetts, on August 16, 2001.

**Jay J. Pardee,**

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

[FR Doc. 01–21222 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–SW–23–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Eurocopter France Model EC120B Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the supersedure of an existing airworthiness directive (AD) for Eurocopter France (ECF) Model EC120B helicopters. That AD currently requires adjusting the clearance of the cabin sliding door if necessary. This action would require adding an end stop to the front rail and modifying the rear stop of the middle rail to increase its adjustment range for certain cabin sliding doors. This proposal is prompted by an in-flight loss of a cabin sliding door, which had been locked in the open position. The actions specified by the proposed AD are intended to prevent in-flight loss of a cabin sliding door, impact with the horizontal stabilizer or fenestron tail rotor, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before October 22, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–23–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–23–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

### Discussion

On August 21, 2000, the FAA issued AD 2001–17–07, Amendment 39–11881 (65 FR 52012, August 28, 2000), to require adjusting the clearance of any cabin sliding door to a minimum of 3 mm from the aft end of the rail before further flight with the door in the open position. This action was prompted by a report of an in-flight loss of the cabin sliding door. An investigation determined that the loss of the door was due to the forward upper roller being out of its guide rail. The door edge thus exposed to the slipstream caused the forward lower roller train to be driven out of the guide rail due to the aerodynamic loads. The door aft hinges failed, and the door departed from the helicopter. The requirements of that AD are intended to prevent in-flight loss of a cabin sliding door; impact with the horizontal stabilizer, main rotor, or fenestron tail rotor; and subsequent loss of control of the helicopter.

Since issuing that AD, which requires adjusting the cabin sliding doors, the manufacturer has issued ECF Alert Service Bulletin No. 52A004, Revision 1, dated April 19, 2001 (ASB). That ASB specifies adding a stop to the front rail and modifying the rear stop of the middle rail of the cabin sliding doors. In addition, the Direction Generale De L'Aviation Civile (DGAC), the airworthiness authority for France, issued AD 2000–285–005(A) R2, dated May 16, 2001, which required compliance with the ASB.

This helicopter model is manufactured in France and is type certificated for operation in the United States under the provisions of 14 CFR 21.29 and the applicable bilateral agreement. Pursuant to this bilateral agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

We have identified an unsafe condition that is likely to exist or develop on other ECF Model EC120B helicopters of the same type design. The proposed AD would supersede AD 2000–17–07 to require, within 90 days after the effective date of the AD or before the next flight with a door open, whichever occurs first, adding a stop to the front rail and modifying the rear stop of the middle rail of the cabin sliding doors.

The FAA estimates that 24 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per helicopter to add and modify the cabin sliding door stops, and that the average labor rate is $60 per work hour. Required parts would cost approximately $25 per helicopter. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $3480.

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing Amendment 39–11881 (65 FR 52012, August 28, 2000), and by adding a new airworthiness directive (AD), to read as follows:

**Eurocopter France:** Docket No. 2001–SW–23–AD. Supersedes AD 2000–17–07, Amendment 39–11881, Docket No. 2000–SW–33–AD.

*Applicability:* Model EC120B, serial number 1169 and below, with a cabin sliding door rail, part number C533C8102201, C533C8102202, C533C8103201, or C533C8103202, installed, certificated in any category.

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

*Compliance:* Required within 90 days or before the next flight with the door open, whichever occurs first, unless accomplished previously.

To prevent in-flight loss of a cabin sliding door, impact with the horizontal stabilizer or fenestron tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) Add a stop to the front rail and modify the rear stop of the middle rail in accordance with the Operational Procedure, paragraph 2.B., of Eurocopter France Alert Service Bulletin No. 52A004, Revision 1, dated April 19, 2001.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(c) Special flight permits may be issued in accordance with 14 CFR 21.197 and 21.199 to operate the helicopter with the sliding cabin doors closed or removed to a location where the requirements of this AD can be accomplished.

**Note 3:** The subject of this AD is addressed in Direction Générale De L'Aviation Civile (France) AD 2000–285–005(A) R2, dated May 16, 2001.

Issued in Fort Worth, Texas, on August 14, 2001.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 01–21232 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–U

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–SW–15–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Agusta S.p.A. Model A109C, A109E, and A109K2 Helicopters

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes superseding an existing airworthiness directive (AD) for Agusta S.p.A. Model A109C, A109E, and A109K2 helicopters. That AD requires inspecting between the metal shells and honeycomb core by a tapping inspection of the upper and lower sides of the main rotor blade (blade) tip cap for bonding separation, by a visual inspection for swelling or deformation, and by a visual inspection of the welded bead along the leading edge for a crack. This action would contain the same requirements as the existing AD but would also require a tap inspection of the tip cap for bonding separation in the blade bond area and a dye penetrant inspection of the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack. This proposal is prompted by three occurrences in which the blade tip cap leading edge opened in flight due to cracks, resulting in excessive helicopter vibration. The actions specified by the proposed AD are intended to prevent failure of a blade tip cap, excessive vibration, and subsequent loss of control of the helicopter.

**DATES:** Comments must be received on or before October 22, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–15–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. You may also send comments electronically to the Rules Docket at the following address: 9-asw-adcomments@faa.gov. Comments may be inspected at the Office of the Regional Counsel between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Richard Monschke, Aviation Safety Engineer, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff, Fort Worth, Texas 76193–0110, telephone (817) 222–5116, fax (817) 222–5961.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before

and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their mailed comments submitted in response to this proposal must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 2001–SW–15–AD.'' The postcard will be date stamped and returned to the commenter.

## Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 2001–SW–15–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

## Discussion

On February 5, 1999, the FAA issued AD 98–19–04, Amendment 39–11039 (64 FR 7494, February 16, 1999), to require inspecting between the metal shells and honeycomb core for bonding separation by a tapping inspection of the upper and lower sides of the blade tip cap, by a visual inspection for swelling or deformation, and by a visual inspection of the welded bead along the leading edge of the blade tip cap for a crack. That action was prompted by two discoveries of cracks in the leading edge of blade tip caps. The cracks were discovered after pilots experienced increased vibration during flight. Subsequent investigation revealed that bonding separation of the honeycomb material in the blade led to deformation and cracking of the blade tip cap. The requirements of that AD are intended to prevent a blade tip cap failure, excessive vibration, and subsequent loss of control of the helicopter.

Since the issuance of that AD, Agusta S.p.A. has issued Alert Bollettino Tecnico (ABT) Nos. 109–106, 109K–22, and 109EP–1, all Revision B, and dated December 19, 2000, that specify inspecting the tip cap of blades, part number (P/N) 709–0103–01 (all dash numbers) up through serial number 1428, preceded by code AJ or EM, for debonds and cracks.

We have identified an unsafe condition that is likely to exist or develop on other Agusta S.p.A. Model A109C, A109E, and A109K2 helicopters of the same type design. The proposed AD would supersede AD 98–19–04 but would retain the same requirements and would also require a tap inspection of the tip cap for bonding separation in the blade bond area and a dye penetrant inspection of the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack. Installing tip cap, P/N 709–0103–29–109, on all affected blades would be terminating action for the requirements of this AD.

We estimate that 44 helicopters of U.S. registry would be affected by this proposed AD and that it would take approximately 6 work hours per helicopter for the initial and repetitive inspections of the fleet. The average labor rate is $60 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $15,840. This estimate is based on the assumption that no blade will need to be replaced as a result of these inspections.

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–11039 (64 FR 7494, February 16, 1999), and by adding a new airworthiness directive (AD) to read as follows:

**Agusta S.p.A.** Docket No. 2001–SW–15–AD. Supersedes AD 98–19–04, Amendment 39–11039, Docket No. 98–SW–40–AD.

*Applicability:* Model A109C, A109E, and A109K2 helicopters, with main rotor blade (blade), part number (P/N) 709–0130–01–all dash numbers, having a serial number (S/N) up to and including S/N 1428 with a prefix of either ''EM–'' or ''A5–'', installed, certificated in any category.

**Note 1:** This AD applies to each helicopter identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For helicopters that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must use the authority provided in paragraph (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

*Compliance:* Required within 10 hours time-in-service (TIS), unless accomplished previously, and thereafter at intervals not to exceed 25 hours TIS.

To prevent failure of a blade tip cap, excessive vibration, and subsequent loss of control of the helicopter, accomplish the following:

(a) Tap inspect the upper and lower sides of each tip cap for bonding separation between the metal shells and the honeycomb core using a steel hammer, P/N 109–3101–58–1, or a coin (quarter) in the area indicated as honeycomb core on Figure 1 of Alert Bollettino Tecnico Nos. 109–106, 109K–22, or 109EP–1, all Revision B, and dated December 19, 2000 (ABT), as applicable. Also, tap inspect for bonding separation in the tip cap to blade bond area (no bonding voids are permitted in this area).

(b) Visually inspect the upper and lower sides of each blade tip cap for swelling or deformation.

(c) Dye-penetrant inspect the tip cap leading edge along the welded joint line of the upper and lower tip cap skin shells for a crack in accordance with the Compliance Instructions, paragraph 3, of the applicable ABT.

(d) If any swelling, deformation, crack, or bonding separation that exceeds the prescribed limits in the applicable maintenance manual is found, replace the blade with an airworthy blade.

(e) Replacement blades affected by this AD must comply with the repetitive inspection

requirements of this AD. Replacing an affected blade with a blade having an airworthy blade tip cap, P/N 709–0103–29–109, is terminating action for the requirements of this AD for that blade.

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Regulations Group, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Regulations Group.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Regulations Group.

(g) A special flight permit may be issued under 14 CFR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished. No special flight permit will be issued for any flight with a known tip cap crack.

**Note 3:** The subject of this AD is addressed in Ente Nazionale per l'Aviazionne Civile (Italy) AD's 2000–571, 2000–572, and 2000–573, all dated December 22, 2000.

Issued in Fort Worth, Texas, on August 14, 2001.

**Eric Bries,**

*Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 01–21231 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2000–NM–348–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes. This proposal would require modifying the oxygen flow control valve. This action is necessary to ensure that proper oxygen flow will be available to passengers when needed. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–348–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–348–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

**FOR FURTHER INFORMATION CONTACT:** Dan Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7505; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000-NM–348-AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–348–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes. TCCA advises that field reports have indicated that the selector stop on the flow valve control panel can be installed incorrectly, preventing the selection of either ''ON'' or ''AUTO.'' This condition, if not corrected, could prevent proper oxygen flow being available to passengers when needed.

### Explanation of Relevant Service Information

Bombardier has issued Service Bulletin 8–35–19, dated August 17, 2000, which describes procedures for modifying the flow control valve. The modification involves removing the selector stop; installing two new screws of a shorter length in the vacated holes; and, for airplanes having a two-position label, replacing the label with a new three-position label having an OFF position. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2000–26, dated August 28, 2000, to ensure the

continued airworthiness of these airplanes in Canada.

**FAA's Conclusions**

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

**Explanation of Requirements of Proposed Rule**

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

**Cost Impact**

The FAA estimates that 150 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost for required parts would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $9,000, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

**Regulatory Impact**

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

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

**List of Subjects in 14 CFR Part 39**

Air transportation, Aircraft, Aviation safety, Safety.

**The Proposed Amendment**

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Bombardier, Inc.** (Formerly de Havilland, Inc.): Docket 2000–NM–348–AD.

*Applicability:* Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes; as listed in Bombardier Service Bulletin 8–35–19, dated August 17, 2000.

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

*Compliance:* Required as indicated, unless accomplished previously.

To ensure that proper oxygen flow will be available to passengers when needed, accomplish the following:

**Modification**

(a) Within 90 days after the effective date of this AD, modify the flow control valve (including removing the selector stop; installing two new screws of a shorter length in the vacated holes; and, for airplanes having a two-position label, replacing the label with a new three-position label having an OFF position). Perform the modification in accordance with Bombardier Service Bulletin 8–35–19, dated August 17, 2000 (Bombardier Modification 8/2989).

**Spares**

(b) As of the effective date of this AD, no person may install a selector stop having part number 8Z2070 or H85320099 on the flow control valve of any affected airplane.

**Alternative Methods of Compliance**

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

**Special Flight Permits**

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

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF–2000–26, dated August 28, 2000.

Issued in Renton, Washington, on August 16, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21230 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–07–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Boeing Model 757 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757 series airplanes. This proposal would require a one-time inspection of a wire bundle in the front left wing spar for chafing and for proper installation of a Teflon sleeve; corrective action, if necessary; and installation of extra protection against chafing. This action is necessary to prevent chafing between the wire bundle and the front left wing spar, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by October 9, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–07–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–07–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

**FOR FURTHER INFORMATION CONTACT:** John Vann, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1024; fax (425) 227–1181.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–07–AD.'' The postcard will be date stamped and returned to the commenter.

## Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–07–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

## Discussion

The FAA has received several reports of chafed fuel shutoff valve wires and densitometer wires in the wire bundle, part number (P/N) W5100, at front spar station 318.99 on Boeing Model 757 series airplanes. The reports indicated that the wires were found to be chafing against the left wing spar on the lower chord. One operator advised that false illumination of the ''L HYD PRESS'' light had occurred in flight. Subsequent repair of the wires in the wire bundle, P/N W5100, eliminated the false indication light condition.

Based on these reports, the airplane manufacturer inspected installation in the left wing spar of the wire bundle, P/N W5100, of airplanes in production. This inspection revealed that a potential chafing condition exists between the lower chord and the wire bundle, P/N W5100, adjacent to front spar station 318.99. Subsequently, one operator found chafing of the noted wire bundle as a result of missing sleeving on the airplane. Additional inspections of production airplanes found a number of airplanes with inadequate sleeving installed.

The wing leading edge, where front spar station 318.99 is located, is classified as a flammable leakage zone, and, as such, does not have fire detection and extinguishing capability, but flammable vapors are likely to be present. Chafing of the wire bundle, P/N W5100, against the wing spar, if not corrected, could result in electrical arcing and subsequent ignition of flammable vapors, possibly leading to uncontrollable fire.

## Explanation of Relevant Service Information

Boeing has issued Service Bulletins 757–29–0058 (for Model 757–200 series airplanes), and 757–29–0059 (for Model 757–300 series airplanes), both dated November 9, 2000. The service bulletins describe procedures for inspection of the wire bundle, P/N W5100, for chafing, and wire repair, if necessary; installation of a grommet; and inspection of the wire's teflon sleeving for proper installation and corrective action (including, but not limited to, repairing or adding sleeving if it does not exist, and ensuring that it is installed 1 inch past the upper clamp and 3 inches below the lower front spar chord), if necessary. Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition.

## Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the applicable service bulletin described previously. The proposed AD also would require that operators report results of inspection findings to the FAA.

## Cost Impact

There are approximately 1,058 airplanes of the affected design in the worldwide fleet. The FAA estimates that 615 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. The cost of

required parts would be negligible. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $36,900, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this proposed AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

## Regulatory Impact

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

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

## List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

## The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Boeing:** Docket 2001–NM–07–AD.

*Applicability:* Model 757 series airplanes, certificated in any category, as listed in Boeing Service Bulletins 757–29–0058 and 757–29–0059, both dated November 9, 2000.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent chafing between the wire bundle and the front left wing spar, which could result in electrical arcing and subsequent ignition of flammable vapors and possible uncontrollable fire, accomplish the following:

**Compliance Time**

(a) Within 6 months from the effective date of this AD, perform the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, in accordance with Boeing Service Bulletin 757–29–0058, dated November 9, 2000 (for Model 757–200 series airplanes); or Boeing Service Bulletin 757–29–0059, also dated November 9, 2000 (for Model 757–300 series airplanes); as applicable.

**Inspection and Corrective Action**

(1) Perform a detailed visual inspection of the wire bundle, part number (P/N) W5100, adjacent to front spar station 318.99 in the left wing leading edge, to detect chafing. If any damage is found, before further flight, repair the wire bundle.

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

**Modification**

(2) Install a caterpillar grommet to the edge of the spar lower chord in the left wing leading edge.

**Inspection and Corrective Action**

(3) Perform a general visual inspection for proper installation of perforated Teflon sleeving on the wire bundle, P/N W5100. If sleeving does not exist or is not covering the area from 1.0 inch beyond the clamp point to 3.0 inches below the spar flange edge, before further flight, install or repair the teflon sleeving.

**Note 3:** For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

**Note 4:** An optional 0.5-inch spacer may be used in accordance with the applicable service bulletin above, Section 3, Accomplishment Instructions, Work Instructions, to prevent the wire bundle from contacting the lower chord of the front spar on the left wing.

**Reporting**

(b) If the Teflon sleeving is found missing or improperly installed during the inspection required in paragraph (a)(3) of this AD, submit a report of inspection findings to the Manager, Seattle Aircraft Certification Office (ACO), FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; fax (425) 227–1181; at the applicable time specified in paragraph (b)(1) or (b)(2) of this AD. The report must include the inspection results, a description of any discrepancies found, the airplane serial number, and the number of landings and flight hours on the airplane. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the inspection is accomplished after the effective date of this AD: Submit the report within 30 days after performing the inspection required by paragraph (a)(3) of this AD.

(2) For airplanes on which the inspection specified in paragraph (a)(3) has been accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

**Alternative Methods of Compliance**

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

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

**Special Flight Permits**

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

Issued in Renton, Washington, on August 16, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21229 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. 2001–NM–50–AD]**

**RIN 2120–AA64**

## Airworthiness Directives; Bombardier Model CL–600–2B19 Series Airplanes

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 series airplanes. This proposal would require the installation of protective tape on the fire and overheat control unit located in the flight compartment. This action is necessary to prevent fluid contamination inside the fire and overheat control unit, which could result in a false fire alarm and consequent emergency landing. This action is intended to address the identified unsafe condition.

**DATES:** Comments must be received by September 24, 2001.

**ADDRESSES:** Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–50–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–50–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

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

**FOR FURTHER INFORMATION CONTACT:** James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7512; fax (516) 568–2716.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–50–AD.'' The postcard will be date stamped and returned to the commenter.

### Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–50–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

### Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 series airplanes. The TCCA advises that two cases of multiple false fire alarms in-flight have been reported. Investigation revealed that fluid contamination inside the fire and overheat control unit in the flight compartment set off the fire alarms. The fluid contamination was caused by accidental fluid spills into the fire and overheat control unit. This condition, if not corrected, could result in a false fire alarm and consequent emergency landing.

### Explanation of Relevant Service Information

Bombardier has issued Alert Service Bulletin A601R–26–017, Revision ''A,'' dated September 8, 2000, which describes procedures for the installation of protective tape on the external cover of the fire and overheat control unit located in the flight compartment. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–2000–35, dated December 14, 2000, in order to assure the continued airworthiness of these airplanes in Canada.

### FAA's Conclusions

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

certificated for operation in the United States.

### Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

### Cost Impact

The FAA estimates that 160 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $9,600, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

### Regulatory Impact

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

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

### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

### The Proposed Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

**§ 39.13 [Amended]**

2. Section 39.13 is amended by adding the following new airworthiness directive:

**Bombardier, Inc.** (Formerly Canadair): Docket 2001–NM–50–AD.

*Applicability:* Model CL–600–2B19 series airplanes, as listed in Bombardier Alert Service Bulletin A601R–26–017, Revision 'A,' dated September 8, 2000; certificated in any category.

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

*Compliance:* Required as indicated, unless accomplished previously.

To prevent fluid contamination inside the fire and overheat control unit, which could result in a false fire alarm and consequent emergency landing, accomplish the following:

**Installation of Protective Tape**

(a) Within 250 flight hours or 30 days after the effective date of this AD, whichever occurs first, install protective tape on the external cover of the fire and overheat control unit located in the flight compartment per Bombardier Alert Service Bulletin A601R–26–017, Revision 'A,' dated September 8, 2000.

**Alternative Methods of Compliance**

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, New York Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

**Note 2:** Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York ACO.

**Special Flight Permits**

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

**Note 3:** The subject of this AD is addressed in Canadian airworthiness directive CF–2000–35, dated December 14, 2000.

Issued in Renton, Washington, on August 16, 2001.

**Vi L. Lipski,**

*Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 01–21228 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–P

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 71

**[Airspace Docket No. 01–ANM–11]**

## Proposed Modification of Class E Airspace, Yakima, WA

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Proposed Rulemaking (NPRM).

**SUMMARY:** This action proposes to modify the Class E airspace at Yakima, WA. Additional Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft conducting IFR operations at Yakima Air Terminal, Yakima, WA, therefore making this proposal necessary. The intended effect of this proposal is to provide adequate controlled airspace for Instrument Flight Rules (IFR) operations at Yakima Air Terminal, Yakima, WA.

**DATES:** Comments must be received on or before October 9, 2001

**ADDRESSES:** Send comments on the proposal in triplicate to: Manager, Airspace Branch, ANM–520, Federal Aviation Administration, Docket No. 01–ANM–11, 1601 Lind Avenue SW., Renton, Washington, 98055–4056.

An informal docket may also be examined during normal business hours in the office of the Manager, Air Traffic Division, Airspace Branch, at the address listed above.

**FOR FURTHER INFORMATION CONTACT:** Brian Durham, ANM–520.7, Federal Aviation Administration, Docket No. 01–ANM–11, 1601 Lind Avenue SW., Renton, Washington 98055–4056: telephone number: (425) 227–2527.

**SUPPLEMENTARY INFORMATION:**

## Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide that factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit, with those comments, a self-addressed stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 01–ANM–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination at the address listed above both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

## Availability of NPRM's

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Airspace Branch, ANM–520, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

## The Proposal

The FAA is considering an amendment to Title 14 Code of Federal Regulations, part 71 (14 CFR part 71) by modifying Class E airspace at Yakima, WA. Additional Class E 700-feet and 1,200-feet controlled airspace, above the surface of the earth is required to contain aircraft conducting IFR operations at Yakima Air Terminal, Yakima, WA. The FAA establishes Class E airspace where necessary to contain aircraft transitioning between the terminal and en route environments. The intended effect of this proposal is designed to provide for the safe and efficient use of the navigable airspace. This proposal would promote safe flight operations under IFR at the Yakima Air Terminal and between the terminal and en route transition stages.

The area would be depicted on aeronautical charts for pilot reference. The coordinates for this airspace docket are based on North American Datum 83. Class E airspace areas extending upward from 700-feet or more above the surface of the earth, are published in Paragraph 6005, of FAA Order 7400.9H, dated September 1, 2000, and effective September 16, 2000, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11013; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

## List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

## The Proposed Amendment

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

## PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

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

### § 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9H, Airspace Designations and Reporting Points, dated September 1, 2000, and effective September 16, 2000, is amended as follows:

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

* * * * *

**ANM WA E5 Yakima, WA [REVISED]**

Yakima Air Terminal,
(Lat. 46°34′05″ N., long. 120°32′38″ W.)
Yakima VORTAC,
(Lat. 46°34′13″ N., long. 120°26′41″ W.)

That airspace extending upward from 700 feet above the surface within the 7.5-mile radius of the Yakima Air Terminal, and within 4.3 miles northeast and 8.7 miles southwest of the Yakima VORTAC 115° and 295° radials extending from .9 miles northwest to 20.1 miles southeast of the VORTAC, and within 4.1 miles north and 5 miles south of the 287° bearing from the Yakima Air Terminal extending from the 7.5-mile radius to 19.5 miles northwest of the airport; that airspace extending upward from 1,200-feet above the surface within a 21.8-mile radius of the Yakima VORTAC, and bounded by a line beginning at lat. 46° 10′00″ N., long. 119°45′00″ W.; thence to lat. 46°10′00″ N., long. 121°00′00″ W.; to lat. 46°50′00″ N., long. 121°00′00″ W.; to lat. 46°50′00″ N., long. 119°45′00″ W.; thence to the point of origin, excluding that and that airspace within Federal Airways, Restricted Area 6714 and its sub-areas during effective times, and the Ellensburg, WA Class E airspace area.

* * * * *

Issued in Seattle, Washington, on August 8, 2001.

**Dan A. Boyle,**

*Assistant Manager, Air Traffic Division, Northwest Mountain Region.*

[FR Doc. 01–21296 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 81

**[Docket ID–01–003; FRL–7042–6]**

### Finding of Attainment for PM–10; Shoshone County, City of Pinehurst and Pinehurst Expansion Area

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a determination that the Shoshone County PM–10 nonattainment areas (City of Pinehurst and Pinehurst Expansion Area) in Idaho have attained the National Ambient Air Quality Standard (NAAQS) for particulate matter with an aerodynamic diameter of less than, or equal to a nominal ten micrometers (PM–10) as of December 31, 1999.

In the Final Rules section of this **Federal Register**, the EPA is publishing its determination as a direct final rule without prior proposal because the Agency views this as a noncontroversial determination and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated.

If the EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

**DATES:** Written comments must be received on or before September 24, 2001.

**ADDRESSES:** Written comments should be addressed to Steven K. Body, Environmental Protection Specialist (OAQ–107), Office of Air Quality, at the EPA Regional Office listed below.

Copies of air quality data and other relevent information supporting this action are available for inspection during normal business hours at the following location: EPA, Office of Air Quality (OAQ–107), 1200 Sixth Avenue, Seattle, Washington 98101.

**FOR FURTHER INFORMATION CONTACT:** Steven K. Body, EPA, Office of Air Quality (OAQ–107), Seattle, Washington, (206) 553–0782.

**SUPPLEMENTARY INFORMATION:** For additional information, see the Direct Final rule which is located in the Rules section of this **Federal Register**.

Dated: August 3, 2001.

**Charles E. Findley,**

*Acting Regional Administrator, Region 10.*

[FR Doc. 01–21335 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 271

**[FRL–7040–4]**

### Florida: Final Authorization of State Hazardous Waste Management Program Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** Florida has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant final authorization to Florida. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we get comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

**DATES:** Send your written comments by September 24, 2001.

**ADDRESSES:** Send written comments to Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960. You can examine copies of the materials submitted by Florida during normal business hours at the following locations: EPA Region 4 Library, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960, Phone number: (404) 562–8190; or The Florida Department of Environmental Protection, Twin Towers Office Building, 2600 Blair Stone Road, Tallahassee, Florida 32399–2400, Phone number: (850) 488–0300.

**FOR FURTHER INFORMATION CONTACT:** Narindar M. Kumar, Chief, RCRA Programs Branch, Waste Management Division, U.S. Environmental Protection Agency, The Sam Nunn Atlanta Federal Center, 61 Forsyth Street, SW, Atlanta, Georgia 30303–8960; (404) 562–8440.

**SUPPLEMENTARY INFORMATION:** For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section of this **Federal Register**.

Dated: July 19, 2001.

**A. Stanley Meiburg,**

*Acting Regional Administrator, Region 4.*

[FR Doc. 01–21194 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

# Notices

Federal Register

Vol. 66, No. 164

Thursday, August 23, 2001

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

### Farm Service Agency

### Notice of Request for Extension of a Currently Approved Information Collection

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Farm Service Agency (FSA) to request an extension of a currently approved information collection in support of the FSA Aerial Photography Program. The FSA Aerial Photography Field Office (APFO) uses the information from this form to collect the customer and photography information needed to produce and ship the various products ordered.

**DATES:** Comments on this notice must be received on or before October 22, 2001 to be assured consideration.

**FOR FURTHER INFORMATION CONTACT:** Contact Linda McDonald, USDA, FSA, APFO, 2222 West 2300 South, Salt Lake City, Utah 84119–2020, telephone (801) 975–3500 Extension 235.

**SUPPLEMENTARY INFORMATION:**

*Title:* Request for Aerial Photography.

*OMB Control Number:* 0560–0176.

*Expiration Date of Approval:* March 23, 2002.

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

*Abstract:* The information collected under Office of Management and Budget (OMB) Control Number 0560–0176 as identified above, is needed to enable the Department of Agriculture to effectively administrate the Aerial Photography Program.

APFO has the authority to coordinate aerial photography and remote sensing programs and the aerial photography flying contract programs.

The film secured by FSA is public domain and reproductions are available at cost to any customer with a need. All receipts from the sale of aerial photography products and services are retained by FSA.

The FSA–441, Request for Aerial Photography, is the form FSA supplies to its customers when placing an order for aerial photography products and services.

*Estimate of Respondent Burden:* Public reporting burden for this information collection is estimated to average 3.3 hours per response.

*Respondents:* Farms, Ranchers and other USDA Customers who wish to purchase photography products and services.

*Estimated Number of Respondents:* 12,000.

*Estimated Number of Responses per Respondents:* 1.

*Estimated Total Annual Burden Hours on Respondents:* 8,000 hours.

Proposed topics for comment include but are not limited to: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information from those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, OMB, Washington, DC 20503, and to Linda McDonald, FSA, APFO, USDA, 2222 West 2300 South, Salt Lake City, Utah 84119–2020.

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

Signed at Washington, DC, on August 16, 2001.

**James R. Little,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 01–21312 Filed 8–22–01; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF AGRICULTURE

### Farm Service Agency

### Lifting of Temporary Suspension of Direct and Guaranteed Farm Ownership and Farm Operating Loan Programs To Construct Specialized Facilities Used for Hog Production.

**AGENCY:** Farm Service Agency, USDA.

**ACTION:** Notice lifting temporary suspension.

**SUMMARY:** The Farm Service Agency (FSA) is announcing the end of a temporary suspension, effective on the date of this notice, of direct and guaranteed farm ownership and farm operating loan financing for the construction of specialized facilities used for the production of hogs.

**EFFECTIVE DATE:** August 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** James F. Radintz, Director, Farm Service Agency, Farm Loan Programs Loan Making Division, 1400 Independence Avenue, SW, Stop 0522, Washington, DC 20250–0522, telephone (202)720–1632; e-mail Jim__Radintz@wdc.usda.gov.

**SUPPLEMENTARY INFORMATION:**

**Programs Affected**

10.406 Farm Operating Loans
10.407 Farm Ownership Loans

**Background**

On January 8, 1999, FSA suspended direct and guaranteed farm loan financing for the construction of hog production facilities. This action was taken to ameliorate the record high level of pork production and oversupply conditions, which had driven live hog prices to less than $10 per hundredweight on the spot market. It had also been determined that it was inconsistent with USDA policy for FSA to continue financing construction of additional production facilities through direct loans and loan guarantees while other USDA agencies were expending resources to ameliorate oversupply conditions.

The Secretary has determined that conditions in the hog industry have improved to the extent that the suspension on financing for hog production facilities is no longer necessary. FSA county offices have been instructed: (1) To notify applicants and lenders that the suspension has been

lifted and (2) to resume processing direct and guaranteed loan applications for the production of specialized facilities used for hog production.

Signed in Washington, D.C. on June 29, 2001.

**James R. Little,**

*Acting Administrator, Farm Service Agency.*

[FR Doc. 01–21311 Filed 8–22–01; 8:45 am]

BILLING CODE 3410–05–P

## DEPARTMENT OF COMMERCE

**[I.D. 082001A ]**

## Submission for OMB Review; Comment Request

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

**SUPPLEMENTARY INFORMATION:** *Agency*: National Oceanic and Atmospheric Administration (NOAA).

*Title*: Submission of Conservation Efforts to Make Listings Unnecessary Under the Endangered Species Act.

*Form Number(s)*: None.

*OMB Approval Number*: None.

*Type of Request*: Regular submission.

*Burden Hours*: 720.

*Number of Respondents*: 3.

*Average Hours Per Response*: 320 hours for an agreement, 160 hours per year for monitoring, and 40 hours for an annual report.

*Needs and Uses*: The National Marine Fisheries Service and the U.S. Fish and Wildlife Service (the ''Services'') have announced a draft policy on the criteria the Services will use to evaluate conservation efforts by states and other non-Federal entities. The Services take these efforts into account when making decisions on whether to list a species as threatened or endangered under the Endangered Species Act. Efforts usually involve the development of a conservation plan or agreement, procedures for monitoring the effectiveness of the plan or agreement, and an annual report.

*Affected Public*: State, local, or tribal Government; business or other for-profit organizations.

*Frequency*: On occasion, annually.

*Respondent's Obligation*: Voluntary.

*OMB Desk Officer*: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Madeleine Clayton, Departmental Paperwork Clearance Officer, (202) 482–3129, Department of Commerce, Room 6086, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at MClayton@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: August 16, 2001.

**Madeleine Clayton,**

*Departmental Paperwork Clearance Officer, Office of the Chief Information Officer.*

[FR Doc. 01–21329 Filed 8–22–01; 8:45 am]

BILLING CODE 3510–22–S

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–846]**

## Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of Fifth New Shipper Review

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

**ACTION:** Notice of final results and partial rescission of fifth new shipper review.

**SUMMARY:** On May 29, 2001, the Department of Commerce published the preliminary results and partial rescission of the fifth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China. *See Brake Rotors from the People's Republic of China: Preliminary Results and Partial Rescission of the Fifth New Shipper Review,* 66 FR 29080 (May 29, 2001) (*Preliminary Results*). The new shipper review initially covered three respondents (*see* ''Background'' section below for further discussion). The period of review is April 1, 2000, through September 30, 2000. We gave interested parties an opportunity to comment on our preliminary results and submit additional publicly available information for consideration in the final results.

Based on the additional publicly available information submitted and the comments received from the interested parties, we have made changes in the margin calculations for two respondents in this review. The final weighted-average dumping margins for the reviewed firms in this review are listed below in the section entitled ''Final Results of New Shipper Review.''

**EFFECTIVE DATE:** August 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Brian Smith or Terre Keaton, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 482–1766 or (202) 482–1280.

**SUPPLEMENTARY INFORMATION:**

### The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (''the Act''), are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Act by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department of Commerce's (''the Department's'') regulations are to 19 CFR part 351 (2000).

### Background

On May 29, 2001, the Department published in the **Federal Register** the preliminary results and partial rescission of the fifth new shipper review of the antidumping duty order on brake rotors from the People's Republic of China (''PRC'') (66 FR 29080). On June 4, 2001, the petitioner [1] requested an extension of time to submit publicly available information and rebuttal comments, and an extension of time to submit its case and rebuttal briefs in this review. On June 7, 2001, in response to the requests made by the petitioner, we provided all parties with another opportunity to submit publicly available information and to submit comments on this information for consideration in the final results, and an extension of time to submit case and rebuttal briefs. The petitioner submitted additional publicly available information on June 22, 2001. The respondents [2] submitted comments and rebuttal publicly available information on June 29, 2001. The petitioner submitted its case brief on July 13, 2001. The respondents submitted their rebuttal brief on July 20, 2001.

The Department has conducted this review in accordance with section 751 of the Act.

### Scope of the Order

The products covered by this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, ranging in diameter from 8 to 16 inches (20.32 to 40.64 centimeters)

[1] The petitioner is the Coalition for the Preservation of American Brake Drum and Rotor Aftermarket Manufacturers.

[2] The respondents in this review are Qingdao Meita Automotive Industry Co., Ltd. (''Meita'') and Shandong Laizhou Huanri Group General Co. (''Huanri General'').

and in weight from 8 to 45 pounds (3.63 to 20.41 kilograms). The size parameters (weight and dimension) of the brake rotors limit their use to the following types of motor vehicles: automobiles, all-terrain vehicles, vans and recreational vehicles under ''one ton and a half,'' and light trucks designated as ''one ton and a half.''

Finished brake rotors are those that are ready for sale and installation without any further operations. Semi-finished rotors are those on which the surface is not entirely smooth, and have undergone some drilling. Unfinished rotors are those which have undergone some grinding or turning.

These brake rotors are for motor vehicles, and do not contain in the casting a logo of an original equipment manufacturer (''OEM'') which produces vehicles sold in the United States (*e.g.,* General Motors, Ford, Chrysler, Honda, Toyota, Volvo). Brake rotors covered in this order are not certified by OEM producers of vehicles sold in the United States. The scope also includes composite brake rotors that are made of gray cast iron, which contain a steel plate, but otherwise meet the above criteria. Excluded from the scope of this order are brake rotors made of gray cast iron, whether finished, semifinished, or unfinished, with a diameter less than 8 inches or greater than 16 inches (less than 20.32 centimeters or greater than 40.64 centimeters) and a weight less than 8 pounds or greater than 45 pounds (less than 3.63 kilograms or greater than 20.41 kilograms).

Brake rotors are classifiable under subheading 8708.39.5010 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

**Partial Rescission of New Shipper Review**

We are rescinding, in part, the fifth new shipper review with respect to Beijing Concord Auto Technology Inc. (''Concord'') because it failed to demonstrate at verification that it was entitled to a separate rate. Thus, we have treated it as part of the non-market economy (''NME'') entity. As part of the NME entity, Concord is not entitled to a rate as a new shipper, because the NME entity as a whole was subject to the less-than-fair-value (''LTFV'') investigation. Consequently, we have rescinded the new shipper review of Concord. *See Preliminary Results,* 66 FR at 29080, and ''Issues and Decision Memorandum'' (''Decision Memo'') from Richard W. Moreland, Deputy Assistant Secretary for Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated August 17, 2001, for further discussion.

**Analysis of Comments Received**

All issues raised in the case briefs are addressed in the Decision Memo, which is hereby adopted by this notice. A list of the issues raised, all of which are in the Decision Memo, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in the briefs and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room B–099 of the main Department building. In addition, a complete version of the Decision Memo can be accessed directly on the Web at *http://ia.ita.doc.gov.* The paper copy and electronic version of the Decision Memo are identical in content.

**Changes Since the Preliminary Results**

Based on the use of additional publicly available information and the comments received from the interested parties, we have made changes in the margin calculation for the two respondents that cooperated fully in the new shipper review. For a discussion of these changes, see the ''Margin Calculations'' section of the Decision Memo.

**Final Results of New Shipper Review**

We determine that the following weighted-average margin percentages exist for the period April 1, 2000, through September 30, 2000:

| Exporter | Margin (percent) |
|---|---|
| Qingdao Meita Automotive Industry Co., Ltd. | 0.00 |
| Shandong Laizhou Huanri Group General Co. | 0.00 |

**Assessment Rates**

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of subject merchandise during the POR from Meita and Huanri General for which the importer-specific assessment rate is zero or *de minimis* (*i.e.,* less than 0.50 percent). In accordance with 19 CFR 351.212(b), we have calculated importer-specific *ad valorem* duty assessment rates. We will direct the Customs Service to assess the resulting percentage margin against the entered Customs values for the subject merchandise on each of that importer's entries under the relevant order during the review period.

**Cash Deposit Requirements**

The following deposit rates shall be required for merchandise subject to the order entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results, as provided by section 751(a)(1) and 751(a)(2)(B) of the Act: (1) The cash deposit rates for Meita and Huanri General will be the rate indicated above; (2) the cash deposit rate for PRC exporters who received a separate rate in a prior segment of the proceeding will continue to be the rate assigned in that segment of the proceeding; (3) the cash deposit rate for the PRC NME entity (*i.e.,* all other exporters, including Concord, which have not been reviewed) will continue to be 43.32 percent; and (4) the cash deposit rate for non-PRC exporters of subject merchandise from the PRC will be the rate applicable to the PRC supplier of that exporter. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this determination and notice in accordance with sections 751(a)(2)(B) and 777(i) of the Act and 19 CFR 351.214.

Dated: August 17, 2001.

**Bernard T. Carreau,**

*Acting Assistant Secretary for Import Administration.*

## Appendix—Issues in Decision Memo

*Comments*

1. Applying the Separate Rates Test to Beijing Concord
2. Applying the Separate Rates Test to Huanri General
3. Verification of Huanri General's Data
4. Considering the Use of Submitted Surrogate Values
5. Surrogate Value Selection for Steel Scrap
6. Surrogate Value Selection for Lug Bolts
7. Surrogate Value Selection for Firewood

[FR Doc. 01–21345 Filed 8–22–01; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

### International Trade Administration

### Notice of Determination with Respect to Modification of Tariff Rate Quotas on the Import of Certain Worsted Wool Fabrics

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

**ACTION:** The Department has recommended that no modification be made to the tariff rate quotas.

**SUMMARY:** The Department of Commerce has determined that the 2001 limitation on the quantity of imports of worsted wool fabrics that may be imported under the tariff rate quotas established by Title V of the Trade and Development Act of 2000 should not be modified.

**FOR FURTHER INFORMATION CONTACT:** Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4058.

**BACKGROUND:**

Title V of the Trade and Development Act of 2000 (The Act) creates two tariff rate quotas, providing for temporary reductions in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers. For worsted wool fabric with average fiber diameters greater than 18.5 microns (new Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11), the reduction in duty is limited to 2,500,000 square meter equivalents per year. For worsted wool fabric with average fiber diameters of 18.5 microns or less (new HTS heading 9902.51.12), the reduction is limited to 1,500,000 square meter equivalents per year. Both these limitations may be modified by the President, not to exceed 1,000,000 square meter equivalents per year for each tariff rate quota.

The Act requires annual consideration of requests by U.S. apparel manufacturers for modification of the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel must be considered.

In Presidential Proclamation 7383, of December 1, 2000, the President authorized the Secretary of Commerce to determine whether the limitations on the quantity of imports of worsted wool fabrics under the tariff rate quotas should be modified and to recommend to the President that appropriate modifications be made.

On January 22, the Department published regulations establishing procedures for considering requests for modification of the limitations. 66 FR 6459, 15 C.F.R. 340. These procedures include an annual solicitation in the Federal Register of requests to modify the limitations, notice in the Federal Register of any such request(s) and a solicitation of public comments on such request(s).

The regulations provide that not more than 30 days following the close of the comment period, the Department will determine whether the limitations on the quantity of imports under the tariff rate quotas should be modified, and recommend to the President that appropriate modifications be made.

A request was received on April 13, 2001 from Hartmarx Corporation, on behalf of the Tailored Clothing Association, to increase the level of both 2001 tariff rate quotas by 1,000,000 square meter equivalents. On June 11, 2001, the Department solicited comments on the request and comments were received from eighteen companies and organizations.

After reviewing the request, the comments received, and other information obtained, including a report prepared by the U.S. International Trade Commission, and after considering the specific market conditions set forth in the Act, the Department has determined that the 2001 limitation on the quantity of imports of worsted wool fabrics that may be imported under the tariff rate quotas established by Title V of the Trade and Development Act of 2000 should not be modified. Accordingly, the Department has recommended to the President that no modification be made to the tariff rate quotas.

Dated: August 14, 2001

**Linda M. Conlin,**

*Assistant Secretary for Trade Development, Department of Commerce.*

[FR Doc. 01–21328 Filed 8–22–01; 8:45 am]

BILLING CODE 3510–DR–S

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

**[I.D. 081001G]**

### Marine Mammals; Permits

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

**ACTION:** Receipt of application for a scientific research permit (File No. 1003–1646); receipt of application to amend Permit No. 455–1445–01.

**SUMMARY:** Notice is hereby given of the following actions for takes of marine mammal species for the purposes of scientific research and enhancement: NMFS has received a permit application from: Jennifer Burns, University of Alaska Fairbanks, 3211 Providence Drive, Anchorage, Alaska 99508–8104 (File No. 1003–1646); NMFS has received an application for a permit amendment from The Waikiki Aquarium, 2777 Kalakaua Avenue, Honolulu, HI 96815 (Bruce Carlson, Principle Investigator; Permit No. 455–1445–01).

**DATES:** Written or telefaxed comments on the permit application or amendment request must be received on or before September 24, 2001.

**ADDRESSES:** Written comments on the permit application or amendment request should be sent to the appropriate office as indicated below. Comments may also be sent via fax to the number indicated for the application or amendment request. Comments will not be accepted if submitted via e-mail or the internet. The application and related documents are available for review upon written request or by appointment in the following office(s):

For permit application (File No. 1003–1646): Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249;

For amendment request (Permit No. 455–1445–01): Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562) 980–4001; fax (562) 980–4018; and

Pacific Islands Area Office, NMFS, 1601 Kapiolani Blvd., Room 1110,

Honolulu, HI 96814-4700; phone (808) 973–2935; fax (808) 973–2941.

All documents may also be reviewed by appointment in the Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 713–0376.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

**FOR FURTHER INFORMATION CONTACT:** Amy Sloan or Ruth Johnson, (301) 713–2289.

**SUPPLEMENTARY INFORMATION:** The subject permit and amendment are requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–227).

### New Application Received

File No. 1003–1646: Dr. Burns proposes to import marine mammal parts (blood, blubber and muscle biopsies, and flipper tissue) from Canadian populations of harbor seals (*Phoca vitulina*), hooded seals (*Cystophora cristata*), harp seals (*Phoca groenlandica*), and grey seals (*Halichoerus grypus*). These tissues will be used to study physiological adaptations of foraging in marine mammals and more specifically, the development of body oxygen stores in phocid pups.

### Amendment Request Received

Permit No. 455–1445–01 currently authorizes the Waikiki Aquarium to hold Hawaiian monk seals (*Monachus schauinslandi*) for the purpose of enhancing the survival and recovery of the species. The scientific research portion of the permit, which expired June 30, 2001, involved studies on the efficiency with which the monk seals assimilate and metabolize amino acids and fatty acids from common prey types, and the elucidation and monitoring of how reproductive and metabolic activities are related in male monk seals. The applicant proposes to extend this portion of the permit to allow these research projects to continue through the duration of the enhancement permit, until June 30, 2003. The research projects will remain the same with the exception of the feeding study, where natural prey fish will be replaced with capelin, herring, smelt, squid, and/or lobster to ensure consistent quality in the food fed to the seals and to minimize the potential for introducing ciguatera. In addition, changes to training protocols for application to collection of samples for the scientific research studies and husbandry purposes are requested, including increasing training for blood sampling from one time per month to two times per week, training for voluntary swallowing of a feeding tube, and training to receive intramuscular injections.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

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

Dated: August 16, 2001.

**Ann D. Terbush,**

*Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.*

[FR Doc. 01–21330 Filed 8–22–01; 8:45 am]

BILLING CODE 3510–22–S

## CONSUMER PRODUCT SAFETY COMMISSION

**[CPSC Docket No. 01–C0010]**

## Mast Industries, Inc., (A wholly Owned Subsidiary of The Limited, Inc.) and the Limited, Inc., a Corporation Provisional Acceptance of a Settlement Agreement and Order

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice.

**SUMMARY:** It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20. Published below is a provisionally-accepted Settlement Agreement with Mast Industries, Inc., (A wholly owned subsidiary of The Limited, Inc.) and The Limited, Inc., a corporation containing a civil penalty of $500,000.

**DATES:** Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by September 7, 2001.

**ADDRESSES:** Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 01–C0010, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

**FOR FURTHER INFORMATION CONTACT:** Melissa V. Hampshire, Trial Attorney, Office of the General Counsel, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0980, 2208.

**SUPPLEMENTARY INFORMATION:** The text of the Agreement and Order appears below.

Dated: August 16, 2001.

**Todd A. Stevenson,**

*Acting Secretary.*

### Settlement Agreement and Order

1. This Settlement Agreement, made by and between the staff of the U.S. Consumer Product Safety Commission (''the staff'') and Mast Industries, Inc. (hereinafter ''Mast'') and The Limited, Inc. (hereinafter ''The Limited''), any of their subsidiary or affiliated companies in accordance with 16 CFR 1605.13 of the Commission's Procedures for Investigations, Inspections, and Inquiries under the Flammable Fabrics Act (''FFA''), is a settlement of the staff allegations set forth below.

*I. The Parties*

2. The Consumer Product Safety Commission (''Commission'') is an independent federal regulatory agency responsible for the enforcement of the Flammable Fabrics Act, 15 U.S.C. 1191 et seq.

3. Mast Industries, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal place of business 100 Old River Road, Andover Massachusetts, 01810. Mast is a wholly owned subsidiary of The Limited, Inc.

4. The Limited, Inc. is a corporation organized and existing under the laws of the State of Delaware with its principal corporate offices at Three Limited Parkway, Columbus Ohio, 43216.

*II. Staff Allegations*

5. The following children's sleepwear imported and distributed by Mast and

The Limited are the subject of this agreement;

a. Girl's 100 percent polyester pajama sets with a satin finish in sizes 6 through 14. The pajamas were two-piece pullover or front-button styles with sleeveless, short or long sleeved tops and bottoms, available in a variety of colors or patterns. The pajamas were labeled ''made in Hong Kong,'' ''Macau,'' or ''Ski Lanka.'' Limited Too stores sold the pajamas nationwide from December 1995 through July 1998 for $15–39.

b. Girl's sizes 7–14, 100 percent polyester fleece robes in violet, teal and plaid colors. The robes had shawl collars and a tie belt and were labeled ''Limited Too'' * * * ''100% Polyester'' * * * ''Made in Sri Lanka.'' Limited Too stores nationwide sold the robes from September 1998 through December 1998 for between $60 and $64.

6. Beginning in 1996, Mast imported, and The Limited distributed and/or sold through their then retail stores known as Limited Too, into United States commerce approximately 432,120 children's polyester pajama sets, described in paragraph 5a above.

7. The children's pajama sets, described in paragraph 5a above, are subject to the Standards for the Flammability of Children's Sleepwear (''Sleepwear Standards''), 16 CFR Parts 1615 and 1616, issued under section 4 of the FFA, 15 U.S.C. 1193. The Commission tested, in July 1998, a sample of the pajama sets, and determined that they failed to comply with the Sleepwear Standards. The pajama sets were not flame-resistant and therefore unsuitable for use as children's sleepwear.

8. The Commission's subsequent investigation into the parties importation and distribution of the pajama sets showed that they did not test the pajama sets, as required, to the Sleepwear Standards.

9. Beginning in August 1998, Mast imported, and The Limited distributed and/or sold into United States commerce through their then Limited Too retail stores approximately 17,600 children's polyester fleece robes described in paragraph 5b above.

10. The Commission tested, in November 1998, samples of the robes, described in paragraph 5b above, for compliance with the requirements of the Sleepwear Standards. Testing determined that the robes, described in paragraph 5b above, failed to comply with the Sleepwear Standards and were not flame-resistant and therefore unsuitable for use as children's sleepwear.

11. Mast and The Limited knowingly imported, offered for sale and sold in commerce the children's sleepwear identified in paragraphs 5–10 in violation of section 3 of the FFA, 15 U.S.C. 1192, for which a civil penalty may be imposed pursuant to section 5(e)(1) of hte FFA, 15 U.S.C. 1194(e)(1).

*III. Response of The Limited Companies*

12. Mast and The Limited deny the allegations set forth in paragraphs 5 through 11 above that they knowingly imported and offered for sale or sold in commerce the sleepwear identified in paragraphs 5–10 above in violation of section 3 of the FFA, 15 U.S.C. 1192. Mast tested the robes identified in paragraph 5b to the Sleepwear Standards. When the instances identified in paragraphs 5–11 became known to Mast and The Limited, they promptly and diligently cooperated with the Commission and voluntarily recalled the sleepwear that had sold and removed the remaining inventory from sale.

13. Mast and The Limited enter this Settlement Agreement and Order for settlement and compromise purposes only, to avoid incurring additional legal costs and expenses.

14. The parties have not received any reports of consumer injury related in any way to the specific sleepwear (pajama sets and robes) listed above.

*IV. Agreement of the Parties*

15. The Commission has jurisdiction over this matter and over Mast and The Limited under the Flammable Fabrics Act (FFA), 15 U.S.C. 1191 *et seq.*, and the Federal Trade Commission Act (FTCA), 15 U.S.C. 41 *et seq.*, and the Consumer Product Safety Act (CPSA), 15 U.S.C. 2051 *et. seq.*

16. Mast and The Limited knowingly, voluntarily and completely waive any rights they may have in the above captioned case (1) to the issuance of a Complaint in this matter; (2) to an administrative or judicial hearing with respect to the staff allegations cited herein; (3) to judicial review or other challenge or contest of the validity of the Commission's Order; (4) to a determination by the Commission as to whether Mast and The Limited failed to comply with the FFA as alledged; (5) to a statement of findings of fact and conclusions of law with regard to the staff allegations; and (6) to any claims under the Equal Access to Justice Act.

17. Upon provisional acceptance of this Settlement Agreement and Order by the Commission, this Settlement Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with 16 CFR 1118.20.

18. The Settlement Agreement and Order becomes effective upon final acceptance by the Commission and its service upon Mast and The Limited. Mast and/or The Limited shall pay a civil penalty in the amount of five hundred thousand dollars ($500,000) to the United States Treasury, within 20 calendar days of receiving service of such final Settlement Agreement and Order.

19. In the event of default of the payment as set forth in paragraph 18 above, which default continues for ten (10) calendar days beyond the due date of payment, Mast and The Limited agree that they shall pay the United States Treasury the entire amount of civil penalty, due and owing as well as interest on the amount owing at a rate computed pursuant to 28 U.S.C. 1961(a), as well as a penalty in the amount of five hundred dollars ($500.00) per day until full payment is made, calculated beginning on the first day after payment is due. In addition, in the event of default, Mast and The Limited agree that they shall raise no defense or objection to any collection action the Commission deems appropriate and shall pay all the costs incurred in such action.

20. This Settlement Agreement and Order is entered into for the purposes of compromise and settlement only and does not constitute a determination by the Commission that Mast and The Limited knowingly violated the FFA. This Settlement Agreement and Order is not to be deemed or construed as an admission by Mast and The Limited of any liability or wrongdoing by them; or that they violated any law or regulation. Upon final acceptance of this Settlement Agreement by the Commission, the issuance of the Order, and the full and timely payment by Mast and/or The Limited to the United States Treasury a civil penalty in the amount of five hundred thousand dollars ($500,000), the Commission specifically waives its right to initiate, either by referral to the Department of Justice or bringing in its own name, any action for civil penalties against (a) Mast and/or The Limited; (b) any of Mast and/or The Limited shareholders, directors, officers, employees, agents or attorneys; and (c) any successor, heir, or assign of the persons described in (a), (b) or (c) for violations or alleged violations of the Flammable Fabrics Act with respect to the conduct outlined in paragraphs 5–11 of this Agreement.

21. Upon provisional acceptance of the Commission, the parties agree that the Commission may publicize the

terms of the Settlement Agreement and Order.

22. Mast and The Limited agree to the entry of the attached Order, which is incorporated herein by reference, and agree to be bound by its terms.

23. The Commission's Order in this matter is issued under the provisions of the FFA, 15 U.S.C. 1191 *et seq.,* and a violation of this Order may subject Mast and The Limited to appropriate legal action.

24. This Settlement Agreement and Order is binding upon Mast and The Limited and their assigns or successors.

25. Agreements, understandings, representations, or interpretations made outside this Settlement Agreement and Order may not be used to vary or contradict its terms.

26. The existence of a dispute shall not excuse, toll, or suspend any obligation or deadline imposed upon Mast and The Limited under this Settlement Agreement and Order.

27. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the party or parties against whom such waiver, change, amendment, modification, or alteration is sought to be enforced, and approved by the Commission.

Mast Industries, Inc.

Dated: August 9, 2001.

Cathlean Morrison,
*Executive Vice President and Chief Administrative Officer.*

The Limited, Inc.

Dated: August 8, 2001.

Douglas Williams,
*Vice President and Senior Counsel.*

Georgia C. Ravitze, Esq.
Scott A. Cohn, Esq.,
*Arent, Fox, Kintner, Plotkin & Kahn, PLLC, 1050 Connecticut Ave., NW., Washington, DC 20036–5339.*

U.S. Consumer Product Safety Commission Staff

Michael S. Solender, General Counsel
Alan Shakin, Assistant General Counsel

Dated: August 9, 2001.

Melissa V. Hampshire,
*Attorney, Enforcement and Information Division, Office of The General Counsel.*

## Order

Upon consideration of the Settlement Agreement entered into between the staff of the U.S. Consumer Product Safety Commission (''the staff'') and Mast Industries, Inc. (''Mast'') and The Limited, Inc. (''The Limited'') and any of their subsidiary or affiliated companies; and the Commission having jurisdiction over the subject matter and The Limited and Mast; and it appearing that the Settlement Agreement and order is in the public interest,

*It is ordered,* that the Settlement Agreement and Order be and hereby is provisionally accepted and

*It is further ordered,* that upon final acceptance of the Settlement Agreement and issuance of the Final Order, that Mast and/or The Limited shall pay to the United States Treasury a civil penalty of five hundred thousand dollars ($500,000) within twenty (202) calendar days after service upon Mast and The Limited of a copy of the Final Order.

By direction of the Commission, this Settlement Agreement is provisionally accepted pursuant to 16 CFR 1605.13(d) and shall be placed in the public record, and the Commission shall announce the provisional acceptance of the Settlement Agreement in the Commission's Public Calendar and in the **Federal Register.**

Provisionally accepted and Provisional Order issued on the 16th day of August 2001.

By order of the Commission.

**Todd A. Stevenson,**

*Acting Secretary, Consumer Product Safety Commission*

[FR Doc. 01–21214 Filed 8–22–01; 8:45 am]

**BILLING CODE 6355–01–M**

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## DEPARTMENT OF EDUCATION

### Advisory Committee on Student Financial Assistance; Meeting

**AGENCY:** Advisory Committee on Student Financial Assistance, Ecucation.

**ACTION:** Notice of upcoming meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of a forthcoming partially closed meeting of the Advisory Committee on Student Financial Assistance. Individuals who will need accommodations for a disability in order to attend the meeting (i.e., interpreting services, assistive listening devices, and/or materials in alternative format) should notify Ms. Hope M. Gray at 202–708–7439 or via e-mail at hope.gray@ed.gov no later than Wednesday, September 5, 2001. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities. This notice also describes the functions of the Committee. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public.

**DATES AND TIMES:** Thursday, September 13, 2001, beginning at 9:00 a.m. and ending at approximately 6:00 p.m.; and Friday, September 14, 2001, beginning at 8:30 a.m. and ending at approximately 2:00 p.m.

**ADDRESSES:** The Radisson Barcelo Hotel, 2121 P Street, N.W., the Phillips Ballroom, Washington, D.C. 20037

**FOR FURTHER INFORMATION CONTACT:** Dr. Brian K. Fitzgerald, Staff Director, Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. 20202–7582 (202) 708–7439.

**SUPPLEMENTARY INFORMATION:** The Advisory Committee on Student Financial Assistance is established under Section 491 of the Higher Education Act of 1965 as amended by Pub. L. 100–50 (20 U.S.C. 1098). The Advisory Committee serves as an independent source of advice and counsel to the Congress and the Secretary of Education on student financial aid policy. Since its inception, the Committee has been charged with providing technical expertise with regard to systems of need analysis and application forms, making recommendations that result in the maintenance of access to postsecondary education for low-and middle-income students; conducting a study of institutional lending in the Stafford Student Loan Program; assisting with activities related to the 1992 reauthorization of the Higher Education Act of 1965; conducting a third-year evaluation of the Ford Federal Direct Loan Program (FDLP) and the Federal Family Education Loan Program (FFELP) under the Omnibus Budget Reconciliation Act (OBRA) of 1993; and assisting Congress with the 1998 reauthorization of the Higher Education Act.

The congressional mandate requires the Advisory Committee to conduct objective, nonpartisan, and independent analyses on important aspects of the student assistance programs under Title IV of the Higher Education Act. The Committee traditionally approaches its work from a set of fundamental goals: Promoting program integrity, eliminating or avoiding program complexity, integrating delivery across the Title IV programs, and minimizing burden on students and institutions.

Reauthorization of the Higher Education Act has provided the Advisory Committee with a significantly expanded agenda in six majors areas, such as, Performance-based Organization (PBO); Modernization; Technology; Simplification of Law and Regulation; Distance Education; and Early Information and Needs

Assessment. In each of these areas, Congress has asked the Committee to: monitor progress toward implementing the Amendments of 1998; conduct independent, objective assessments; and make recommendations for improvement to the Congress and the Secretary. Each of these responsibilities flows logically from and effectively implements one or more of the Committee's original statutory functions and purposes.

The proposed agenda includes: (a) Round table discussion sessions regarding the findings of Access Denied and related research, in particular, the implications of unmet need on low-income students, and the role of academic preparation on access; and (b) the Committee's plans for fiscal year 2002. In addition, other Committee business will be addressed. Space is limited and you are encouraged to register early if you plan to attend. You may register through Internet at ADV.COMSFA@ed.gov or Tracy.Deanna. Jones@ed.gov. Please include your name, title, affiliation, complete address (including Internet and e-mail—if available), and telephone and fax numbers. If you are unable to register electronically, you may mail or fax your registration information to the Advisory Committee staff office at (202) 401–3467. Also, you may contact the Advisory Committee Staff at (202) 708–7439. The registration deadline is Tuesday, September 4, 2001.

The Advisory Committee will meet in Washington, D.C. on Thursday, September 13, 2001, from 9:00 a.m. until approximately 6:00 p.m., and on Friday, September 14, from 8:30 a.m. until approximately 2:00 p.m. The meting will be closed to the public on September 13, from approximately 4:30 p.m. to 6:00 p.m. to discuss personnel matters. The ensuing discussions will relate to internal personnel rules and practices of an agency and will disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552(b)(c) of Title 5 U.S.C. A summary of the activities at the closed session and related matters that are informative to the public consistent with the policy of Title 5 U.S.C. 552(b) will be available to the public within fourteen days after the meeting.

Records are kept of all Committee proceedings, and are available for public inspection at the Office of the Advisory Committee on Student Financial Assistance, Portals Building, 1280 Maryland Avenue, S.W., Suite 601, Washington, D.C. from the hours of 9:00 a.m. to 5:30 p.m., weekdays, except Federal holidays.

Dated: August 17, 2001.

**Brian K. Fitzgerald,**

*Staff Director, Advisory Committee on Student Financial Assistance.*

[FR Doc. 01–21216 Filed 8–22–01; 8:45 am]

BILLING CODE 4000–01–M

## DEPARTMENT OF EDUCATION

### Office of Management; Notice of Membership of the Performance Review Board (PRB)

**AGENCY:** Department of Education.

**ACTION:** Notice of membership of the Performance Review Board (PRB).

**SUMMARY:** The Secretary announces the names of members of the PRB for the Department of Education. Under 5 U.S.C. 4314(c)(1) through (5), each agency is required to establish one or more Senior Executive Service (SES) PRB(s). The PRB reviews and evaluates the initial appraisal of a senior executive's performance along with any comments by senior executives and any higher level executive and makes recommendations to the appointing authority relative to the performance of the senior executive, including making recommendations on performance awards. The Department of Education's PRB also makes recommendations on SES pay level adjustments for career senior executives.

### Membership

The following executives of the Department of Education have been selected to serve on the Performance Review Board of the Department of Education: Chair: Willie H. Gilmore, Co-chair: Rebecca O. Campoverde, Philip Link, Thomas Skelly, Ricky Takai, Linda A. Stracke, Danny Harris, Susan Bowers, John Higgins, Steven Winnick, Patricia Guard, Arthur Cole, Francisco Garcia, Robert Belle, Maureen McLaughlin, Sue Betka, Peirce Hammond, Dennis Berry, James Lynch, Linda Paulsen, James Manning, C. Todd Jones, and Susan Sclafani. The following executives have been selected to serve as alternate members of the PRB: Carol Cichowski, John Klenk, Art Love, and Craig Luigart.

**FOR FURTHER INFORMATION CONTACT:** Althea Watson, Director, Executive Resources Team, Human Resources Group, Office of Management, Department of Education, room 2E124, FOB–6, 400 Maryland Avenue, SW., Washington, DC 20202–4573, Telephone: (202) 401–0546. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

### Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site:

www.ed.gov/legislation/FedRegister

To use PDF you must have the Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

**Note:** The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html.

Dated: August 17, 2001.

**Rod Paige,**

*Secretary of Education.*

[FR Doc. 01–21217 Filed 8–22–01; 8:45 am]

BILLING CODE 4000–01–P

## DEPARTMENT OF ENERGY

### Environmental Management Site-Specific Advisory Board, Pantex

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Pantex. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Tuesday, September 25, 2001, 1:00 p.m.–5:00 p.m.

**ADDRESSES:** The Wellington Room, Wellington Square @ Interstate 40 and Georgia Street, Amarillo, TX.

**FOR FURTHER INFORMATION CONTACT:** Jerry S. Johnson, Assistant Area Manager, Department of Energy, Amarillo Area Office, P.O. Box 30030, Amarillo, TX 79120; phone (806) 477–3125; fax (806)

477–5896 or e-mail *jjohnson@pantex.gov.*

**SUPPLEMENTARY INFORMATION:**

### Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management and related activities.

### Tentative Agenda

1:00 Agenda Review/Approval of Minutes
1:15 Co-Chair Comments
1:30 Task Force/Subcommittee Reports
2:00 Ex-Officio Reports
2:15 Break
2:30 Updates—Occurrence Reports—DOE
3:00 Presentation (To Be Announced) 24 hr. information line: (806) 372–1945
4:00 Questions/Public Questions/Comments
5:00 Adjourn

### Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Jerry Johnson's office at the address or telephone number listed above. Requests must be received five days prior to the meeting and every reasonable provision will be made to accommodate the request in the agenda. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

### Minutes

Minutes of this meeting will be available for public review and copying at the Pantex Public Reading Rooms located at the Amarillo College Lynn Library and Learning Center, 2201 South Washington, Amarillo, TX phone (806) 371–5400. Hours of operation are from 7:45 a.m. to 10:00 p.m. Monday through Thursday; 7:45 a.m. to 5:00 p.m. on Friday; 8:30 a.m. to 12:00 noon on Saturday; and 2:00 p.m. to 6:00 p.m. on Sunday, except for Federal holidays. Additionally, there is a Public Reading Room located at the Carson County Public Library, 401 Main Street, Panhandle, TX phone (806) 537–3742. Hours of operation are from 9:00 a.m. to 7:00 p.m. on Monday; 9:00 a.m. to 5:00 p.m. Tuesday through Friday; and closed Saturday and Sunday as well as Federal holidays. Minutes will also be available by writing or calling Jerry S. Johnson at the address or telephone number listed above.

Issued at Washington, DC on August 17, 2001.

**Belinda Hood,**

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 01–21292 Filed 8–22–01; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

## Environmental Management Site-Specific Advisory Board, Rocky Flats

**AGENCY:** Department of Energy.

**ACTION:** Notice of open meeting.

**SUMMARY:** This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

**DATES:** Thursday, September 6, 2001, 6 p.m. to 9:30 p.m.

**ADDRESSES:** Jefferson County Airport Terminal Building, Mount Evans Room, 1175 Airport Way, Broomfield, CO.

**FOR FURTHER INFORMATION CONTACT:** Ken Korkia, Board/Staff Coordinator, Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO, 80021; telephone (303) 420–7855; fax (303) 420–7579.

**SUPPLEMENTARY INFORMATION:**

### Purpose of the Board

The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

### Tentative Agenda

1. Part four: Board recommendation development and ongoing educational discussion regarding the Radionuclide Soil Action Level Review.
2. Public input into Board work plan development for 2002.
3. Other Board business may be conducted as necessary.

### Public Participation

The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received at least five days prior to the meeting and reasonable provisions will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments.

### Minutes

The minutes of this meeting will be available for public review and copying at the Public Reading Room located at the Office of the Rocky Flats Citizens Advisory Board, 9035 North Wadsworth Parkway, Suite 2250, Westminister, CO 80021; telephone (303) 420–7855. Hours of operations for the Public Reading Room are 9:00 a.m. to 4:00 p.m., Monday–Friday, except Federal holidays. Minutes will also be made available by writing or calling Deb Thompson at the address or telephone number listed above.

Issued at Washington, DC on August 16, 2001.

**Belinda G. Hood,**

*Acting Deputy Advisory Committee Management Officer.*

[FR Doc. 01–21293 Filed 8–22–01; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

**[Docket No. RP00–458–001]**

## Clear Creek Storage Company, L.L.C.; Notice of Compliance Filing

August 17, 2001.

Take notice that on August 13, 2001, Clear Creek Storage Company, L.L.C., (Clear Creek) tenders for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of September 1, 2001:

Original Sheet Nos. 40A, 46A and 76A
First Revised Sheet Nos. 46, 52 and 75
Second Revised Sheet Nos. 40, 43 and 76

Clear Creek states that this filing is being submitted in compliance with and as directed by the Commission's July 13, 2001, Order on Compliance with Order No. 637.

Clear Creek states further that a copy of this filing has been served upon its customers, the Public Service Commission of Wyoming and all parties on the official service list on file with 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 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21243 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP01–482–001]**

### Dominion Transmission, Inc.; Notice of Compliance Filing

August 17, 2001.

Take notice that on August 14, 2001, Dominion Transmission Inc. (DTI) tendered for filing as part as of its FERC Gas Tariff, the following tariff sheets:

*First Revised Volume No. 2 Effective August 15, 2001*

First Original Sheet No. 4

*Third Revised Volume No. 1 Effective August 8, 2001*

Sub. First Revised Sheet No. 5

DTI states that the filing is being made in compliance with the Commission's Letter Order, dated August 8, 2001, in Docket No. RP01–482–000.

On July 9, 2001, DTI filed revised tariff sheets in Third Revised Volume No. 1 and a First Revised Volume No. 2, which supercedes in their entirety, the currently effective Original Volume Nos. 2 and 2A. DTI revised its currently effective tariff to reflect the change in its corporate name from CNG Transmission Corporation to Dominion. The tariff sheets were accepted for filing, effective August 8, 2001, except that First Revised Sheet No. 5 to Third Revised Volume No. 1 was rejected. The Commission required that First Revised Sheet No. 5 be replaced to eliminate the typographical error at Rate Schedule X–49 and X–50 by replacing the name of the old contract with ''Notice of Cancellation''. DTI is filing a replacement page for First Revised Sheet No 5 of Third Revised Volume No. 1 along with a corresponding correction in the index of First Revised Volume No. 2, Original Sheet No. 4.

DTI states that copies of its letter of transmittal and enclosures have been served upon the parties to 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 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docketı'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21240 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RP01–508–000]**

### Sabine Pipe Line LLC; Notice of Proposed Changes in FERC Gas Tariff

August 17, 2001.

Take notice that on August 13, 2001, Sabine Pipe Line LLC (Sabine) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following revised tariff sheet to be effective October 1, 2001.

First Revised Sheet No. 20

Sabine states that this tariff sheet is filed to reflect the change in the Annual Charge Adjustment (ACA) unit charge to $.0021/Dth to be applied to rates for the annual period commencing October 1, 2001.

Sabine states that copies of this filing are being mailed to its 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21241 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. GT01–27–000]**

### Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

August 17, 2001.

Take notice that on August 13, 2001, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, to become effective August 13, 2001:

Seventh Revised Sheet No. 375

Williston Basin states that it has revised the above-referenced tariff sheet found in Section 48 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1, to add a new receipt point, Point ID No. 04842 (Piney Creek), to Williston

Basin's Billy Creek Pool. Point ID No. 04842 (Piney Creek) is a new receipt point constructed to allow Williston Basin to receive natural gas for its shippers.

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, N.E., Washington, D.C. 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. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket #'' and follow the instructions (call 202–208–2222 for assistance). Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21242 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Declaration of Intention and Soliciting Comments Motions To Intervene, and Protests

August 17, 2001.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI01–8–000.

c. *Date Filed:* August 13, 2001.

d. *Applicant:* Palmdale Water District.

e. *Name of Project:* Palmdale Hydroelectric Facility.

f. *Location:* The Palmdale Hydroelectric Facility is located within the County of Los Angeles, California, on the Palmdale Water District's turnout on the California Aqueduct. (T. 5 N., R. 12 W., sec. 3). The project does not occupy Federal or Tribal land.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* MWH Global, Inc., Melissa Chang, 301 North Lake Avenue, Suite 600, Pasadena, CA 91101, telephone (626) 568–6924, FAX (626) 568–6052, E-Mail address: Melissa.M.Chang@us.mwhglobal.com.

i. *FERC Contact:* Any questions on this notice should be addressed to Diane M. Murray at (202) 219–2682, or E-mail address: *diane.murray@ferc.fed.us.*

j. *Deadline for filing comments and/or motions:* September 23, 2001.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office.

Please include the docket number (DI01–8–000) on any comments or motions filed.

k. *Description of Project:* The proposed project, to be located on Palmdale Water District's turnout on the California Aqueduct, consists of: (1) A powerhouse containing one 230 kW generating unit; and (2) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Protests or Motions to Intervene*—Anyone may submit a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any protests or motions to intervene must be received on or before the specified deadline date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments*—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21238 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

## Federal Energy Regulatory Commission

## Notice of Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

August 17, 2001.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent License.

b. *Project No.:* 2652–007.

c. *Date filed:* August 30, 2000.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Bigfork Hydroelectric Project.

f. *Location:* On the Swan River, in the Town of Bigfork, Flathead County, Montana. The project does not occupy any federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)—825(r).

h. *Applicant Contact:* Dave Leonhardt, Project Manager, PacifiCorp, 825 N.E. Multnomah, Suite 1500, Portland, OR 97232.

i. *FERC Contact:* Steve Hocking at (202) 219–2656 or *steve.hocking@ferc.fed.us*

j. *Deadline for filing comments, recommendations, terms and conditions, and prescriptions:* 60 days from the issuance of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Comments, recommendations, terms and conditions, and prescriptions 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 (http://www.ferc.gov) under the ''e-Filing'' link.

k. This application has been accepted for filing and is ready for environmental analysis.

l. *The project consists of:* (1) A 12-foot-high, 300-foot-long concrete diversion dam with a 235-foot-long spillway; (2) a reservoir with 73 surface acres; (3) a water intake structure and 1-mile-long flowline; (4) a forebay structure that directs water into three steel penstocks; (5) a brick powerhouse with three turbine/generator units with a total installed capacity of 4,150 kilowatts; (6) a fish ladder on the right abutment (north end of the dam) and; (7) appurtenant facilities.

m. A copy of the application is on file with the Commission and is available for public inspection. This filing may also be viewed on the web at http://www.ferc.gov using the ''RIMS'' link—select—''Docket #'' and follow the instructions (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21244 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM98–1–000]**

### Regulations Governing Off-the-Record Communications; Public Notice

August 17, 2001.

This constitutes notice, in accordance with 18 CFR 385.2201(h), of the receipt of exempt and prohibited off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive an exempt or a prohibited off-the-record communication relevant to the merits of a contested on-the-record proceeding, to deliver a copy of the communication, if written, or a summary of the substance of any oral communication, to the Secretary.

Prohibited communications will be included in a public, non-decisional file associated with, but not part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such requests only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication should serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications will be included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of exempt and prohibited off-the-record communications recently filed in the Office of the Secretary. Copies of this filing are on file with the Commission and are available for public inspection. The documents may be viewed on the web at *http://www.ferc.gov* using the ''RIMS'' link, select ''Docket#'' and follow the instructions (call 202–208–2222 for assistance).

EXEMPT

| | | |
|---|---|---|
| 1. Project No. 2145–041 | 7–16–01 | Carol Gleichman. |
| 2. Project No. 2145–041 | 7–16–01 | Carol Gleichman. |
| 3. Project No. 2145–041 | 7–16–01 | Carol Gleichman. |
| 4. Project No. 2145–041 | 7–16–01 | Rob Salter. |
| 5. Project No. 2042–000 | 7–17–01 | Timothy Bachelder. |
| 6. Project No. 1354–000 | 7–30–01 | Van Button. |
| 7. Project No. 2145–041 | 7–30–01 | Tim Weaver. |
| 8. Project No. 10865–001 | 8–2–01 | Steven W. Reneaud. |
| 9. CP01–176–000 | 8–3–01 | Harry Skinner. |
| 10. Project No. 2342–011 | 8–4–01 | Don Klima. |
| 11. Project No. 11563–000 | 8–7–01 | Frank Winchell. |
| 12. Project No. 2699–000, 2019–000 | 8–7–01 | Frank Winchell. |
| 13. Project No. 2661–000 | 8–7–01 | Frank Winchell. |
| 14. Project No. 2030–000 | 8–8–01 | Nan Allen. |
| 15. Project No. 2661–000 | 8–14–01 | Dr. Knox Mellon. |
| 16. CP01–176–000, CP01–179–000 | 8–14–01 | Jeffrey Shenot. |
| 17. Project No. 2030–000 | 8–14–01 | Van Button. |
| 18. Project No. 137–000 | 8–14–01 | Carol Gleichman. |
| 19. Project No. 2016–000 | 8–14–01 | Claire Lavendel. |
| 20. CP01–176–000 | 8–14–01 | Barry Wenger. |
| 21. CP01–141–000 | 8–14–01 | Robert J. Hallock. |
| 22. Project No. 10865–000, 11495–000 | 8–14–01 | Cheryl Krueger. |
| 23. Project No. 2539–000 | 8–15–01 | Tim Welch. |
| 24. Project No. 2146–009 | 8–16–01 | Mary Watson Edmonds. (Vernether White). |
| 25. Project No. 2016–000 | 8–16–01 | Debbie Young. |
| 26. CP01–176–000 | 8–16–01 | Mark Kline (NRG). (Laura Turner—FERC). |
| 27. Project No. 2699, 2019, 11563 | 8–16–01 | Dr. Knox Mellon. |
| 28. CP01–176–000 | 8–16–01 | Mark Kline (NRG). (Laura Turner—FERC) |
| 29. P–2030–000 | 8–16–01 | Frank Winchell. |

**David P. Boergers,**

*Secretary.*

[FR Doc. 01–21239 Filed 8–22–01; 8:45 am]

BILLING CODE 6717–01–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7041–5]**

## Proposed Settlement Agreement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement; request for public comment.

**SUMMARY:** In accordance with section 113(g) of the Clean Air Act, as amended, 42 U.S.C. 7413(g), (the ''Act''), notice is hereby given of a proposed settlement agreement in *American Forest & Paper Association, Inc.*, v. *EPA*, No. 00–1218 (D.C. Cir.) This lawsuit, filed under section 307(b)(1) of the Act, concerns EPA's Memorandum to its Regional Offices regarding New Source Performance Standard Subpart Kb Applicability to Storage Vessels Used in the Pulp and Paper Industry. The proposed settlement agreement provides that EPA shall propose and take final action on amendments to 40 CFR part 60, Subpart Kb, §§ 60.110b *et seq.* (Subpart Kb), to exclude from its applicability storage vessels that have a capacity less than 20,000 gallons or contain a liquid with a maximum true vapor pressure below 3.5kPa. The proposed settlement agreement was entered into on July 26, 2001.

**DATES:** Written comments on the proposed settlement agreements must be received by September 24, 2001.

**ADDRESSES:** Written comments should be sent to David J. Dickinson, Air and Radiation Law Office (2344A), Office of General Counsel, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Copies of the proposed settlement agreement are available from Phyllis J. Cochran, (202) 564–7606.

**SUPPLEMENTARY INFORMATION:** In 1987, EPA promulgated a final rule, amended thereafter, establishing standards of performance for volatile organic liquid storage vessels (including petroleum liquid storage vessels) for which construction, reconstruction, or modification commenced after July 23, 1984 (Subpart Kb). On March 27, 2000, EPA released a document regarding the applicability of this regulation to storage vessels used in the pulp and paper industry. On May 26, 2000, the American Forest & Paper Association, Inc. filed a petition for review with the DC Circuit Court of Appeals regarding EPA's March 27, 2000 document. Under the terms of the tentative settlement agreement noticed herein, EPA has agreed to propose to amend Subpart Kb to exclude from its applicability storage vessels that have a capacity less than 20,000 gallons or contain a liquid with a maximum true vapor pressure below 3.5 kPa and to take final action on that proposal within a reasonable time.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed settlement agreement from persons who were not named as parties 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, following the comment period, that consent is inappropriate, the settlement agreement will then be executed by the parties.

Dated: August 14, 2001.

**Alan W. Eckert,**

*Associate General Counsel.*

[FR Doc. 01–21339 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7041–6]**

### Proposed Settlement, Clean Air Act Citizen Suit

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed consent decree; 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 consent decree that was lodged with the United States District Court for the District of Arizona by the United States Environmental Protection Agency (''EPA'') on July 31, 2001 to address a lawsuit filed by three Phoenix, Arizona residents pursuant to section 304(a) of the Act, 42 U.S.C. 7604(a). The lawsuit addresses EPA's alleged failure to meet a mandatory deadline under section 110(k) of the Act, 42 U.S.C. 7410(k), to take final action to approve or disapprove the Serious Area PM–10 Plan for the Phoenix metropolitan PM–10 nonattainment area submitted by the State of Arizona to EPA on February 23, 2000. *Bahr et al.* v. *Whitman*, Case No. CV–01–835–PHX–ROS (D. Ariz.)

**DATES:** Written comments on the proposed consent decree must be received by September 24, 2001.

**ADDRESSES:** Written comments should be sent to Jan Taradash, Office of Regional Counsel, U.S. Environmental Protection Agency Region 9, 75 Hawthorne Street, San Francisco, CA 94105. Copies of the proposed consent decree are available from Jan Taber, (415) 744–1341.

**SUPPLEMENTARY INFORMATION:** The Clean Air Act requires EPA to take action to approve or disapprove a state implementation plan ''SIP'') revision within 12 months of a determination by the Administrator that such revision is complete. See section 110(k)(1)–(4), 42 U.S.C. 7410(k)(1)–(4). On February 23, 2000, Arizona submitted to EPA the Serious Area PM–10 Plan for the Phoenix metropolitan PM–10 nonattainment area (''Serious Area Plan'') as a proposed revision to the Arizona SIP. EPA found the plan, which addresses both the 24-hour and annual PM–10 national ambient air quality standards, to be complete pursuant to section 110(k)(1)(B), 42 U.S.C. 7410(k)(1)(B), on February 25, 2000. On April 13, 2000, EPA proposed to approve the provisions of the Serious Area Plan addressing the annual PM–10 standard. 65 FR 19964. The proposed consent decree provides that EPA shall sign on or before September 14, 2001, a proposed rule for publication in the **Federal Register** approving or disapproving, pursuant to section 110(k) of the Act, 42 U.S.C. 7410(k), the 24-hour provisions of the Serious Area Plan. The proposed consent decree further provides that EPA shall sign on or before January 14, 2002, a final rule for publication in the **Federal Register** approving or disapproving the Serious Area Plan.

For a period of thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the proposed consent decree from persons who were not named as parties to the litigation in question. EPA or the Department of Justice may withhold or withdraw consent to the proposed consent decree if the comments disclose facts or circumstances that indicate that such consent is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act. Unless EPA or the Department of Justice determines, following the comment period, that consent is inappropriate, the final consent decree will then be executed by the parties.

Dated: August 14, 2001.

**Alan W. Eckert,**

*Associate General Counsel.*

[FR Doc. 01–21342 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL—7042–2]**

### EPA Science Advisory Board; Underground Storage Tanks (UST) Cleanup and Resource Conservation Recovery Act (RCRA) Subtitle C Program Benefits, Costs and Impacts Review Panel Request for Nominations

**ACTION:** Notice. Request for nominations to the Underground Storage Tanks (UST) Cleanup and Resource Conservation and Recovery Act (RCRA) Subtitle C Program Benefits, Costs and Impacts Review Panel of the Environmental Protection Agency's (EPA) Science Advisory Board (SAB).

**SUMMARY:** The U.S. Environmental Protection Agency (EPA) Science Advisory Board is announcing the formation of an Underground Storage Tanks (UST) Cleanup and Resource Conservation and Recovery Act (RCRA) Subtitle C Program Benefits, Costs and Impacts Review Panel (hereinafter, the ''Panel'') and is soliciting nominations to this Panel. The EPA Science Advisory Board was established to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical basis for EPA regulations. In this sense, the Board functions as a technical peer review panel.

Any interested person or organization may nominate qualified individuals for membership on the Panel. Nominees should be identified by name, occupation, position, address, telephone number, and e-mail address. To be considered, all nominations must include a current resume, preferably in electronic format, providing the nominee's background, experience and qualifications.

**Background:**

In 1996, the Office of Solid Waste and Emergency Response (OSWER) began to develop methodologies to better characterize the costs and benefits (including environmental, health, and other human welfare benefits) and other impacts of its various environmental programs. The OSWER draft documents to be reviewed as an advisory by the Panel address the proposed benefits, costs and impacts review methodology for two pilot programs in a coordinated fashion, namely the Underground Storage Tank (UST) Cleanup and Resource Conservation and Recovery Act (RCRA) Subtitle C prevention programs. The purpose of these draft documents is to present a range of potential methods OSWER could use to characterize or quantify each of the relevant attributes for the UST Cleanup and RCRA Subtitle C Programs, together with the advantages, disadvantages, and uncertainties. The methods range from relatively simple to more complex, resource-intensive methods.

**The Proposed Charge**

The Office of Solid Waste and Emergency Response (OSWER) is requesting that the EPA Science Advisory Board (SAB) review the following draft documents dated October 2000: ''Approaches to Assessing the Benefits, Costs, and Impacts of the Office of Underground Storage Tanks Cleanup Program,'' and ''Approaches to Assessing the Benefits, Costs, and Impacts of the RCRA Subtitle C Program.'' The draft Charge to the SAB is:

(1) Does the ''OSWER Attributes Matrix'' (Exhibit 1–1 in both reports) provide a good list of program attributes that could appropriately be used to describe OSWER program benefits, costs, impacts, and other key factors

influencing program performance? Does the list provide a reasonable starting point for an analysis of an OSWER program that would ensure consideration of a broad range of program impacts and features? Should any attributes be modified, or deleted or added to this list, and if so, why?

(2) Keeping in mind that it was OSWER's intention to evaluate a range of methodological options, and to include some relatively less resource-intensive options (recognizing these are likely to be less technically rigorous), are the methods presented viable and technically sound? Will the methods lead to defensible conclusions? Are the assumptions associated with the methods reasonable? If you believe any of these methods or assumptions are not viable, sound, or defensible, why not? Are the methods consistent with EPA's Guidelines for Economic Analyses, to the extent the guidelines address the OSWER program attributes?

(3) Are the methods clearly and adequately described, for purposes of making a decision to select preferred methods for additional development and implementation? Are the advantages, disadvantages, and data requirements associated with each option clearly and adequately described? Is additional information needed for any of these methods in order for OSWER management to make an informed decision? If so, what information?

(4) Are there alternative methods (or modifications of methods presented in the reports) that could be used to better characterize any of the attributes addressed in the two reports, keeping potential resource limitations in mind? If so, what are they and how would they help? We are particularly interested in seeking SAB advice on methodologies to characterize the more traditional human health/environmental benefits (which represent EPA's core areas of responsibility), but OSWER would also welcome any recommendations the SAB might have on better ways to characterize and/or quantify some of the more ''non-traditional'' attributes such as sustainability and other long-term program impacts; the value of regulatory requirements that focus on providing information to the public; and the influence on program performance of factors such as stakeholder concerns and statutory/legal constraints.

The charge listed above can also be found on the EPA Science Advisory Board website at *www.epa.gov/sab/.*

The expertise needed to address the charge questions includes environmental economics, preferably with experience in waste, groundwater and surface water contamination issues, particularly in the UST and RCRA contexts, health risk assessment, and ecological impact assessment. Finally, it would be helpful to have a reviewer who is familiar with social science issues related to topics such as environmental justice, stakeholder values, the value of regulations requiring that information be provided to the public, and changes in the long-term behavior of the regulated community resulting from environmental regulatory requirements.

The criteria for selecting Panel members and consultants (M/C) are that they be recognized experts in their fields; that Panel M/C be as impartial and objective as possible; that public pronouncements, if any, by any prospective Panelist reflect balance and objectivity on the subject matter, that Panel M/C are free from conflicts of interest, as determined by the Office of Government Ethics (OGE) (see the OGE Form 450 and the OGE web site: *http://www.usoge.gov/pages/forms_pubs_otherdocs/fpo_files/forms/fr450fill_00.pdf);* that Panelists represent an array of backgrounds, perspectives and balance (within the disciplines relevant to this review); and that the Panelists be available to participate fully in the review, which will be conducted over a relatively short time frame (i.e., within approximately 3 to 6 months). Panelists will be asked to attend at least one public meeting followed by at least one public teleconference meeting over the course of the review; they will be asked to participate in the discussion of key issues and assumptions at these meetings, and they will be asked to review and to help finalize the products and outputs of the Panel. The Panel will make its recommendations to the SAB Executive Committee (EC) for approval of the Panel's report and transmittal to the EPA Administrator.

Nominees selected as Panelists are appointed as Special Government Employees (SGE) and are subject to government conflict of interest statutes. SGEs serving on the EPA Science Advisory Board are compensated for their time and are reimbursed for their expenses in accordance with standard government travel practices.

Nominations should be submitted to Dr. K. Jack Kooyoomjian, Designated Federal Officer, EPA Science Advisory Board (1400A), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–4557; FAX (202) 501–0582; or via e-mail at *kooyoomjian.jack@epa.gov* no later than (September 4, 2001).

**General Information**

Additional information concerning the EPA Science Advisory Board, its structure, function, and composition, may be found on the SAB Website (*http://www.epa.gov/sab*) and in the EPA Science Advisory Board FY2000 Annual Staff Report which is available from the SAB Publications Staff at (202) 564–4533 or via fax at (202) 501–0256.

Dated: August 15, 2001.

**Donald G. Barnes,**

*Staff Director, EPA Science Advisory Board.*

[FR Doc. 01–21340 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

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## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7041–4]**

## Comprehensive Environmental Response, Compensation and Liability Act (CERCLA or Superfund), Section 311(b)(9)(A), CERCLA Section 311(b)(3); ''Announcement of Competition for EPA's Brownfields Job Training and Development Demonstration Pilots''

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency will begin accepting applications for Brownfields Job Training and Development Demonstration Pilots through October 19, 2001. The application period will close October 19, 2001 and the Agency intends to competitively select ten Pilots by December 2001. All funding will be contingent upon availability of appropriated funds.

**DATES:** This action is effective as of August 23, 2001. All proposals must be received by October 19, 2001.

**ADDRESSES:** Interested applicants must submit a response to the Brownfields Job Training and Development Demonstration Pilot Guidelines. Job training guidelines can be obtained via the Internet: http://www.epa.gov/brownfields/, or by calling the Call Center at 1–800–424–9346 (TDD for the hearing impaired at 1–800–553–7672). Copies of the job training guidelines will be mailed upon request.

**FOR FURTHER INFORMATION CONTACT:** EPA's Office of Solid Waste and Emergency Response, Myra Blakely, Outreach and Special Projects Staff, (202) 260–4527 or Doris Thompson at (202) 260–4483.

**SUPPLEMENTARY INFORMATION:** The Brownfields Job Training and

Development Demonstration Pilots will each be funded up to $200,000 over two-years. These funds are to be used to bring together community groups, job training organizations, employers, investors, lenders, developers, and other affected parties to address the issue of providing training for residents in communities impacted by brownfields. The goals of the pilots are to facilitate cleanup of brownfields sites contaminated with hazardous substances and prepare the trainees for future employment in the environmental field. The pilot projects must prepare trainees in activities that can be usefully applied to a cleanup employing an alternative or innovative treatment technology.

EPA expects to select approximately 10 Brownfields Environmental Job Training and Development pilots by the end of December 2001. Pilot applicants must be located within or near one of the 399 pre-2002 brownfields assessment pilot communities. Colleges, universities, non-profit training centers, community-based job training organizations, states, cities, towns, counties, U.S. Territories, and Federally recognized Indian Tribes are eligible to apply for funds. EPA welcomes and encourages applications from coalitions of such entities, but a single eligible entity must be identified as the legal recipient. Entities with experience in providing environmental job training and placement programs are invited to apply. The deadline for applications is October 19, 2001.

EPA's Brownfields Initiative is an organized commitment to help communities revitalize abandoned contaminated properties, and to thereby eliminate potential health risks and restore economic vitality to areas where these properties exist. EPA defines brownfields as abandoned, idled or under-used industrial and commercial facilities where expansion or redevelopment is complicated by real or perceived environmental contamination.

Dated: August 10, 2001.

**Ann McDonough,**

*Associate Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.*

[FR Doc. 01–21341 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7041–3]**

## Leaking Underground Storage Tank (LUST) Trust Fund Cooperative Agreements—USTfields Pilots; Announcement of Proposal Deadline for Request for Proposals for the Competition for USTfields Pilots

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Request for proposals; notice of deadline.

**SUMMARY:** EPA is accepting proposals for financial assistance for USTfields Pilots. ''USTfields'' are abandoned or underused industrial and commercial properties with real or perceived environmental contamination from petroleum from federally-regulated underground storage tanks (USTs). Up to half of the estimated 450,000 brownfields sites in the United States may contain abandoned underground storage tanks or be impacted by petroleum leaks from such tanks. However, petroleum contamination is generally excluded from coverage under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) and is not, therefore, covered under EPA's Brownfields program.

EPA's USTfields initiative is intended to bridge this gap and take advantage of the many advances in Brownfields work that could and should be applied to the numerous USTfields sites across the country. The USTfields initiative will accomplish this by selecting pilots intended to: help clean up abandoned or underused underground storage tank sites; demonstrate how federal, state, tribal, local, and private entities can combine their knowledge and resources to effectively address USTfields properties; take advantage of the expertise and existing infrastructure being used in similar EPA cleanup projects to maximize the use of available resources; and disseminate the lessons learned from these pilots.

EPA is inviting states (including the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands), federally-recognized Indian tribes, and eligible intertribal consortia to submit up to three proposals each to compete for these pilots. EPA expects to select up to 40 USTfields pilots in 2001. Each selected pilot will receive up to $100,000 in Leaking Underground Storage Tank (LUST) Trust Fund monies. These USTfields Pilots will be selected on a competitive basis. Detailed instructions and information on how to apply for these pilots, the eligibility requirements, the factors that will be used to evaluate the proposals, and a description of the evaluation process EPA will use can be found in The USTfields Initiative: Proposal Guidelines for USTfields Pilots (EPA 510–B–01–001, August 2001) and is available on EPA's website at *www.epa.gov/oust* and from other sources (see below). To assist state, tribal, and intertribal consortia applicants, EPA will conduct a series of regional conference calls. Please consult the same website for the schedule of these conference calls. Questions and answers from the conference calls will also be summarized and posted as soon as possible on this website.

**DATES:** The deadline for submitting proposals for the USTfields Pilots is October 22, 2001. All proposals must be postmarked by that date. States, tribes, and intertribal consortia must send their proposals to their respective EPA Regional office via registered or tracked mail. (EPA Regional office contact information is provided in the Proposal Guidelines.)

**ADDRESSES:** Besides obtaining the Proposal Guidelines on EPA's website at *www.epa.gov/oust*, interested persons can also obtain a copy by contacting their EPA Regional office or by calling the RCRA, Superfund, and EPCRA Call Center at the following numbers: Callers outside the Washington, DC metro area at 1–800–424–9346; callers in the Washington, DC metro area at (703) 412–9810; TDD for the hearing impaired at 1–800–553–7672.

**FOR FURTHER INFORMATION CONTACT:** Steven McNeely, EPA Office of Underground Storage Tanks (OUST) at (703) 603–7164, *mcneely.steven@epa.gov*, or Tim R. Smith, EPA OUST at (703) 603–7158, *smith.timr@epa.gov.*

**SUPPLEMENTARY INFORMATION:** EPA's goal is to select a broad array of USTfields Pilots that will serve as models for states, local areas, tribes, and U.S. territories. EPA anticipates that at least one USTfields Pilot will be awarded in each of its ten Regions. EPA also anticipates that at least one USTfields Pilot will be awarded for a pilot submitted by a tribal or intertribal consortium applicant. A preference will be given to applicants that have previously participated in an EPA cleanup program (*e.g.*, Brownfields Assessment Demonstration Pilot or RCRA Brownfields Pilot). EPA reserves the right to reject all applications and make no awards.

The following is a summary of the evaluation criteria that will be used.

• Eligibility and Threshold Requirements is intended to gauge if the proposal is complete and otherwise meets the eligibility and threshold requirements for applicants and proposed properties and activities.

• Resource Use and Leveraging is intended to gauge how well a proposed project will utilize potential USTfields Pilot LUST Trust funds, including how it will leverage existing infrastructure.

• Community Involvement is intended to gauge how well a proposed pilot is supported by its community and the benefits to that community.

• Communication and Outreach is intended to gauge how well a proposed pilot will be able to convey ''lessons learned'' and the progress and results from conducting the project.

• Corrective Action Challenge is intended to gauge how well a proposed pilot will address the corrective action challenges.

• Project Planning and Schedule is intended to gauge how comprehensive the plans are for completing the proposed pilot and how soon the pilot will be completed.

Dated: August 13, 2001.

**Michael Shapiro,**

*Acting Assistant Administrator,Office of Solid Waste and Emergency Response.*

[FR Doc. 01–21336 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL–7041–7]**

## Divex Superfund Site; Notice of Proposed Settlement

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of proposed settlement.

**SUMMARY:** Under Section 122(h)(1) of the Comprehensive Environmental Response and Liability Act (CERCLA), the Environmental Protection Agency (EPA) has proposed to settle claims for response costs at the Divex Site located in Columbia, South Carolina (Site), with three South Carolina schools districts, SCDHEC, and six other parties. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw or modify the proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. Copies of the proposed settlement are available from: Ms. Paula V. Batchelor, U.S. Environmental Protection Agency, Region IV, CERCLA Program Services Branch, Waste Management Division, 61 Forsyth Street, SW., Atlanta, GA 30303, 404–562–8887.

Written comments may be submitted to Ms. Batchelor at the above address within thirty (30) days of the date of publication.

Dated: August 8, 2001.

**Franklin E. Hill,**

*Chief, CERCLA Program Services Branch, Waste Management Division.*

[FR Doc. 01–21337 Filed 8–22–01; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL RESERVE SYSTEM

## Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

**SUMMARY:**

### Background

Notice is hereby given of the final approval of a proposed information collection by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–Is and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

**FOR FURTHER INFORMATION CONTACT:** Federal Reserve Board Clearance Officer—Mary M. West—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829); OMB Desk Officer—Alexander T. Hunt—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503 (202–395–7860).

### Final Approval Under OMB Delegated Authority of the Implementation of the Following Reports

*Report title:* the Consolidated Bank Holding Company Report of Equity Investments in Nonfinancial Companies.

*Agency form number:* FR Y–12.

*OMB control number:* 7100–0300.

*Frequency:* Quarterly and semi-annually.

*Reporters:* bank holding companies.

*Annual reporting hours:* 14,112 hours.

*Estimated average hours per response:* 16 hours.

*Number of respondents:* 232.

Small businesses are affected.

*General description of report:* This information collection is mandatory (12 U.S.C. 1844(c)) and data may be exempt from disclosure pursuant to Sections (b)(4) and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4) and (8)).

*Abstract:* The Federal Reserve will implement the mandatory FR Y–12, effective September 30, 2001. The FR Y–12 will collect information from certain domestic bank holding companies on their investments in nonfinancial companies on three schedules: Type of Investments, Type of Security, and Type of Entity within the Banking Organization. Large bank holding companies will report on a quarterly basis, and small bank holding companies will report semi-annually.

*Current actions:* On May 10, 2001, the Federal Reserve issued a **Federal Register** notice (66 FR 23929) requesting public comment on a proposal to implement the FR Y–12. The comment period ended on July 9, 2001, and the Federal Reserve received public comments from two domestic banking organizations. Both commenters stated that the manner and level of detail in which the Federal Reserve proposed to collect this information is unnecessary for monitoring the growth in nonfinancial equity investment portfolios. The first commenter suggested alternative monitoring through expanded disclosure on the Consolidated Financial Statements for Bank Holding Companies (FR Y–9C) in conjunction with analysis of information available in the Securities and Exchange Commission 10–Q and 10–K filings. However, institutions that will be required to file the FR Y–12 are a small subset of the institutions required to file the FR Y–9C. By expanding disclosures on the FR Y–9C, institutions not active in this business line may be confused and misleading information may be gathered as a result.

The second commenter suggested monitoring of this information through the examination process. For institutions active in this business line, annual reviews generally are conducted through the supervisory examination process. However, the FR Y–12 will

allow the Federal Reserve to monitor an institution's activity between review dates and help in the examination planning process. It also will serve as an ''early warning'' mechanism to identify institutions where equity investment activities are growing rapidly and that, therefore, may warrant special supervisory attention.

One commenter felt that the detailed information on Schedule A on the number of companies in which the bank holding company had invested was unnecessary. As originally proposed, the FR Y–12 required the reporting bank holding company to provide information separately on the number of direct investments in public entities, direct investments in nonpublic entities, and all indirect investments (lines 1 through 3 on Schedule A). In light of the comment and after further discussions, the Federal Reserve has decided that obtaining information on the total number of investments in the portfolio will be sufficient.

This same commenter also strongly disagreed that the FR Y–12 should be made publicly available, stating that disclosure of this information would likely be harmful to the competitive position of BHCs. The Board has determined that a reporting BHC may request confidential treatment for certain information on the FR Y–12 under the Freedom of Information Act if the BHC is of the opinion that the disclosure of specific commercial or financial information in the report would likely result in substantial harm to its competitive position, or that disclosure of the submitted information would result in an unwarranted invasion of personal privacy.

The initial **Federal Register** notice requested comment on the addition of a new item related to consolidated recognized gains or losses on equity investments in nonfinancial companies. No public comments were received on this item. Therefore, the Federal Reserve will add this item to Schedule A as memorandum item 3. Finally, the commenters suggested a number of clarifications to the reporting form and instructions. All of the clarifications mentioned in the comment letters have been addressed in the final form and instructions.

Board of Governors of the Federal Reserve System, August 20, 2001.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 01–21333 Filed 8–22–01; 8:45 am]

BILLING CODE 6210–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Emergency Preparedness; Privacy Act of 1974; Report of New System: National Disaster Claims Processing System

**AGENCY:** Office of the Secretary, Office of Public Health and Science, Office of Emergency Preparedness, DHHS.

**ACTION:** Notification of a new system of records subject to the Privacy Act of 1974.

**SUMMARY:** The Office of Emergency Preparedness (OEP), Department of Health and Human Services is responsible for the National Disaster Medical System (NDMS). The system includes hospitals that have agreed to provide medical services, when authorized, to victims of disasters in return for predetermined levels of reimbursement. OEP plans to provide this reimbursement by procuring stand-by claims processing and associated services should the NDMS hospital system be activated.

In accordance with the requirements of the Privacy Act, OEP is publishing a notice of the establishment of a National Disaster Claims Processing System that will provide stand-by claims processing and associated services should the NDMS hospital system be activated. The new system will collect limited data from individuals utilizing the NDMS as a result of illness or injury resulting from a disaster. Data on individuals will be submitted by NDMS hospitals and will include personal information, such as name, phone number (home phone number may be provided), address (home address may be provided), ethnic group, and medical information including laboratory tests performed, diagnosis, treatment provided, and other medical information required for appropriate reimbursement to the healthcare provider.

**DATES:** OEP invites interested persons to submit comments on the proposed new system on or before October 2, 2001.

**ADDRESSES:** Please address comments to the OEP Privacy Act Officer. Office of Emergency Preparedness, 12300 Twinbrook Parkway, Suite 360, Rockville, Maryland 20852. Comments will be made available for public inspection at the above address during normal business hours, 8:30 a.m.–5:00 p.m. by prior appointment only.

**FOR FURTHER INFORMATION CONTACT:** Chief, National Disaster Medical System Branch, Office of Emergency Preparedness, 12300 Twinbrook Parkway, Suite 360, Rockville, MD 20857.

Dated: August 17, 2001.

**Robert F. Knouss,**

*Director Office of Emergency Preparedness.*

### Report of Proposed New Privacy Act System of Records

*System Number:* 09–90–0039.

*System Name:* National Disaster Claims Processing System.

*A. System Purpose and Background*

Background

The Department of Health and Human Services (HHS) is the primary federal agency for health, medical and health-related social services under the Federal Response Plan. HHS provides for medical, mental health and other human services to victims of catastrophic disasters. The HHS Office of Emergency preparedness (OEP) is the office responsible for responding to requests for federal medical assistance for all national catastrophic disasters both natural and man-made.

OEP leads the National Disaster Medical System (NDMS) a partnership of four federal agencies—HHS, the Departments of Defense, Veterans Affairs and the Federal Emergency Management Agency. The NDMS was established in 1984 and has three components: direct medical care, patient movement, and definitive medical care. The definitive medical care is provided by hospitals that are part of the NDMS and agree to provide this service on an as needed basis. In order to provide expeditious processing and adjudication of medical claims from licensed providers and facilities arising from the treatment of disaster victims, a contractor for OEP will collect and process claims data, with OEP subsequently paying the claim.

System Purpose

The National Disaster Claims Processing System will justify and document reimbursement payments for services provided in connection to the NDMS. In order to provide this service and process claims, the contractor must collect data on individuals that includes Name, Social Security Number, Address, Dates of Care, Diagnostic Related Group/Current Procedure Terminology (DRG/CPT), Provider Name, Provider Address, Health Insurance Portability and Accountability Act (HIPAA) Provider Number, Amount Billed, Amount Allowed, Other Insurance Payment, and amount to be paid. In addition information from the providing hospital including the Employer Identification Number (EIN) and information for submitting electronic payment will be

collected. The information collected is the minimal amount required to process and adjudicate claims from the providing hospitals.

*B. Specific Authority*

Authority for reimbursement of NDMS hospitals is found in 42 U.S.C. 243(c)(1). This provision authorizes the Secretary to develop and take such measures as necessary to implement a plan under which resources of the Public Health Service may effectively be used to meet health emergencies or problems resulting from disasters.

*C. Probable Effects of Disclosure of Information*

The records in this system are of a sensitive nature and are necessary for the processing and adjudication of medical care claims submitted by licensed providers and facilities as part of an NDMS response to a disaster. The information collected would include Name, Age, Sex, Address, and Medical Diagnostic information related only to injuries or conditions resulting from, or exacerbated by a disaster. Except as permitted by the Privacy Act or in accordance with the routine uses established for this system, the information on file will be utilized only for the purpose for which the file was created. Access to the system is restricted so as to protect the rights of individuals involved.

*D. Safeguards*

1. *Authorized Users:* Only HHS personnel or HHS contract personnel whose duties require the use of the system may access the data. In addition, such HHS personnel or contractors are advised that the information is confidential and the criminal sanctions for unauthorized disclosure of private information may be applied.

2. *Physical Safeguards:* Physical paper records are stored in locked file cabinets or secured areas.

3. *Procedural Safeguards:* Employees who maintain records in the system are instructed to grant regular access only to authorized users. Data stored in computers are accessed through the use of passwords known only to authorized personnel. Contractors who use records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act language is in contracts related to this system.

4. These safeguards will be implemented in compliance with the standards of Guidelines: Chapter 45–10 and 45–13 of the HHS General Administration Manual; and the HHS Automated Information Systems Security Program Handbook (part 6 of the HHS Information Resources Management Manual).

*E. Routine Use Compatibility*

The Privacy Act allows us to disclose information without an individual's consent if the information is to be used for a purpose, which is compatible with the purpose(s) for which the information was collected. Any such compatible use of data is known as a ''routine use''. We are proposing to establish the following routine use disclosures of information, which will be maintained in the system:

1. Disclosure may be made to a Member of Congress or to a congressional staff member in response to inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries as well as providers sometimes request the help of a Member of Congress in resolving some issue relating to a matter before the Public Health Service (PHS). The Member of Congress then writes to PHS, and PHS must be able to provide sufficient information to be responsive to the inquiry.

2. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The agency or any component thereof; or

b. Any employee of the agency in his or her official capacity; or

c. Any employee of the agency in his or her official capacity where the DOJ has agreed to represent employee; or

d. The United States Government;

Is a party to litigation or has an interest in such litigation, and by careful review; PHS determines that the records are both relevant and necessary to the litigation and the use of such records by the DOJ, court, or adjudicatory body is therefore deemed by the agency to be a purpose that is compatible with the purpose for which the agency collected the records.

Whenever PHS is involved in litigation, or occasionally when another party is involved in litigation and PHS' policies or operations could be affected by the outcome of the litigation, PHS would be able to disclose information to the DOJ, court, or adjudicatory body involved. A determination would be made in each instance that, under the circumstances involved, the purposes served by the use of the information in the particular litigation is compatible with a purpose for which PHS collects the information.

3. To agency contractors who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

The PHS occasionally contracts out certain of its functions when this could contribute to effective and efficient operations. PHS must be able to give a contractor whatever information is necessary for the contractor to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor from using or disclosing the information for any purpose other than that described in the contract and to return or destroy all information at the completion of the contract.

*F. Supporting Documentation*

1. *Proposed System Notice:* Advance copies of the proposed system notice are attached.

2. *HHS Rules:* No change in agency rules is required as a result of the establishment of this system of records.

3. *Exemptions Requested:* No exemptions from the provisions of the Privacy Act are requested.

4. *Computer Matching Notice:* This new system will not involve any computer matching program, therefore, no public notice of computer matching has been prepared

**Proposed System Notice**
**National Disaster Claims Processing System**

**SYSTEM NUMBER:**

09–90–0039

**SYSTEM NAME:**

NATIONAL DISASTER CLAIMS PROCESSING SYSTEM

**SYSTEM CLASSIFICATION:**

None

**SYSTEM LOCATION:**

Office of Emergency Preparedness (OEP), 12300 Twinbrook Parkway, Rockville, MD 20852.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals requiring definitive medical care at an NDMS hospital as the result of a medical condition caused by, or exacerbated by, a natural or technical disaster, or a terrorist act.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Medical claims data will be in uniform claim forms accepted by the Health Care Financing Administration (HCFA) for institutional and non-institutional claims. Records will

include: Beneficiaries Name, Social Security Number, Address, Dates of Care, DRG/CPT, Provider Name, Provider Address, HIPAA Provider Number, Amount Billed, Amount Allowed, Other Insurance Payment, and Amount to be paid. In addition information from the providing hospital including the Employer Identification Number (EIN) and information for submitting electronic payment will be collected.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

The authority for maintaining this system of records is from 42 U.S.C. 243(c)(1).

**PURPOSE:**

To justify and document reimbursement payments for services provided in connection with the National Disaster Medical System (NDMS).

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USE:**

1.To a Congressional Office from the records of an individual in response to an inquiry made from the Congressional Office made at the request of that individual.

2. To the Department of Justice (DOJ), court or other tribunal, or to another party before such tribunal, when:

a. HHS or any component thereof; or

b. Any HHS employee in his or her official capacity; or

c. Any HHS employee in his or her individual capacity where the Department of Justice (or HHS where it is authorized to do so) has agreed to represent employee; or

d. The United States or any Agency thereof, where HHS determines that the litigation is likely to affect HHS or any of it's components; is a party to litigation or has an interest in such litigation, and HHS determines that the use of such records by the Department of Justice, the tribunal, or other party is relevant and necessary to the litigation and would help in the effective representation of the governmental party, however, that in each case, HHS determines that each disclosure is compatible with the purpose for which the records were collected.

3. To a contractor for the purpose of collating, analyzing, aggregating, or otherwise refining or processing records in this system, or for developing, modifying, and/or manipulating it with automatic data processing (ADP) software. Data would also be available to users incidental to consultation, programming, operation, user assistance, or maintenance for an ADP or telecommunications system containing or supporting records in the system.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper and computer form.

**RETRIEVABILITY:**

Information will be retrieved by beneficiary's name; and may be sorted by medical diagnosis, geographical area, or medical provider.

**SAFEGUARDS:**

1. *Authorized Users:* Only HHS personnel or HHS contract personnel whose duties require the use of the system may access the data. In addition, such HHS personnel or contractors are advised that the information is confidential and the criminal sanctions for unauthorized disclosure of private information may be applied.

2. *Physical Safeguards:* Physical paper records are stored in locked files cabinets or secured areas.

3. *Procedural Safeguards:* Employees who maintain records in the system are instructed to grant access only to authorized users. Data stored in computers are accessed through the use of passwords known only to authorized personnel. Contractors who use records in this system are instructed to make no further disclosure of the records except as authorized by the system manager and permitted by the Privacy Act. Privacy Act language is in contracts related to this system.

4. *Implementation Guidelines:* HHS Chapter 45–13 of the General Administration Manual, ''Safeguarding Records Contained in Systems of Records and the HHS Automated Information Systems Security Program Handbook, Information Resources Management Manual.''

**RETENTION AND DISPOSAL:**

Disposition of records is according to the National Archives and Records Administration (NARA) guidelines, as set forth in the Office of Emergency Preparedness Records Management Manual.

**SYSTEM MANAGER(S) AND ADDRESS(ES):**

Chief, National Disaster Medical System Branch, Office of Emergency Preparedness, 12300 Twinbrook Parkway, Suite 360, Rockville, Maryland 20852.

**NOTIFICATION PROCEDURE:**

Inquiries and requests for system records should be addressed to the system manager at the address indicated above. The requestor must specify the name, address, and health insurance number.

**RECORD ACCESS PROCEDURES:**

Same as notification procedures. Requesters should also reasonably specify the record contents being sought. These procedures are in accordance with HHS Regulations at 45 CFR 5b.5(a)(2) and 45 CFR 5b.6

**CONTESTING RECORD PROCEDURES:**

Contact the system manager named above and reasonably identify the record and specify the information to be contested. State the reason for contesting the record (e.g., why it is inaccurate, irrelevant, incomplete, or not current), the corrective action being sought, and give any supporting justification. (These procedures are in accordance with HHS Regulations 45 CFR 5b.7.)

**RECORD SOURCE CATEGORIES:**

Information contained in these records will be obtained from NDMS hospitals seeking reimbursement for treatment provided to disaster victims.

**SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:**

None.

[FR Doc. 01–21283 Filed 8–22–01; 8:45 am]

BILLING CODE 4150–28–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[60 Day–01–56]**

### Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c)

ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

*Proposed Project:* Training Needs Analysis Questionnaire—New—The Centers for Disease Control and Prevention (CDC), National Center for Environmental Health (NCEH), is funding an effort to develop a national asthma curriculum for the public health workforce. Asthma is a growing concern within the public health community. Its prevalence and mortality/morbidity are on the rise, particularly among poor urban inner city populations.

A key first step in the development of any training curriculum is the conduct of a needs analysis to determine the content and delivery mechanism for the material. The target audience for the asthma curriculum includes state and local health department personnel, health care providers, university and school health personnel, members of national non-profit asthma organizations, managed care groups, and Federal health agencies.

Given the wide diversity of the target audience, the National Center for Environmental Health determined that the most efficient and effective means of gathering training needs information is through the use of a short questionnaire which can be placed on an Internet web site. Through various advertising methods, people can be directed to the web site to complete the on-line questionnaire.

Information to be gathered will include general (but not individual) demographic information, asthma-related job duties and functions, a determination of which job duties and functions have the highest priority need for training, and what delivery mechanism (i.e., distance learning via the Internet, satellite broadcast, formal classroom training, etc.) would be the most acceptable and accessible for the audience. The questionnaire will be short (approximately 15 questions) to minimize the burden upon respondents. This request is for a one-time approval to use an on-line questionnaire. The costs to respondents are $15,700.

| Respondents | No. of respondents | No. of responses per respondent | Average burden per response (in hours) | Total burden (in hours) |
|---|---|---|---|---|
| State and local health departments | 240 | 1 | 20/60 | 80 |
| Physicians | 200 | 1 | 20/60 | 67 |
| Nurses/other health care providers | 400 | 1 | 20/60 | 133 |
| Federal agencies | 25 | 1 | 20/60 | 8 |
| Non-profit asthma organizations | 200 | 1 | 20/60 | 67 |
| MCOs, insurance companies | 50 | 1 | 20/60 | 17 |
| Universities/schools | 50 | 1 | 20/60 | 17 |
| Asthma coalitions | 100 | 1 | 20/60 | 33 |
| Total | 1265 | | | 422 |

Dated: August 16, 2001.

**Nancy Cheal,**

*Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 01–21269 Filed 8–22–01; 8:45 am]

**BILLING CODE 4163–18–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

**[30DAY–45–01]**

### Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

*Proposed Project:* Sentinel Surveillance for Chronic Liver Disease (0920–0427)—Revision—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). A questionnaire has been designed to collect information for the Sentinel Surveillance for Chronic Liver Disease project. The purpose of this project is to determine the incidence and period prevalence of physician-diagnosed chronic liver disease in a defined geographic area, the contribution of chronic viral hepatitis to the burden of disease, the influence of etiologic agents(s) and other factors on mortality, and to monitor the incidence of and mortality from chronic lever disease over time. The information gathered will be analyzed in conjunction with data collected from other sources to address these questions. The results of the project will assist the Hepatitis Branch, Division of Viral and Rickettsial Diseases, National Center for Infectious Diseases in accomplishing the part of its mission related to preparing recommendations for the prevention and control of all types of viral hepatitis and their sequella. In order to focus on prevention efforts and resource allocation, a representative view of the overall burden of chronic liver disease, its natural history, and the relative contribution of viral hepatitis is needed. The estimated annualized burden is 500 hours.

| Respondents | No. of respondent | No. of responses per respondent | Avereage burden per responses in hours |
|---|---|---|---|
| All consenting adults with physician-diagnosed chronic liver disease living in catchment areas | 500 | 1 | 1 |

Date: August 16, 2001.

**Nancy E. Cheal,**

*Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.*

[FR Doc. 01–21270 Filed 8–22–01; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Centers for Disease Control and Prevention

**[Program Announcement 02005]**

## Sexually Transmitted Disease Faculty Expansion Program;Notice of Availability of Funds

### A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2002 funds for cooperative agreements for a Sexually Transmitted Disease (STD) Faculty Expansion Program (FEP). This program will provide resources to medical schools in the United States to support faculty positions specializing in training related to STD prevention and control. This program addresses the ''Healthy People 2010'' focus area of Sexually Transmitted Diseases.

The purposes of this program are:

1. To enable the awardee institutions to provide STD training and education by developing faculty positions dedicated to the area of STD clinical care, prevention, and control, in medical schools where such clinical and research expertise does not currently exist.

2. To support the development of linkages between health departments and medical schools in the area of STD prevention through jointly appointed staff who strengthen health department STD programmatic activities by undertaking clinical care, research, and teaching responsibilities.

### B. Eligible Applicants

Applications may be submitted by public or private medical schools or health science centers in the United States, including the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and all federally recognized Indian tribal governments. Competition for these funds is limited to those institutions where CDC has not previously funded a Faculty Expansion Program or is not currently funding an STD/HIV Prevention Training Center (PTC). The rationale for this limited competition is that the areas where CDC has previously funded an FEP or is currently funding a PTC already have expertise in STDs and have established training and health department collaborations similar to those described as goals of this announcement.

### C. Availability of Funds

Funding for this program is variable throughout the project period. Approximately $340,000 is expected to be available in FY 2002 to fund approximately four awards. It is expected that the average award for the first year will range between $65,000 and $85,000 which is less than the amount expected for year 02. The amount of the award is less in the first year because it is expected that the first 6 months will be devoted to faculty recruitment activities so that the full faculty salary expense will not be incurred until the latter half of year 01.

The initial award is expected to begin on or about February 1, 2002 for a 12-month budget period. Thereafter, four additional noncompetitive continuation awards will be made annually within a program period of up to five years depending upon funding availability. Continuation awards within the program period will depend on satisfactory progress as evidenced by required reports and the availability of funds. It is anticipated that each award for the second year will range from approximately $130,000 to $150,000, a commitment level of 100 percent support from CDC. For project years 03 to 05, CDC funding for each award is expected to decrease as the university and/or health department assumes more fiscal responsibility for the faculty member's salary. In year 03, each award is expected to range between $97,500 and $112,500, a commitment level of 75 percent support from CDC. In year 04, each award is expected to range between $65,000 and $75,000, a commitment level of 50 percent support from CDC. In year 05, each award is expected to range between $32,500 and $37,500, representing a CDC level of support of 25 percent. Funding estimates may change. It is expected that the faculty member's salary in years 03 to 05 will not decrease as CDC funding decreases. The faculty member's annual salary in years 03 to 05 should sum to at least the same level as that established in year 02 when the annual salary is solely funded by CDC. CDC's intent is that the funding of faculty member's salary in years 03 to 05 will be shared by the institution, the collaborating health department, and CDC and provided at a minimum of the year 02 salary level.

Computation of the salary should include cost-of-living and merit increases, if applicable.

In project years 02, 03, or 04, applicants will have the option to apply for supplemental funds (up to $25,000 per year) for research pilot projects of 1 to 3 years duration.

If the faculty member's career trajectory and academic track includes research as well as teaching, the research experience gained through the pilot projects may increase his/her ability to successfully compete for future research grants. These funds will be awarded on the basis of the merit of the research proposal/protocol submitted and the availability of funds. Criteria for evaluation of proposals will be identified in the guidance for continuation applications for years 02, 03, and 04.

CDC is under no obligation to reimburse such costs if for any reason the application does not receive an award or if the award to the recipient is less than anticipated and inadequate to cover costs. For the purpose of determining contributions, total program costs consist of the items listed under the Use of Funds section.

*1. Use of Funds*

Funds are awarded for a specifically defined purpose and may not be used for any other purpose or program. It is expected that funds for the 12 month budget period may be used to support:

a. The salary and benefits of a faculty member,

b. The salary and benefits of a part-time support person,

c. Travel to project-related and professional meetings,

d. Supplies necessary for professional training activities,

e. Indirect costs, and

f. In years 02, 03, and 04, up to $25,000/year for CDC-approved research projects (optional).

Funds may not be used to support the following activities:

a. Leasing space and renovation of facilities,

b. Providing diagnostic and treatment facilities or services,

c. Paying other expenses normally supported by the applicant or the collaborating health department,

d. Replacing training support, and

e. Supplanting existing sources of funding for a current faculty member since the purpose of this cooperative agreement is to enable the medical school to provide STD training and education by establishing a faculty position in STDs in a clinical department.

*2. Recipient Financial Participation*

Recipient financial participation is required for this program in accordance with this Program Announcement. As described in Section C. Availability of Funds, institutional support and health department support increases gradually in years 03–05 of the project.

**D. Program Requirements**

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. Recipient Activities, and CDC will be responsible for the activities listed under 2. CDC Activities as follows:

*1. Recipient Activities*

a. Recruit and hire a full-time, qualified faculty person, on a clinical educator track, a tenure track, or their equivalents, with the authority and responsibility to carry out the requirements of this program.

b. Provide a qualified mentor to guide the new faculty member's academic and research activities.

c. Provide administrative support to assist the faculty member in carrying out the responsibilities of this program.

d. Develop and maintain an agreement between a state or local health department and the medical school to carry out the requirements of this program, including the use of the health department's clinical facilities by the faculty member for clinical teaching and research in STDs. It is suggested that the faculty member be either a permanent, part-time employee or a contractor of the health department.

e. Assess the current STD content in the medical school curriculum and modify it, as appropriate, such that the following occurs:

(1) In the preclinical years, didactic STD instruction, sufficient to produce a sound educational basis for subsequent clinical instruction, is provided.

(2) In the clinical years, additional content on the diagnosis and management of STDs is integrated into existing clinical rotations {e.g., Internal medicine (infectious diseases), primary care, adolescent medicine, obstetrics/gynecology, or other rotations deemed appropriate}, to enhance the information provided in the preclinical years.

f. Provide STD clinical training for third and fourth year medical students sufficient to ensure that they have the skills necessary to prevent, diagnose, and treat STDs.

g. Provide lectures/grand rounds to residents in primary care specialities sufficient to ensure they have adequate knowledge of STD prevention, diagnosis, and treatment.

h. Develop or enhance STD clinical rotations at the collaborating health department for residents in primary care specialities, sufficient to ensure they have adequate skills to diagnose, treat, and prevent STDs.

i. Provide opportunities for STD research for those faculty who seek a career trajectory that includes both teaching and research. Clinical, prevention-oriented or outcome-oriented research in the medical school or health department should be particularly encouraged.

j. Structure the faculty position to maximize the likelihood of long-term financial support after the termination of CDC support.

k. Participate in semi-annual meetings with the CDC project officer and other FEP faculty during the project period to discuss educational strategies, review progress, share resources, and develop and review evaluation and research plans.

l. Develop and carry out an evaluation of STD Faculty Expansion Program effectiveness through analysis and interpretation of data on medical student and resident performance and on the overall impact on state and local STD prevention goals, and report findings in appropriate format to CDC.

m. In years 02–04, those faculty who elect to apply for optional research funds must develop and submit a research application on STD clinical, prevention-oriented, or outcome-oriented research, which will be specified in the years 02–04 continuation applications. These applications will be reviewed for merit by a CDC internal review panel based on the criteria outlined in the years 02–04 continuation applications.

*2. CDC Activities*

a. Conduct annual site visits as necessary.

b. Provide technical assistance to facilitate: (1) The planning and implementation of curriculum changes, and (2) the planning and implementation of the clinical, outcome, or prevention-oriented research protocols.

c. Provide assistance, as requested and needed, in designing an evaluation of the effectiveness of the FEP through analysis and interpretation of data on medical student and resident performance and the overall impact on state and local STD prevention goals.

d. Arrange semi-annual meetings of CDC-supported FEP members to review accomplishments, discuss educational strategies, share resources and experiences across FEP sites, discuss problems, and review evaluation and research plans.

**E. Application Content**

*Letter of Intent (LOI)*

CDC requests (but does not require) that potential applicants submit a letter of intent to apply for these funds on or before September 17, 2001 to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement. The narrative should be no more than two pages, double-spaced, printed on one side, with one-inch margins, and 12-point font. Your letter will be used for planning purposes related to convening an independent review group. Your letter of intent should include the following information: Program Announcement Number; name and address of academic institution; name, address and telephone number of contact person; and the specific objectives to be addressed by the proposed project. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan.

The narrative should be no more than 40 double-spaced pages, printed on one side, with one-inch margins and 12-point font. All pages, including appendices, should be numbered sequentially. Letters of support, organizational charts, biosketches, and position descriptions should be included in an appendix. The narrative must contain the following sections in the order presented below:

1. *Abstract:* Provide no more than a two-page summary of your application including a brief statement of need (include data on STD incidence or prevalence in your state and local geographic area), the name of the institution and clinical department where the STD faculty member will be housed, the anticipated track for the proposed faculty member, the name of the mentor, the name of the collaborating health department, the number of hours of STD didactic and clinical offerings currently in place, the number of hours and content of STD didactic and clinical offerings proposed for both medical students and residents, and the plan for continued funding for the STD faculty member.

2. *Background and Need for Support:* Describe your understanding of the purpose of the cooperative agreement, including the need in your state and local geographic area and your institution for a dedicated STD faculty position. Describe your commitment to the development of a faculty position, to changes in the medical school curriculum and resident training, and to a collaborative arrangement with the health department.

This must be documented by:

a. A written commitment for partial funding of the faculty position for years 03–05 (co-signed by the department chairperson and dean of the medical school).

b. A written commitment supporting the proposed changes to the medical school curriculum to fulfill the Program Requirements (co-signed by the chair of the curriculum committee or dean for academic affairs).

c. A written agreement or contract with the local or state health department acknowledging and agreeing to a collaborative relationship, partial financial support for the faculty member, and the use of STD clinic facilities for training and research.

d. A written commitment from the proposed mentor to assume responsibility for facilitating academic and research development of the faculty member (include the mentor's curriculum vitae).

e. A written commitment from the directors of primary care residency programs agreeing to the STD training as described in Program Requirements.

Provide a demographic description of your medical students. Include number of students per class, gender, and ethnic/racial characteristics (may be in table format). In addition, provide current status of STD training for medical students in your institution. Specifically identify the amount of time allotted for, and placement of, content as identified in part c. and d. of Recipient Activities.

3. *Objectives:* Identify process and impact objectives related to program requirements.

4. *Program Plan:*

a. Provide a description of proposed changes in the medical school curriculum to include additional STD training. Indicate the number and placement of additional hours of didactic and clinical training. Describe any innovative/integrated content offerings or courses related to the intent of the cooperative agreement.

b. Provide a description of proposed resident training.

c. Provide a description of the health department STD clinic facilities, including physical layout and number of STD patients seen in the most recent 12-month period, categorized by sex, age, race/ethnicity, and diagnosis. Identify other personnel in the health department who might serve as resource personnel or preceptors.

d. Provide a description of ongoing research and/or opportunities for the faculty member to do STD research within the medical school and/or through the health department.

e. Provide a plan for continued support of the faculty member after the termination of CDC support.

f. Provide a written agreement from the medical school administration to provide office space and to provide administrative support for the faculty member, including a description of the space and personnel.

5. *Program Implementation Methods:*

a. Provide a list of qualifications for the proposed STD faculty member (may include a sample advertisement).

b. Provide a description of the proposed faculty search plan with time line.

c. Describe the appointment process for the new faculty.

d. Provide a timetable for the implementation of the program plan.

6. *Evaluation Plan:*

a. Provide an outline of a plan for evaluating the effect of improved STD training on medical student and house staff knowledge/behavior.

b. Provide an outline of a plan for evaluating the effect of medical school/health department collaboration on state and local STD prevention goals.

7. *Budget.* Provide a budget using PHS 398 (Rev 05/01) forms with a line-item justification and any other information to demonstrate that the request for assistance is consistent with the purpose and objectives of this program. The budget should include travel to one project-related meeting during year 01 and two project-related trips per year thereafter. At least one meeting each year will be held at CDC in Atlanta.

**F. Submission and Deadline**

*Application*

On or before October 23, 2001, submit the original and two copies of the application on Form PHS 398 (adhere to the instructions on the Errata Instruction sheet for PHS 398). Forms are available in the application kit and at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

Submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

*Deadline:* Applications will be considered as meeting the deadline if they are either:

1. Received on or before October 23, 2001; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

*Late:* Applications which do not meet the criteria in 1. or 2. above will be returned to the applicant.

**G. Evaluation Criteria**

Each application will be evaluated individually against the following criteria by a Special Emphasis Panel appointed by CDC:

1. The need for faculty expertise in STDs in the school and geographic area. The strength of the program plan in addressing the need for a faculty member with clinical and research expertise in STDs in the school and geographic area. (15 points)

2. The strength of the agreement with the health department. The quality of the documentation of a commitment from the state or local health department to provide financial support for the faculty member and to provide clinic facilities that routinely examine and treat a sufficient number of STD clients for training medical students and house staff. The degree to which the applicant demonstrates innovative approaches to the medical school/health department collaboration that will contribute to locally relevant STD prevention research, training, and programmatic activities. (20 points)

3. The extent to which the proposed program plan addresses the program requirements. The extent to which the

applicant documents commitments from the medical school to implement the curriculum changes described under program requirements. The extent to which the applicant documents commitment from residency program directors to implement the training described under program requirements. Consideration will be given to those schools that demonstrate the greatest commitment of additional hours for high quality instruction to students and residents over the life of the project. (20 points)

4. The quality of the assurance to support the faculty member during tenure of the project. The extent to which the department submitting the application demonstrates a commitment to assuring research opportunities and financial support for the faculty member during the grant period. The qualifications and involvement of the designated mentor to assure the success of this endeavor. The quality of the plan to provide administrative support to help the faculty member meet the program requirements. (10 points)

5. The quality of the documentation of proposed qualifications for the STD faculty member. The quality of the description of the selection or search process, including a proposed time frame. (10 points)

6. The quality of the plan for evaluating the training's effectiveness, in terms of improved STD knowledge/behaviors of medical students and residents and the achievement of prevention goals. (15 points)

7. The quality of the documentation indicating a strong commitment to structure the faculty position and integrate the proposed curriculum and training so that these will be continued as CDC support decreases and eventually terminates. (10 points)

8. The budget will be evaluated for the extent to which it is reasonable, clearly justified, and consistent with the intended use of the funds. The level of support will depend on the availability of funds. (not scored)

**H. Other Requirements:**

Technical Reporting Requirements: Provide CDC with the original plus two copies of:

1. Progress reports are due on July 31 and January 31 in years 01 and 02 and on January 31 in years 03–05 in a format determined by CDC.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Any materials developed in whole or in part with CDC funds will be subject to a nonexclusive, irrevocable, royalty-free license to the government to reproduce, translate, publish, or otherwise use and authorize others to use for government purposes.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV program
AR–6 Patient Care
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–21 Small, Minority, and Women-owned Business
AR–22 Research Integrity

**I. Authority and Catalog of Federal Domestic Assistance Number**

This program is authorized under Section 318 of the Public Health Service Act, [42 United States code 247c–1], as amended. The Catalog of Federal Domestic Assistance number is 93.978.

**J. Where To Obtain Additional Information**

This and other CDC announcements can be found on the CDC home page Internet address—*http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements.'' To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the announcement number of interest. If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Mr. Kang Lee, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000 MS–E15, Atlanta, GA 30341–4146, Telephone: (770) 488–2733, E-mail address: kil8@cdc.gov.

For programmatic technical assistance, contact: Dr. Marianne Scharbo-DeHaan, Chief, Medical Education and Evaluation Section, Training and Health Communications Branch, Division of STD Prevention, National Center for HIV, STD, and TB Prevention (NCHSTP), Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–02, Atlanta, GA 30333, Telephone: (404) 639–8360, E-mail address: *zpp2@cdc.gov.*

Dated: August 17, 2001.

**John L. Williams,**

*Director, Procurement and Grants Office, Centers for Disease and Prevention (CDC).*

[FR Doc. 01–21268 Filed 8–22–01; 8:45 am]

BILLING CODE 4163–18–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

### Opportunity To Collaborate in the Evaluation of Rapid Diagnostic Tests for Syphilis

**AGENCY:** Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (DHHS).

**ACTION:** Opportunities for collaboration for evaluation of rapid diagnostic tests for syphilis. The Centers for Disease Control and Prevention (CDC), National Center for HIV, STD, and TB Prevention (NCHSTP), Division of STD Prevention, has an opportunity for collaboration to evaluate rapid diagnostic tests for syphilis. These evaluations will include evaluation of the sensitivity in primary, secondary and latent syphilis, and of the specificity of the test.

**SUMMARY:** The Division of STD Prevention of the National Center for HIV, STD, and TB Prevention (NCHSTP) at the Centers for Disease Control and Prevention (CDC) of the Department of Health and Human Services (DHHS) seeks one or more companies who have developed or are distributing a rapid diagnostic test for syphilis and are interested in marketing the test for use in the United States. The Division of STD Prevention is interested in evaluating such tests. The evaluation will include determination of the sensitivity in primary, secondary and latent syphilis and of the specificity of the test. This collaboration will have an expected duration of two (2) to three (3) years. The goals of the collaboration include the timely development of data

to be used to determine whether the test could be used in the diagnosis of syphilis and/or screening for syphilis in the United States.

Confidential proposals, preferably six pages or less (excluding appendices), are solicited from companies who have a product that is suitable for commercial distribution.

**DATES:** Formal proposals must be submitted no later than September 24, 2001.

**ADDRESSES:** Formal proposals should be submitted to Candice Nowicki-Lehnherr, Division of STD Prevention, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–05 Atlanta, GA 30333; Phone 404–639–8264; Fax 404–639–8608; e-mail: *cxm1@cdc.gov.* Scientific questions should be addressed to Madeline Sutton, MD, Division of STD Prevention, NCHSTP, CDC, 1600 Clifton Road, Mailstop E–05, Atlanta, GA 30333; Phone: 404–639–8368; Fax: 404–639–8610; e-mail *msutton@cdc.gov.*

**SUPPLEMENTARY INFORMATION**

### Technology Sought

One mission of the Division of STD Prevention/NCHSTP is to develop and evaluate biomedical interventions to reduce syphilis. To this end, the Surveillance and Epidemiology Branch is seeking rapid diagnostic tests for syphilis that are suitable for commercial distribution and that are simple, tests that can be performed in 30 minutes or less by persons with minimal training.

### NCHSTP and Collaborator Responsibilities

The NCHSTP role may include, but will not be limited to, the following:

(1) Providing scientific, and technical expertise needed for the research project;

(2) Planning and conducting research studies of the diagnostic tests and interpreting results; and

(3) Publishing research results.

The NCHSTP anticipates that the role of the successful collaborator(s) will include the following:

(1) Providing tests that can be used in the evaluation; and

(2) Providing NCHSTP access to necessary data in support of the research activities.

### Selection Criteria

Proposals submitted for consideration should address, as best as possible and to the extent relevant to the proposal, each of the following:

(1) Data available on the performance of the tests in different stages of syphilis and in the absence of syphilis;

(2) Information on the technology used for the test;

(3) Information on the time required to perform the test, whether the test is preformed on whole blood, sera, plasma or saliva and the steps involved in performing the test; and

(4) Interest by the company to seek FDA approval and market the test in the United States.

Dated: August 17, 2001.

**Joseph R. Carter,**

*Associate Director for Management and Operations, Centers for Disease Control and Prevention.*

[FR Doc. 01–21271 Filed 8–22–01; 8:45 am]

**BILLING CODE 4163–18–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

**[Document Identifier: CMS–R–216]**

### Agency Information Collection Activities: Submission For OMB Review; Comment Request

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), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the 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.

*Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Procedures for Advisory Opinions Concerning Physician Referrals and Supporting Regulations in 42 CFR 411.370 through 411.389; *Form No.:* CMS–R–216 (OMB# 0938–0714); *Use:* Section 4314 of Public Law 105–33, in establishing section 1877(g)(6) of the Act, requires the Department to provide advisory opinions to the public regarding whether a physician's referrals for certain designated health services are prohibited under the other provisions in section 1877 of the Act. These regulations provide the procedures under which members of the public may request advisory opinions from CMS. Because all requests for advisory opinions are purely voluntary, respondents will only be required to provide information to us that is relevant to their individual requests; *Frequency:* On occasion; *Affected Public:* Not-for-profit institutions, business or other for-profit, and individuals and households; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 2,000.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access CMS's web site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, 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 30 days of this notice directly to the OMB Desk Officer designated at the following address:OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: August 1, 2001.

**John P. Burke III,**

*CMS Reports Clearance Officer,CMS, Office of Information Services,Security and Standards Group,Division of CMS Enterprise Standards.*

[FR Doc. 01–21323 Filed 8–22–01; 8:45 am]

**BILLING CODE 4120–03–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00C–1444]**

### FEM, Inc.; Withdrawal of Color Additive Petition

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the withdrawal, without prejudice to a future filing, of a color additive petition (CAP 0C0272) proposing that the color additive regulations be amended to eliminate the limitation on the amount of silver used as a color additive in fingernail polish.

**FOR FURTHER INFORMATION CONTACT:** James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–

215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3078.

**SUPPLEMENTARY INFORMATION:** In a notice published in the **Federal Register** of August 18, 2000 (65 FR 50543), FDA announced that a color additive petition (CAP 0C0272) had been filed by FEM, Inc., 1521 Laguna St., # 210, Santa Barbara, CA 93101. The petition proposed to amend the color additive regulations in § 73.2500 *Silver* (21 CFR 73.2500) to eliminate the limitation on the amount of silver used as a color additive in fingernail polish. FEM, Inc., has now withdrawn the petition without prejudice to a future filing (21 CFR 71.6(c)(2)).

Dated: August 13, 2001.

**Alan M. Rulis,**

*Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.*

[FR Doc. 01–21245 Filed 8–22–01; 8:45 am]

**BILLING CODE 4160–01–S**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

### Anti-Infective Drugs 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*: Anti-Infective Drugs 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 September 12, 2001, from 8:30 a.m. to 5 p.m.

*Location*: Holiday Inn, Kennedy Ballroom, 8777 Georgia Ave., Silver Spring, MD.

*Contact*: Thomas H. Perez, Center for Drug Evaluation and Research (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301– 827–6758, e-mail at PerezT@cder.fda.gov, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12530. Please call the Information Line for up-to-date information on this meeting.

*Agenda*: The committee will consider the safety and efficacy of Activated Protein C (human, recombinant, human kidney cells, new biologic license application (BLA) 125029), Eli Lilly & Co. for the treatment of severe sepsis.

*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 September 4, 2001. Oral presentations from the public will be scheduled on September 12, 2001, between approximately 1 p.m. and 2 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before September 4, 2001, 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.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: August 16, 2001.

**Linda A. Suydam,**

*Senior Associate Commissioner.*

[FR Doc. 01–21284 Filed 8–22–01; 8:45 am]

**BILLING CODE 4160–01–S**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 01D–0278]**

### Draft ''Guidance for Industry: Submitting Type V Drug Master Files to the Center for Biologics Evaluation and Research;'' Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a draft document entitled ''Guidance for Industry: Submitting Type V Drug Master Files to the Center for Biologics Evaluation and Research '' dated August 2001. The draft guidance document discusses Type V Drug Master Files (DMF) submitted to the Center for Biologics Evaluation and Research (CBER). The draft guidance document describes the circumstances in which CBER will accept a Type V Drug Master File without a letter of intent from the DMF holder. The information in the DMF may be used to support an application or supplement, such as an investigational new drug application (IND), biologics license application (BLA), or a new drug application (NDA) submitted to CBER.

**DATES:** Submit written or electronic comments on the draft guidance to ensure their adequate consideration in preparation of the final document by November 21, 2001. General comments on agency guidance documents are welcome at any time.

**ADDRESSES:** Submit written requests for single copies of the draft guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

Submit written comments on the document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

**FOR FURTHER INFORMATION CONTACT:** Valerie A. Butler, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

**SUPPLEMENTARY INFORMATION:**

#### I. Background

FDA is announcing the availability of a draft document entitled ''Guidance for Industry: Submitting Type V Drug Master Files to the Center for Biologics Evaluation and Research '' dated August 2001. The draft guidance document discusses Type V DMFs submitted to CBER. The draft guidance document describes the circumstances in which CBER will accept a Type V DMF without a letter of intent to FDA from the DMF holder. A drug master file is a submission of information to FDA that may be used to provide confidential detailed information about facilities, processes, or articles used in the manufacturing, processing, packaging, and storing of human drugs and biological products. The information in the DMF may be used to support an application or supplement, such as an IND, BLA, or an NDA.

The draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). The

draft guidance document represents the agency's current thinking on submitting Type V Drug Master Files to CBER. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

## II. Comments

The draft document is being distributed for comment purposes only and is not intended for implementation at this time. Interested persons may submit to the Dockets Management Branch (address above) written comments regarding this draft guidance document. Submit written or electronic comments to ensure adequate consideration in preparation of the final document by November 21, 2001. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## III. Electronic Access

Persons with access to the Internet may obtain the document at http://www.fda.gov/cber/guidelines.htm.

Dated: August 13, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–21246 Filed 8–22–01; 8:45 am]

BILLING CODE 4160–01–S

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

**[Docket No. 00D–1618]**

### ''Guidance for Industry: Variances for Blood Collection From Individuals With Hereditary Hemochromatosis;'' Availability

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of a document entitled ''Guidance for Industry: Variances for Blood Collection From Individuals With Hereditary Hemochromatosis'' dated August 2001. The guidance document provides recommendations to blood establishments that wish to distribute blood and blood components collected from individuals with diagnosed hereditary hemochromatosis without indicating the donor's disease on the container label, or collect blood more frequently from such individuals than every 8 weeks without a physical examination and certification of the donor's health by a physician on the day of donation. This guidance document identifies conditions under which FDA will consider approving the above as alternative procedures, or variances, to the current regulations, and provides guidance on what to submit when requesting these variances. These recommendations apply to all blood establishments, whether or not they hold a U.S. license for the manufacture of blood and blood components. The guidance document announced in this notice finalizes the draft guidance document entitled ''Guidance for Industry: Variances for Blood Collection From Individuals With Hereditary Hemochromatosis'' dated December 2000.

**DATES:** Submit written or electronic comments on agency guidances at any time.

**ADDRESSES:** Submit written requests for single copies of this guidance to the Office of Communication, Training, and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448. Send one self-addressed adhesive label to assist the office in processing your requests. The document may also be obtained by mail by calling the CBER Voice Information System at 1–800–835–4709 or 301–827–1800, or by fax by calling the FAX Information System at 1–888–CBER–FAX or 301–827–3844. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

Submit written comments on the guidance document to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to http://www.fda.gov/dockets/ecomments.

**FOR FURTHER INFORMATION CONTACT:** Paula S. McKeever, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

**SUPPLEMENTARY INFORMATION:**

## I. Background

FDA is announcing the availability of a document entitled ''Guidance for Industry: Variances for Blood Collection From Individuals With Hereditary Hemochromatosis'' dated August 2001. This guidance document identifies conditions under which FDA will consider approving the above as alternative procedures, or variances, to the current regulations, under the provisions of 21 CFR 640.120 and provides guidance on what to submit when requesting these variances.

On April 29, 1999, the Public Health Service Advisory Committee on Blood Safety and Availability (ACBSA) recommended that the Department of Health and Human Services (DHHS) ''create policies that eliminate incentives to seek [blood] donation for purposes of phlebotomy'' from patients with diagnosed hemochromatosis who require phlebotomy as therapy for their disease. Further, as undue incentives to donate blood for transfusion (rather than being therapeutically phlebotomized) are removed, DHHS ''should create policies that eliminate barriers to using this resource'' to augment the country's blood supply (Ref. 1).

On August 10, 1999, the Commissioner of Food and Drugs made a commitment to consider case-by-case exemptions to existing blood labeling and donor suitability regulations for blood establishments that can verify that therapeutic phlebotomy for hemachromatosis is performed at no expense to the patient (Ref. 2). FDA additionally committed itself to work with the Health Care Financing Administration in ensuring that the financial incentives for persons with hereditary hemochromatosis (HH) to donate blood for transfusion are removed. This issue was further discussed at the FDA Blood Products Advisory Committee meeting on September 16, 1999 (Ref. 3). For the foreseeable future, if blood establishments wish to distribute blood collected from donors with HH without disease labeling, they would be responsible for removing financial incentives for these donors. Each blood center should evaluate the advantages of entering these donors into their donor pool.

The guidance document announced in this notice finalizes the draft guidance document entitled ''Guidance for Industry: Variances for Blood Collection from Individuals with Hereditary Hemochromatosis'' dated December 2000. This guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115; 65 FR 56468, September 19, 2000). This guidance document represents the agency's current thinking on blood collection from individuals with hereditary hemochromatosis. It

does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirement of the applicable statutes and regulations.

## II. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Nightingale, S. D., Summary of Advisory Committee Meeting of April 29 and 30, 1999, May 13, 1999 (http://www.hhs.gov/bloodsafety).

2. Henney, J. E., Memorandum Blood Donations by Individuals with Hemochromatosis, August 1999.

3. Blood Products Advisory Committee, 64th Meeting, September 16, 1999 (http://www.fda.gov/ohrms/dockets/ac/acmenu.htm).

## III. Comments

Interested persons may, at any time, submit written or electronic comments to the Dockets Management Branch (address above) regarding this guidance document. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in the brackets in the heading of this document. A copy of the document and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

## IV. Electronic Access

Persons with access to the Internet may obtain the document at either http://www.fda.gov/cber/guidelines.htm or http://www.fda.gov/ohrms/dockets/default.htm.

Dated: August 13, 2001.

**Margaret M. Dotzel,**

*Associate Commissioner for Policy.*

[FR Doc. 01–21247 Filed 8–22–01; 8:45 am]

BILLING CODE 4160–01–S

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Office of Inspector General

### Program Exclusions: July 2001

**AGENCY:** Office of Inspector General, HHS.

**ACTION:** Notice of program exclusions.

During the month of July 2001, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

| Subject, city, state | Effective date |
|---|---|
| **PROGRAM-RELATED CONVICTIONS** | |
| ANGELO, ROBERT ANTHONY JR ..... CAMP HILL, PA | 08/20/2001 |
| ANGELO, LILLIAN JAN ..... BLOOMING GROVE, PA | 08/20/2001 |
| ANSHELL, JACKIE MARLA ..... DANIA BEACH, FL | 08/20/2001 |
| ASKEW, DIANA JOELL ..... HUGOTON, KS | 08/20/2001 |
| BATIS, DENNIS LYNN ..... LA MESA, CA | 08/20/2001 |
| BATTLE, STACY ANN ..... LEAWOOD, KS | 08/20/2001 |
| BECK, JAMES BRAD ..... HENDERSON, NV | 08/20/2001 |
| BEDROSIAN, YEPRAM ..... CORONA, CA | 08/20/2001 |
| BLANKENSHIP, KENNETH JOSEPH ..... LOMPOC, CA | 08/20/2001 |
| BLANKENSHIP, RUTH CHRISTINE EL ..... SPRING VALLEY, CA | 08/20/2001 |
| BUFALINO, RUSSELL C ..... CLEARWATER, FL | 08/20/2001 |
| CHARNETSKI, KATHY ..... BRYAN, TX | 08/20/2001 |
| CHARNETSKI, STANLEY ..... HUMBLE, TX | 08/20/2001 |
| CHEN, YUAN FEI ..... DIAMOND BAR, CA | 08/20/2001 |
| CONE, ALAN C ..... LOMPOC, CA | 08/20/2001 |
| COOK, CAROL JEAN ..... BLYTHEVILLE, AR | 08/20/2001 |
| DOLLAR, ZELDER ..... DAVISBORO, GA | 08/20/2001 |
| ECKERT, RONALD CHARLES OKEMOS, MI | 08/20/2001 |
| GAINES, KENNETH CHARLES DETROIT, MI | 08/20/2001 |
| GAZES, SHERI L ..... STERLING, VA | 08/20/2001 |
| HOWELL, NORMAN ..... BROOKSVILLE, FL | 08/20/2001 |
| KETSOYAN, TIGRAN ..... PASADENA, CA | 08/20/2001 |
| KLUDING, CHRISTOPHER SCOTT ..... FORREST CITY, AR | 08/20/2001 |
| LAKE, QUANTINA SHALANE .. S BEND, IN | 08/20/2001 |
| LESLIE, FRED L ..... SEMINOLE, FL | 08/20/2001 |
| MARTINEZ, TERRY ..... KIRTLAND, NM | 08/20/2001 |
| MCNULTY, DENISE MARIE .... CANBY, OR | 08/20/2001 |
| MILLER, EDWIN R ..... BALTIMORE, MD | 08/20/2001 |
| MILMAN, BORIS ..... EDISON, NJ | 08/20/2001 |
| MIRANDA, ARA RODRIGUEZ DANBURY, CT | 08/20/2001 |
| MKROYAN, DAVIS ..... LOS ANGELES, CA | 08/20/2001 |
| NEELEY, TERRANCE L ..... OSHKOSH, WI | 08/20/2001 |
| NEWLANDER-WINSOR, KIMBERLIN ..... ALBUQUERQUE, NM | 08/20/2001 |
| NUTCRACKER BUSINESS SVCS, INC ..... LA MESA, CA | 08/20/2001 |
| O'DONNELL, JOHN RAYMOND ..... BROOKLYN, NY | 08/20/2001 |
| OVSEPYAN, ZARUHI ..... PASADENA, CA | 08/20/2001 |
| PARKS, JAMES DARRELL ..... DETROIT, MI | 08/20/2001 |
| PATEL, BIPIN ..... NEW PORT RICHEY, FL | 08/20/2001 |
| PRINCE, DAWNMARIE ..... WOBURN, MA | 08/20/2001 |
| RIVERO, CLARA ..... MIAMI, FL | 08/20/2001 |
| RODRIGUEZ, JOSE ..... MIAMI, FL | 08/20/2001 |
| ROSEN, NANCY A ..... MCLEAN, VA | 08/20/2001 |
| RUKSE, JOSEPH M JR ..... MORGANTOWN, WV | 08/20/2001 |
| SCHWARTZ, JEFFREY ..... ATLANTIC BEACH, NY | 08/20/2001 |
| SCURA, RICHARD JASON ..... LOS ANGELES, CA | 08/20/2001 |
| SELBY, JUDITH ANN ..... BEMIDJI, MN | 08/20/2001 |
| SELBY, TERRY LEE ..... BEMIDJI, MN | 08/20/2001 |
| SEY, SAVON ..... LOS ANGELES, CA | 08/20/2001 |
| SHARP, CHRISTOPHER BLAIR ..... AMARILLO, TX | 08/20/2001 |
| SHUSTERMAN, SIMON ..... OTISVILLE, NY | 08/20/2001 |
| SMITH, ALICE ..... BRYAN, TX | 08/20/2001 |
| SORENSON, ROBERT ..... MARCO ISLAND, FL | 08/20/2001 |
| STEVENS, ANTHONY ELI ..... ORANGEVALE, CA | 08/20/2001 |
| STEVENS, NICK ..... ORANGEVALE, CA | 08/20/2001 |
| STRANGE, JEFFREY HAYNES ..... | 08/20/2001 |

| Subject, city, state | Effective date |
|---|---|
| TAFT, CA | |
| TATOIAN, GRIGOR VAN NUYS, CA | 08/20/2001 |
| THOMAS, DURWARD J NATCHITOCHES, LA | 08/20/2001 |
| TOMUTA, VASILE PHOENIX, AZ | 08/20/2001 |
| USSERY, CHARLES E MINDEN, LA | 08/20/2001 |
| VIVANCO, CARIDAD MIAMI, FL | 07/19/2001 |
| WALKER, ROBERT RUSSELL TRINIDAD, CO | 08/20/2001 |
| WESTBANK FAMILY HEALTH CENTER GRETNA, LA | 08/20/2001 |
| WILKINSON, GARNETT L OTTUMWA, IA | 08/20/2001 |
| WLOSZEK, MONICA M PARMA, OH | 08/20/2001 |

**FELONY CONVICTION FOR HEALTH CARE FRAUD**

| Subject, city, state | Effective date |
|---|---|
| MCKINNEY, OTHA GORDON APPLE VALLEY, CA | 08/20/2001 |
| SANCHEZ, JORGE GALLARDO DOWNEY, CA | 08/20/2001 |
| TAYLOR, SABRINA NEWARK, DE | 08/20/2001 |
| ZARGAR, ABDULAH LOMPOCC, CA | 08/20/2001 |

**FELONY CONTROL SUBSTANCE CONVICTION**

| Subject, city, state | Effective date |
|---|---|
| CHAFIN, ANN T GALVESTON, TX | 08/20/2001 |
| DAIBER, ROBERT RAYMOND WOODVILLE, OH | 08/20/2001 |
| GARDNER, CHERYL DIANE SAN ANTONIO, TX | 08/20/2001 |
| HAMZA, MANSOUR MAHMOUD SANTA MONICA, CA | 08/20/2001 |
| JONES, LINDA GAIL FLORENCE, SC | 08/20/2001 |
| MOSIER, RANDOLPH D CLEVELAND, OH | 08/20/2001 |
| PITTS, TINA MARIE COLUMBUS, MS | 08/20/2001 |
| THAMES, LAURA EVELYN SEYMOUR, TN | 08/20/2001 |
| VANASSELBERG, SHIRLEY JEAN FAIRBORN, OH | 08/20/2001 |
| WALKER, FERIEDA A TROTWOOD, OH | 08/20/2001 |

**PATIENT ABUSE/NEGLECT CONVICTIONS**

| Subject, city, state | Effective date |
|---|---|
| BEAN, MATILDA PROVIDENCE, RI | 08/20/2001 |
| BODETTE, DIANE M RUTLAND, VT | 08/20/2001 |
| BROWN, CARLA MECHELLE ALEXANDRIA, LA | 08/20/2001 |
| CRUMP, RONALD SOUTHFIELD, MI | 08/20/2001 |
| DAVIS, EUGENIA MASHELLE SUNSHINE, LA | 08/20/2001 |
| DEMONTIGNY, JACQUES GENE TUCSON, AZ | 08/20/2001 |
| DOZIER, LAWANDA HOMER, LA | 08/20/2001 |
| FITZPATRICK, DEIDRE E BEAR, DE | 08/20/2001 |
| GIVENS, SHANNON BISHOPVILLE, SC | 08/20/2001 |
| GREEN, STACEY JENEEN GLENMORA, LA | 08/20/2001 |
| JOHNSON, NANCY ANN EUGENE, OR | 08/20/2001 |
| LATZER, SAUL ALLEN SIMI VALLEY, CA | 08/20/2001 |
| LINEN, CALANDA SUMTER, SC | 08/20/2001 |
| MCGOWAN, DELPALMIA ST LOUIS, MO | 08/20/2001 |
| MCGREGOR, CLINTON E JESSUP, MD | 08/20/2001 |
| MEICH, ANGELIA LOUISE RENO, NV | 08/20/2001 |
| NEWELL, TERRY PORT ANGELES, WA | 08/20/2001 |
| ODULIO, JOEL ESQUIVEL COQUITLAM BRITISH, | 08/20/2001 |
| OTTERBECK, BENJAMIN LEROY SAN DIEGO, CA | 08/20/2001 |
| PONRARTANA, PRASART SANTA ANA, CA | 08/20/2001 |
| ROWALD, DAVID A HILLSBORO, IL | 08/20/2001 |
| SIMS, FRANK GADSDEN, SC | 08/20/2001 |
| SUMMERVILLE, TRACIE CHESAPEAKE, VA | 08/20/2001 |
| TRANSMERICA, INC SOUTHFIELD, MI | 08/20/2001 |
| TRUESDALE, PATRICIA A DINUBA, CA | 08/20/2001 |
| UMECHURUBA, ALSWELL LANHAM, MD | 08/20/2001 |
| WANICK, THOMAS JERSEYVILLE, IL | 08/20/2001 |
| WHITE, JAMAAL R PEORIA, AZ | 08/20/2001 |
| WOSTER, CAROL COLUMBIA FALLS, MT | 08/20/2001 |

**CONVICTION FOR HEALTH CARE FRAUD**

| Subject, city, state | Effective date |
|---|---|
| GREEN, IDLETHA RENEE ALEXANDRIA, LA | 08/20/2001 |

**CONTROLLED SUBSTANCE CONVICTIONS**

| Subject, city, state | Effective date |
|---|---|
| HORAN, MICHAEL J ROCKVILLE, MD | 08/20/2001 |

**LICENSE REVOCATION/SUSPENSION/ SURRENDERED**

| Subject, city, state | Effective date |
|---|---|
| AGEE, SECNA SHANTYE MONTGOMERY, AL | 08/20/2001 |
| AIVAZIAN, PETER NORTHRIDGE, CA | 08/20/2001 |
| ALBERT, VIRGINIA LOUISE LEHIGH ACRES, AL | 08/20/2001 |
| ALLEN, DAVID C CALIFORNIA, MD | 08/20/2001 |
| ANJOU, ANNETTE MARIE SACRAMENTO, CA | 08/20/2001 |
| ASTRACHAN, STEVEN BRETT KINGSTON, NY | 08/20/2001 |
| BAILEY, MARY ANN BRUNEAU, ID | 08/20/2001 |
| BAZIN, RAPHAEL GREAT NECK, NY | 08/20/2001 |
| BEDDOO, SARAH BLAIRS, VA | 08/20/2001 |
| BELL, JAMIE SCOTTSDALE, AZ | 08/20/2001 |
| BELSON, ERNEST I PEORIA, AZ | 08/20/2001 |
| BONNER, BROOKE MICHELLE LANETT, AL | 08/20/2001 |
| BOULTINGHOUSE, REBECCA ANNE LEAGUE CITY, TX | 08/20/2001 |
| BRINKSNEADER, CHERYL RENEE TELL CITY, IN | 08/20/2001 |
| BUSH, DONNA R DENVER, CO | 08/20/2001 |
| BYNE, EDMUND G JR AUGUSTA, GA | 08/20/2001 |
| BYRD, LORENZA F BRUCE, MS | 08/20/2001 |
| CAMBE, MELINDA M HOLBROOK, NY | 08/20/2001 |
| CAMERON, ROBERT ROY VILLA PARK, IL | 08/20/2001 |
| CARANDA, IOLA G PROVIDENCE, RI | 08/20/2001 |
| CARTER, ARLENE HENDERSON, NV | 08/20/2001 |
| CARVER, HOLLI A GREENVILLE, MS | 08/20/2001 |
| CHOUDRY, MAYNA MEAH CHOWCHILLA, CA | 08/20/2001 |
| CICERO, BARBARA SOMERVILLE, NJ | 08/20/2001 |
| COULTER, AUDREY WAUNELL BATTON VIRGINIA BCH, VA | 08/20/2001 |
| CURTIS, GLADYS E PROVIDENCE, RI | 08/20/2001 |
| DALEY, ROBERTA PARLIN, NJ | 08/20/2001 |
| DANYFIELD, EDDIE TUCSON, AZ | 08/20/2001 |
| DAVIS, TIMOTHY DEER PARK, TX | 08/20/2001 |
| DAVIS, FAITHE L BOISE, ID | 08/20/2001 |
| DEWEESE LODGE CAMPUS FOR BOYS CANON CITY, CO | 08/20/2001 |
| DIEHL, TERI MARIE INDIANAPOLIS, IN | 08/20/2001 |
| DINITTO, VICKI A DRAPER, VA | 08/20/2001 |
| DITMORE, CHERYL ELIZA-BETH FAYETTEVILLE, AR | 08/20/2001 |
| ELLIOTT, CAROL JEAN GEORGETOWN, IL | 08/20/2001 |
| ELLIOTT, KIMBERLY N LAS VEGAS, NV | 08/20/2001 |
| ELLIOTT, DEBBIE WHEAT RIDGE, CO | 08/20/2001 |
| EVANS, STORMIE SUE | 08/20/2001 |

| Subject, city, state | Effective date |
|---|---|
| INDIANAPOLIS, IN | |
| EVANS, ANNIE RUTH ..... ATHENS, AL | 08/20/2001 |
| FALZONE, JOSEPH A ..... HOLLAND PATENT, NY | 08/20/2001 |
| FEIGENBUTZ, PATRICIA A ..... MT LAUREL, NJ | 08/20/2001 |
| FEINBERG, DEBRA A ..... DOVER, NH | 08/20/2001 |
| FEINBERG, HARVEY YALE .... STUDIO CITY, CA | 08/20/2001 |
| FERGUSON, DWIGHT WAR-REN ..... LUBBOCK, TX | 08/20/2001 |
| FISSE, RONALD ARLEN ..... HAILEY, ID | 08/20/2001 |
| FRANCHETTI, CHARLOTTE MARIE ..... REDDING, CA | 08/20/2001 |
| FRY, ROY ..... LOS FRESNOS, TX | 08/20/2001 |
| FRYE, PAULA M ..... CEDAR RAPIDS, IA | 08/20/2001 |
| FUOROLI, STEPHEN F ..... KINGSTON, RI | 08/20/2001 |
| GALCIK, DIANE ..... TENAFLY, NJ | 08/20/2001 |
| GALLAGHER, DENICE KARKALLA ..... PITTSBURGH, PA | 08/20/2001 |
| GEIGER, KIM A ..... SOUTHINGTON, CT | 08/20/2001 |
| GETCHEY, AMY MICHELL ..... DOTHAN, AL | 08/20/2001 |
| GIBBS, LILLIE RUTH ..... JACKSON, MS | 08/20/2001 |
| GIBSON, THERESA ..... BRANDON, MS | 08/20/2001 |
| GIOIELLO, JOSEPH N ..... WARREN, OH | 08/20/2001 |
| GOEDEN, DORA ANN ..... E MOLINE, IL | 08/20/2001 |
| GOLLADAY, JEFFREY F ..... MEMPHIS, TN | 08/20/2001 |
| GONG, SAUL MAN ..... BERKELEY, CA | 08/20/2001 |
| GREENBERG, ALAN S ..... JARRETTSVILLE, MD | 08/20/2001 |
| GUDYKA, JADE E ..... OAK FOREST, IL | 08/20/2001 |
| GUEST, BETTY JANE ..... BEAVERTON, MI | 08/20/2001 |
| GUSOVIUS, TINA R CRAWFORD ..... WINCHESTER, VA | 08/20/2001 |
| HACKETT, MALORA A ..... N FALMOUTH, MA | 08/20/2001 |
| HALER, KRISTINA MARIE ..... CONNERSVILLE, IN | 08/20/2001 |
| HAMILTON, JAMES GREENE DURHAM, NC | 08/20/2001 |
| HARMON, TRACEY U ..... PAWTUCKET, RI | 08/20/2001 |
| HARRIS, ALBERT ROBERT .... TUSKEGEE, AL | 08/20/2001 |
| HART, JANE DELBAUGH ..... MUNCY VALLEY, PA | 08/20/2001 |
| HARTZ, CHARLES J ..... MALONE, NY | 08/20/2001 |
| HEARD, RODNEY ALLAN ..... TROUP, TX | 08/20/2001 |
| HEDINGTON, LISA LOUCKS .. PORTLAND, IN | 08/20/2001 |
| HELSEL, ROBIN L ..... | 08/20/2001 |
| DOYLESTOWN, PA | |
| HERNANDEZ, JOSEPH P ..... MARANA, AZ | 08/20/2001 |
| HERRERA, PASCUAL ..... GADSDEN, AL | 08/20/2001 |
| HILL, SARAH MAY ..... RICHMOND, VA | 08/20/2001 |
| HOLEMAN, DAVID MARK ..... RIVERSIDE, CA | 08/20/2001 |
| HOLLAND, BILLIE JO G ..... N KINGSTOWN, RI | 08/20/2001 |
| HOLMES, LYNDA MADDOX ... GARLAND, TX | 08/20/2001 |
| HOOVER, BERRIE JOHNSON SPRINGFIELD, VA | 08/20/2001 |
| HOVIS, PAUL KEITH ..... RESEDA, CA | 08/20/2001 |
| HOWELL, STEPHANIE LOU-ISE ..... TEMPLE, TX | 08/20/2001 |
| HUNTER, JANE M ..... COHOES, NY | 08/20/2001 |
| HURD, STEVEN MORRIS ..... S SAN FRANCISCO, CA | 08/20/2001 |
| ICE, STEPHEN LEE ..... ANDERSON, IN | 08/20/2001 |
| JANFAZA, DELSHAD ..... LA MESA, CA | 08/20/2001 |
| JOHNSON, SUSAN J ..... HORNELL, NY | 08/20/2001 |
| JOYCE, CARALINE KAY ..... DALLAS, TX | 08/20/2001 |
| KARR, STEPHANIE JO ..... MESA, AZ | 08/20/2001 |
| KEARNS, RUTH ANN ..... KIRKLAND, WA | 08/20/2001 |
| KRAFT, LINDA FORNEY ..... COLUMBIA, PA | 08/20/2001 |
| LACK, STEPHEN ..... HOUSTON, TX | 08/20/2001 |
| LAMPMAN, ELIZABETH LYNN SAN MARCOS, TX | 08/20/2001 |
| LANAGAN, GERALDINE A ..... MATTAPOISETT, MA | 08/20/2001 |
| LEAVELL, DENISE ..... DETROIT, MI | 08/20/2001 |
| LECROY, ROBERT EDWARD FRYEBURG, ME | 08/20/2001 |
| LEFF, ROBERTA E ..... LARCHMONT, NY | 08/20/2001 |
| LEVELL, CRYSTAL D ..... NEWARK, NJ | 08/20/2001 |
| LEVINE, HOWARD J ..... SHERIDAN, OR | 08/20/2001 |
| LEVISKIA, PATRICIA POWELL GAUTIER, MS | 08/20/2001 |
| LIEB, KAREN D ..... FLAGSTAFF, AZ | 08/20/2001 |
| LIN, JANG BOR ..... VISALIA, CA | 08/20/2001 |
| LOGSDON, ABBIE BEDILION FABER, VA | 08/20/2001 |
| LONGTIN, JACOB A ..... BENNINGTON, VT | 08/20/2001 |
| LYNCH, DEBORAH LYNN ..... S BEND, IN | 08/20/2001 |
| LYONS, DENISE E ..... MIDDLETOWN, RI | 08/20/2001 |
| MANN, GREGORY BROWN .... KNOX, IN | 08/20/2001 |
| MARKS, MICHAEL E ..... MESA, AZ | 08/20/2001 |
| MARSDEN, SHERRY A ..... | 08/20/2001 |
| CONCORD, NH | |
| MARTIN, MONICA ..... WHITE CASTLE, LA | 08/20/2001 |
| MASON, SCOTT A ..... TEMPE, AZ | 08/20/2001 |
| MATHIS, LINDA P ..... TUCSON, AZ | 08/20/2001 |
| MCCULLOUCH, CHARLES LARRY ..... LOUISVILLE, MS | 08/20/2001 |
| MCKINNEY, DANA ANN ..... RIENZI, MS | 08/20/2001 |
| MCNICHOLAS, DIANE L ..... MERRIMACK, NH | 08/20/2001 |
| MEARS-CLARKE, MAXINE E .. BRONX, NY | 08/20/2001 |
| MESSENGER, CRAIG RILEY .. FOLSOM, CA | 08/20/2001 |
| MOISTNER, DEBRA SUE ..... CAMBRIDGE CITY, IN | 08/20/2001 |
| MORSE, DARIAN R ..... PIMA, AZ | 08/20/2001 |
| MURPHY, BRIAN DAVID ..... JOHNSTON CITY, IL | 08/20/2001 |
| MURPHY, MICHELE ..... BAYONNE, NJ | 08/20/2001 |
| NELSON, GERALD EUGENE .. SOLANA BEACH, CA | 08/20/2001 |
| NELSON, FRANK J ..... PHILADELPHIA, PA | 08/20/2001 |
| O'TOOL, FAITH M ..... OMAHA, NE | 08/20/2001 |
| OROZCO, FIDEL JR ..... PACOIMA, CA | 08/20/2001 |
| PALMER, BRENT R ..... BALLWIN, MO | 08/20/2001 |
| PANDHI, HEMANT MANILAL .. COBLESKILL, NY | 08/20/2001 |
| PARRISH, KATHARINE LIDELL ..... ST FRANCISVILLE, LA | 08/20/2001 |
| PATXOT, OMAR FERNANDEZ NEW YORK, NY | 08/20/2001 |
| PHIPPS, ARLENE ..... JAMAICA, NY | 08/20/2001 |
| PIGG, JACKIE LAMAR ..... SALEM, AL | 08/20/2001 |
| PIRILLO, SANDRA BRAGER .. AVELLA, PA | 08/20/2001 |
| PITASSI, ELIZABETH M ..... MCKEES ROCK, PA | 08/20/2001 |
| QUINTANA, DAVID T ..... PHOENIX, AZ | 08/20/2001 |
| RADEMACHER, DONN PAUL EASTHAM, MA | 08/20/2001 |
| RAINS, RICHARD ..... NAMPA, ID | 08/20/2001 |
| READER, LOIS ..... NEWTON, NJ | 08/20/2001 |
| REILLY, KATHLEEN ..... NEWPORT, KY | 08/20/2001 |
| ROBERTS, PHILLIP D ..... HATTIESBURG, MS | 08/20/2001 |
| ROBERTSON, PAUL E ..... CHICAGO, IL | 08/20/2001 |
| ROBINSON, KENNETH ELLIS AMERICUS, GA | 08/20/2001 |
| ROSENCRANS-JENSEN, VIC-TORIA MA ..... COCOA, FL | 08/20/2001 |
| RUSSELL, INGRID HEATHER MINERAL WELLS, TX | 08/20/2001 |
| SCHLOTZHAUER, KAREN ANNE ..... | 08/20/2001 |

| Subject, city, state | Effective date |
|---|---|
| EUREKA, CA | |
| SCHULTHIES, ALLISON L ..... TOOELE, UT | 08/20/2001 |
| SHAUGHNESSY, CYNTHIA FOX ..... HEADLAND, AL | 08/20/2001 |
| SHOEMAKER, MELANIE ..... OCEAN SPRINGS, MS | 08/20/2001 |
| SILVEIRA, ANNA M ..... PROVIDENCE, RI | 08/20/2001 |
| SMITH, ANGELA SUZANNE GLOVER ..... HEADLAND, AL | 08/20/2001 |
| SMITH, CYNTHIA ALLEN ..... SALEM, AL | 08/20/2001 |
| SMITH, ELAINE KATHLEEN ... HOPKINTON, NY | 08/20/2001 |
| SOUSA, DEBRA A ..... BRISTOL, RI | 08/20/2001 |
| SPARMAN, ALFRED E ..... MCMINNVILLE, TN | 08/20/2001 |
| SPENCER, BARBARA KAY ..... EL PASO, TX | 08/20/2001 |
| SPIERS, VICKI HAWN ..... HATTIESBURG, MS | 08/20/2001 |
| STARK, ROXANE ..... LONGVIEW, TX | 08/20/2001 |
| STAUER, JANICE ANN ..... HEALDBURG, CA | 08/20/2001 |
| STEELE, BARBARA ..... BEAUMONT, MS | 08/20/2001 |
| STEPHENSON, SALLY ANNE DALLAS, TX | 08/20/2001 |
| STEWART, SCOTT THOMAS GAHANNA, OH | 08/20/2001 |
| STRAWN, DIANE LEE ..... LA MIRADA, CA | 08/20/2001 |
| STROUSE, KIM ELIZABETH ... GRAND RAPIDS, MI | 08/20/2001 |
| SULLIVAN, SHARON KAY ..... RED BLUFF, CA | 08/20/2001 |
| SZITO, ELSA SHANNON ..... KNOXVILLE, TN | 08/20/2001 |
| TEXIERA, PATRICIA A ..... LOWELL, MA | 08/20/2001 |
| THOMPSON, DANIEL LEE ..... COLUMBUS, OH | 08/20/2001 |
| TINGHITELLA, WILLIAM ..... LAS VEGAS, NV | 08/20/2001 |
| TOUTAIN, DOLORES C ..... WARWICK, RI | 08/20/2001 |
| TRUMAN, CYNTHIA SUE ..... CYPRESS, CA | 08/20/2001 |
| TYMOCHKO, YOURA ..... WARREN, OH | 08/20/2001 |
| TYUS, CATHY LYNN ..... BESSEMER, AL | 08/20/2001 |
| VAUGHN, TERRY ..... JACKSON, MS | 08/20/2001 |
| VESEY, KIMBERLY SUE ..... ROACHDALE, IN | 08/20/2001 |
| WALTER, STEVEN WAYNE .... LEWISBURG, WV | 08/20/2001 |
| WANG, BAI SHAN ..... ROSEMEAD, CA | 08/20/2001 |
| WATTS, ELIZABETH M ..... YOUNGTOWN, AZ | 08/20/2001 |
| WEATHERBEE, CAROL E ..... SPRINGFIELD, MA | 08/20/2001 |
| WEBER, GLENN ALLAN ..... CARMICHAEL, CA | 08/20/2001 |
| WELBAUM, SCOTT L ..... TUCSON, AZ | 08/20/2001 |
| WELCH, JULIE H ..... RENO, NV | 08/20/2001 |
| WELLINGHAM, PAMELA GAIL GADSDEN, AL | 08/20/2001 |
| WHITE, JUDY C RODGERS ... LOUISVILLE, MS | 08/20/2001 |
| WILLINGHAM, ANGELA ..... LINCOLN, AL | 08/20/2001 |
| WILMOTH, KEITH L ..... SALINAS, CA | 08/20/2001 |
| WONG, DANNY KIN MING ..... LOS ANGELES, CA | 08/20/2001 |
| WOODS-ANDERSON, VICTORIA LOCHI ..... MOBILE, AL | 08/20/2001 |
| WORKMAN, CYNDI JOANN .... BRAZIL, IN | 08/20/2001 |
| YAEGER, HOPE W ..... ALLENTOWN, PA | 08/20/2001 |
| YARBROUGH, KELLY ANN .... MABANK, TX | 08/20/2001 |
| YOUNG, SANDRA KAY ..... STAUNTON, IL | 08/20/2001 |
| ZOLLI, GINA TERESA ..... MOLINE, IL | 08/20/2001 |
| **FEDERAL/STATE EXCLUSION/ SUSPENSION** | |
| NINOS, DIANE E ..... PATERSON, NJ | 08/20/2001 |
| SANTANA, SONIA E ..... PATERSON, NJ | 08/20/2001 |
| **FRAUD/KICKBACKS** | |
| AMITAN HEALTH SERVICES OF DADE ..... MIAMI, FL | 11/15/1999 |
| DONALDSON, JAMES FRED .. BERRIEN SPRNGS, MI | 04/11/2001 |
| HEARD, ROGER ..... FERRIDAY, LA | 08/20/2001 |
| HERNLY, JAMES D ..... RICHMOND, IN | 04/17/2001 |
| JOSE MARTI HOME HEALTH, INC ..... MIAMI, FL | 11/15/1999 |
| KADIWALA, MOHAMMED YUSUF ..... NEW PORT RICHEY, FL | 06/18/2001 |
| MCKINNEY, CAROLYN JOYCE WATSON ..... BRYAN, TX | 04/19/2001 |
| OLIVET COMPREHENSIVE HUMAN SVC ..... BERRIEN SPRNGS, MI | 04/11/2001 |
| ROCHLIN, JEROME ..... PHOENIX, AZ | 03/22/2001 |
| **OWNED/CONTROLLED BY CONVICTED EXCLUDED** | |
| A SMARTDOC MEDICAL TRANSCRIP ..... TAMPA, FL | 08/20/2001 |
| ALDINE BENDER CHIROPRACTIC ..... HOUSTON, TX | 07/13/2001 |
| ALTERNATIVE CHIROPRACTIC & ..... BEAUMONT, TX | 08/20/2001 |
| BAILEY CHIROPRACTIC ..... HANFORD, CA | 08/20/2001 |
| BETTER BODIES, INC ..... WHITTIER, CA | 08/20/2001 |
| ECOMED LABS ..... ATLANTA, GA | 08/20/2001 |
| EL MILAGRO MEDICAL CENTER ..... MIAMI, FL | 08/20/2001 |
| EXCELLENT NURSING CARE, INC ..... MIAMI, FL | 08/20/2001 |
| FAIR OAKS NECK & BACK CLINIC ..... FAIR OAKS, CA | 08/20/2001 |
| GEOCLAURI MOBILE DIANOSTIC SVC ..... MIAMI, FL | 08/20/2001 |
| GOLDEN FOOT CLINIC, P C .. DETROIT, MI | 08/20/2001 |
| JSH HOME HEALTH CARE, INC ..... MIAMI, FL | 08/20/2001 |
| MIDWEST CHIROPRACTIC & PHYSIO ..... PARMA, OH | 08/20/2001 |
| MUTUAL HOME HEALTH NURSING ..... MIAMI LAKES, FL | 08/20/2001 |
| NURSING SERVICES, INC ..... MIAMI, FL | 08/20/2001 |
| PEMBROKE MEDICAL LAB, INC ..... PEMBROKE PINES, FL | 08/20/2001 |
| PERFECT NURSING HOME HEALTH ..... MIAMI, FL | 08/20/2001 |
| RICKEY G PERRY, D D S, P A LITTLE ROCK, AR | 08/20/2001 |
| STACY A BATTLE, D D S, P C KANSAS CITY, MO | 08/20/2001 |
| STRAIGHT CHIROPRACTIC ... SANTA ANA, CA | 08/20/2001 |
| TIMOTHY G FLYNN, D C ..... KENT, WA | 08/20/2001 |
| UNIVERSAL NURSING SYSTEMS INC ..... MIAMI LAKES, FL | 08/20/2001 |
| **DEFAULT ON HEALTH LOAN** | |
| ALLEN, ROBERT W ..... KANSAS CITY, KS | 08/20/2001 |
| ALTER, DALE N ..... S BEACH, OR | 08/20/2001 |
| APPLING, JON SCOTT ..... REIDSVILLE, NC | 08/20/2001 |
| ATRVASH-BYRD, CAROLYN .. ARLINGTON, TX | 08/20/2001 |
| BEIRNE, MARK J ..... NORCROSS, GA | 08/20/2001 |
| BENOIT-SPENCE, SUZANNE ELIZABE ..... LAKESIDE, CA | 08/20/2001 |
| BOWEN, CECIL D JR ..... BLYTHE, CA | 08/20/2001 |
| CASELLI, GINA GLORIA ..... PHILADELPHIA, PA | 08/20/2001 |
| CONNOR, KENNETH J ..... NEWPORT BEACH, CA | 08/20/2001 |
| DODIA, VISHAL H ..... NEW YORK, NY | 08/20/2001 |
| FAWZI, NAYEL A ..... HOUSTON, TX | 08/20/2001 |
| FAYAZFAR, MITRA ..... AGOURA HILL, CA | 08/20/2001 |
| GENIS, OLEG ..... | 08/20/2001 |

| Subject, city, state | Effective date |
|---|---|
| RICHBORO, PA | |
| GORMAN, DANIEL J ..... SCOTTSDALE, AZ | 08/20/2001 |
| GOTTSCHLING, CARL F ..... CLEVELAND, OH | 08/20/2001 |
| HARDEN, GERALD ANTHONY OLNEY, MD | 08/20/2001 |
| HATCH, JUDITH LOUISE ..... SILVER SPRING, MD | 08/20/2001 |
| HINOJOSA, LIZZE ANEL ..... CORPUS CHRISTI, TX | 08/20/2001 |
| HOCHBERG, MICHAEL R ..... CORAL SPRINGS, FL | 08/20/2001 |
| HOFFMAN, ROBERT LLOYD II NEW YORK, NY | 08/20/2001 |
| JENKINS, JULIAN E ..... NORTH WALES, PA | 08/20/2001 |
| MASON, RICHARD G ..... PINCKNEY, MI | 08/20/2001 |
| MASSAQUOI, ALLIEU B ..... BOSTON, MA | 08/20/2001 |
| MATTSON, JAMES A ..... BERKELEY, CA | 08/20/2001 |
| MCANALLEN, CURTIS M ..... WESTERVILLE, OH | 08/20/2001 |
| MERRITT, PAMELA JEAN ..... ROANOKE, VA | 08/20/2001 |
| MILES, LORETTA T ..... BETHLEHEM, PA | 08/20/2001 |
| MILICH-BUNIN, ALANA ..... BOYNTON BEACH, FL | 08/20/2001 |
| MORREALE, ANGELO PAUL .. NATCHITOCHES, LA | 08/20/2001 |
| NAVARRO-KEMP, ANTONETTE MARIE ..... BURBANK, CA | 08/20/2001 |
| OLSEN, JEFFREY D ..... IRVINE, CA | 08/20/2001 |
| OWEN, MARK ALLEN ..... DUBACH, LA | 08/20/2001 |
| PAISO, ADAM C ..... LIVERMORE, CA | 08/20/2001 |
| PANEBIANCO, ANTHONY G .. REDDING, CA | 08/20/2001 |
| PARKINSON, ROBERT B ..... RIALTO, CA | 08/20/2001 |
| PIERRI, ZIRZA A ..... PORT WASHINGTON, NY | 08/20/2001 |
| REASON, RICHARD E II ..... WOODLAND PARK, CO | 08/20/2001 |

Dated: August 10, 2001.

**Kathi Petronski,**

*Director, Health Care Administrative Sanctions, Office of Inspector General.*

[FR Doc. 01–21173 Filed 8–22–01; 8:45 am]

BILLING CODE 4150–04–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Proposed Collection; Comment Request; a Case-Control Study of Testicular Germ Cell Cancer Among Military Servicemen

**SUMMARY:** In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

**Proposed Collection**

*Title:* A Case-Control Study of Testicular Germ Cell Cancer Among Military Servicemen. *Type of Information Collection Request:* New. *Need and Use of Information Collection:* This Study will seek to determine the causes of testicular germ cell cancer. The incidence rate of testicular cancer has been increasing for most of the twentieth century. It is the most common tumor among men between the ages of 15 and 35 years, yet its risk factors remain poorly understood. Servicemen are being studied because they are the right age group and testicular cancer is the common cancer among men in the service. The cancer's relatively young age of onset and its association with several congenital anomalies indicate that events during in-utero life may place men at risk of this tumor. Therefore, this study seeks to interview the mothers of men who developed testicular cancer and mothers of men who did not develop testicular cancer. Mothers will asked about events surrounding the pregnancy with the son and early live events. *Frequency of Response:* One interview is requested. *Affected Public:* Individuals. *Type of Respondents:* Mothers of servicemen who were diagnosed with testicular cancer and mothers of serviceman who were not diagnosed with testicular cancer. The annual reporting burden is as follows: *Estimated Number of Respondents:* 1,600; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours Per Response:* .75; and *Estimated Total Annual Burden Hours Requested:* 1200. The annualized cost to respondents is estimated at: $0. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

**Request for Comments**

Written comments and/or suggestion from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**FOR FURTHER INFORMATION CONTACT:** To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Dr. Katherine A. McGlynn, Environmental Epidemiology Branch, DCEG, NCI, NIH, Executive Plaza South, Room 7060, 6120 Executive Boulevard, Bethesda, MD 20892–7234, or call non-toll-free number (301) 435–4918 or E-mail your request, including your address: *mcglynnk@mail.nih.gov.*

**Comments Due Date**

Comments regarding this information collection are best assured of having their full effect if received on or before October 22, 2001.

Dated: August 15, 2001.

**Reesa L. Nichols,**

*NCI Project Clearance Liaison.*

[FR Doc. 01–21263 Filed 8–22–01; 8:45 am]

BILLING CODE 440–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Submission for OMB Review; Comment Request; a Prospective Study of Diet and Cancer in Members of the American Association of Retired Persons (AARP)

**SUMMARY:** Under the provisions of Section 3507(a)(1)(D) of the Paperwork Reduction Act of 1995, the National Cancer Institute (NCI), the National Institutes of Health (NIH) has submitted to the Office of Management and Budget (OMB) a request to review and approve the information collection listed below. This proposed information collection was previously published in the **Federal Register** on April 13, 2001, page 19181 and allowed 60 days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 days for public comment. The National Institutes of Health may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1,

1995, unless it displays a currently valid OMB control number.

**Proposed Collection**

*Title*: A Prospective Study of Diet and Cancer in Members of the American Association of Retired Persons (AARP). *Type of Information Collection Request:* Reinstatement with change, OMB No. 0925–0423, which expired on 09/30/98. *Need and Use of Information Collection:* This study is to examine prospectively the relation between diet and major cancers (especially those of the breast, large bowel, and prostate) in population of early- to late-middle aged men and women in the United States. In order to minimize two problems that historically have plagued observational epidemiologic studies of diet and cancer—dietary measurement error and dietary homogeneity—this study is large and oversampled screenees within extreme categories of dietary intake. Understanding the relationship between diet and cancers of the breast, large bowel, and prostate has critical implications for the American people. This uniquely designed study has a capacity greater than that of any previous study for demonstrating these important connections between dietary factors and major cancers. *Frequency of Response:* One-time study. *Affected Public:* Individuals or households and business or other for-profit. *Type of Respondents:* Male and Female AARP members aged 50–69 years. The total annual reporting burden is as follows: *Estimated Number of Respondents:* 150,166; *Estimated Number of Responses per Respondent:* 1; *Average Burden Hours per Response:* 0.25; and *Estimated Total Annual Burden Hours Requested:* 37,542. There are no Capital Costs, Operating Costs, and/or Maintenance Costs to report.

**Request for Comments**

Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

**Direct Comments to OMB**

Written comments and or suggestions regarding the item(s) contained in the notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Regulatory Affairs, New Executive Office Building, Room 10235, Washington, DC 20530, Attention: Desk Officer for NIH. To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact: Arthur Schatzkin, M.D., Dr.P.H., Nutritional Epidemiology Branch, Division of Cancer Epidemiology and Genetics, National Cancer Institute, Executive Plaza South, Suite 7040, Rockville, Maryland 28092, or call non-toll free (301) 594–2931, or E-mail your request, including your address to *schatzka@mail.nih.gov*

**Comments Due Date**

Comments regarding this information collection are best assured of having their full effect if received on or before September 24, 2001.

Dated: August 15, 2001.

**Reesa Nichols,**

*NCI Project Clearance Liaison.*

[FR Doc. 01–21264 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

**Single-Chain Antibody Fragment Protein Binding to HIV–1 Integrase**

Eugene Barsov and Stephen Hughes (NCI), DHHS Reference No. E–193–01/0

Licensing Contact: Sally Hu; 301/496–7056 ext. 265; e-mail: hus@od.nih.gov

Integration of the viral DNA into the host genome is a prerequisite for efficient viral transcription and establishment of productive HIV–1 infection in humans. This function is mediated by the viral protein integrase. The invention discloses a single-chain Fab fragment of a murine monoclonal antibody (scFv35) that is able to inhibit the viral integrase. The antibody fragment can be recombinantly expressed. The Fab fragment is further described in the Journal of Virology 70 (7), pp 4484–4495, 1996. It is available for licensing through a Biological Materials License Agreement as no patent application has been filed.

**Plasmid Based Assay for the in vitro Repair of Oxidatively Induced DNA Double Strand Breaks**

Thomas A. Winters, Elzbeitz Pastwa, and Ronald D. Neumann (CC), DHHS Reference No. E–319–00/0 filed 06 Oct 2000

Licensing Contact: Wendy Sanhai; 301/496–7736 ext. 244; e-mail: sanhaiw@od.nih.gov

We describe a new non-radioactive, high throughput in vitro assay for the repair of oxidatively induced DNA double-strand breaks by HeLa cell nuclear extracts. The assay measures non-homologous end joining (NHEJ) repair by employing linear plasmid DNA containing DNA double-strand breaks (DSBs) produced by either the radiomimetic drug bleomycin or StuI restriction endonuclease. The complex structure of the bleomycin-induced DSB more closely models naturally occurring DSBs than restriction enzyme induced DSBs. Although initial optimization reactions were conducted with these DNA molecules, any double-strand-break-inducing agent may be employed to create the linear DNA substrates used in the assay.

Cellular extraction and initial end-joining reaction conditions were optimized with restriction enzyme cleaved DNA to maximize ligation activity. Several parameters affecting ligation were examined including

extract protein concentration, substrate concentration, ATP utilization, reaction time, temperature, and effect of ionic strength. Similar reactions were performed with the bleomycin-linearized substrate. In all cases, end-joined molecules ranging from dimers to higher molecular weight forms were produced and observed directly in agarose gels stained with Vistra Green and imaged with a FluorImager 595. This method permits detection of less than or equal to 0.25 ng double-stranded DNA per band directly in post-electrophoretically stained agarose gels. Therefore, the optimized end joining reactions required only 100 ng or less of substrate DNA, and up to 50% conversion of substrate to product was achieved.

The DSB end structure was shown to directly affect repair of the strand break. Bleomycin-induced DSBs were repaired at a 6-fold lower rate than blunt-ended DNA, and initiation of the reaction lagged behind that of the blunt-end rejoining reaction. Recent experiments have shown repair of DSBs produced by γ-rays to be 15-fold less efficient than for DSBs produced by restriction enzyme. While repair of the high-LET-like DSB produced by 125I was near the lower limit of detection. Thus, as the cytotoxicity of the DNA damaging agent increases, the DSB created by the agent is less efficiently repaired.

Repair efficiency is also dependent upon the repair capacity of the cellular extract employed as a source of repair enzymes. These repair activities are known to vary from tissue to tissue, and person to person.

Therefore, by using patient samples as a source of enzyme activities, our method might be employed clinically as a predictive assay for patient sensitivity to DNA damaging agents. Knowledge of a patient's sensitivity to DNA damaging agents may permit more effective choices to be made when selecting treatment options in cases of cancer, and other diseases where DNA damaging agents are commonly used.

**Sensitization of Cancer Cells to Immunoconjugate-Induced Cell Death by Transfection With Interleukin-13 Receptor Alpha-Chain**

R. Puri (FDA), DHHS Reference No. E–032–00/1 filed 31 August 2000

Licensing Contact: Richard Rodriguez; 301/496–7056 ext. 287; e-mail: rodrigur@od.nih.gov

The claimed technology relates to the use of gene transfer techniques to sensitize cancer cells to IL–13 Receptor-mediated immunotoxin induced cell death. Specifically, the inventor has shown that stable gene transfer of the IL–13Rα2 chain, of the IL–13 receptor, significantly sensitizes cancer cells to the effects of IL–13 toxin by approximately 520–1000-fold. Since many cancers, e.g., brain, breast, lung, head and neck, pancreatic, prostate or liver, can be inoperable, direct intratumoral administration of treatment-agents may become necessary. As such, the claimed invention shows that a combination approach, utilizing both gene transfer and systemic or locoregional cytotoxin therapy, may be available as a new potent treatment regimen for intractable or refractory cancers.

Dated: August 13, 2001.

**Jack Spiegel,**

*Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.*

[FR Doc. 01–21265 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–P

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Center for Research Resources; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Advisory Research Resources Council, September 13, 2001, 9:15 AM to September 13, 2001, 5:00 PM, National Center for Research Resources, National Institutes of Health, Conference Room 10, Building 31, Bethesda, MD, 20892 which was published in the **Federal Register** on August 13, 2001, 66 FR 42549.

Executive Subcommittee Meeting scheduled for September 13, 2001 at 8:00 a.m.–9:00 a.m. has been cancelled. The meeting is partially Closed to the public.

Dated: August 16, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21254 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Child Health and Human Development; 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 section 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 Child Health and Human Development Special Emphasis Panel.

*Date:* August 29, 2001.

*Time:* 10:00 a.m. to 11:00 a.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 6100 Executive Blvd., Room 5E01, Rockville, Md 20852 (Telephone Conference Call).

*Contact Person:* Robert H. Stretch, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E01, MSC 7510, Bethesda, MD 20892, (301) 435–6912.

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. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: August 16, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21252 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institutes of Arthritis and Musculoskeletal and Skin Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign

language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

*Date:* September 25, 2001.

*Open:* 8:30 a.m. to 12:00 p.m.

*Agenda:* The meeting will be open to the public to discuss administrative details relating to Council business and special reports.

*Place:* 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

*Closed:* 1:00 p.m. to 5:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

*Contact Person:* Steven J. Hausman, PhD, Deputy Director, NIAMS/NIH/Bldg. 31., Room 4C–32, 31 Center Dr, MSC 2350, Bethesda, MD 20892–2350, (301) 594–2463.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2001.

**LaVerne Y. Stringfield.**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21256 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Allergy and Infectious Diseases Special Emphasis Panel.

*Date:* November 1–2, 2001.

*Time:* November 1, 2001, 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

*Time:* November 2, 2001, 8 a.m. to adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

*Contact Person:* Vassil S. Georgiev, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2217, 6700–B Rockledge Drive, MSC–7610, Bethesda, MD 20892–7610, 301–496–2550.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21257 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Allergy and Infectious Diseases; Notice of 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 AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* AIDS Research Advisory Committee, NIAID.

*Date:* September 24, 2001.

*Time:* 1:30 p.m. to 6:00 p.m.

*Agenda:* The Committee will provide advice on scientific priorities, policy, and program balance at the Division level. The Committee will review the progress and productivity of ongoing efforts, and identify critical gaps/obstacles to progress.

*Place:* Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

*Contact Person:* Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Room 4139, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7601, 301–435–3732.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21258 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* September 4, 2001.

*Time:* 8:30 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* Holiday Inn—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

*Contact Person:* Tommy L. Broadwater, PhD, Chief, Grants Review Branch, National Institutes of Health, NIAMS, Natcher Bldg., Room 5As25U, Bethesda, MD 20892, 301–594–4952.

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. 93.846, Arthritis,

Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21259 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date*: August 30–31, 2001.

*Time*: 8:30 a.m. to 5:00 p.m.

*Agenda*: To review and evaluate grant applications.

*Place*: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

*Contact Person*: Richard J. Bartlett, PhD, Scientific Review Administrator, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Bldg./Bldg.45, MSC 6500/Room 5AS–37B, Bethesda, MD 20892, (301) 594–4952.

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. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21260 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

*Date:* August 28, 2001.

*Time:* 8:30 a.m. to 5:00 p.m.

*Agenda:* to review and evaluate grant applications

*Place:* Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Tommy L. Broadwater, PhD, Chief, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Natcher Building/MSC 6500, 45 Center Drive, Room 5AS–25U, Bethesda, MD 20892, 301–594–4952.

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. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: August 15, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21261 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of Deafness and Other Communication Disorders; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Deafness and Other Communication Disorders Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Deafness and Other Communication Disorders Advisory Council NIDCD Advisory Council.

*Date:* September 21, 2001.

*Open:* 8:30 a.m. to 12:30 p.m.

*Agenda:* Staff reports on divisional, programmatic and special activities.

*Place:* 45 Center Drive, Natcher Bldg., Conf. Rms. A&D, Bethesda, MD 20892.

*Closed:* 12:30 p.m. to Adjournment.

*Agenda:* To review and evaluate grant applications.

*Place:* 45 Center Drive, Natcher Bldg., Conf. Rms. A&D, Bethesda, MD 20892.

*Contact Person:* Craig A. Jordan, PhD, Chief, Scientific Review Branch, NIH/NIDCD/DER, Executive Plaza South, Room 400C, Bethesda, MD 20892–7180, 301–496–8683.

Information is also available on the Institute's/Center's home page: www.nidcd.nih.gov/about/councils/ndcdac/ndcdac.htm, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: August 16, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21262 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the PubMed Central National Advisory Committee.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

*Name of Committee:* PubMed Central National Advisory Committee.

*Date:* October 10, 2001.

*Time:* 8:30 a.m. to 4:00 p.m.

*Agenda:* Review & Analysis of Systems.

*Place:* National Library of Medicine, Board Room Bldg 38, 2E–09, 8600 Rockville Pike, Bethesda, MD 20894.

*Contact Person:* David J. Lipman, MD, Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Department of Health and Human Services, Bethesda, MD 20894.

Information is also available on the Institute's/Center's home page: *www.pubmedcentral.nih.gov/about/nac/html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 16, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21251 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Library of Medicine.

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 Library of Medicine, 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 Library of Medicine, Board of Scientific Counselors, National Center for Biotechnology Information, National Library of Medicine.

*Date:* October 22–23, 2001.

*Time:* October 22, 2001, 7:00 p.m. to 10:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

*Time:* October 23, 2001, 8:30 a.m. to 2:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

*Contact Person:* David J. Lipman, MD, Director, Natl Ctr for Biotechnology Information, National Library of Medicine, Department of Health and Human Services, Bethesda, MD 20894.

(Catalog of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 16, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21253 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Library of Medicine; 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 Library of Medicine.

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 Library of Medicine, 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 Library of Medicine, Board of Scientific Counselors, Lister Hill Center.

*Date:* October 18–19, 2001.

*Open:* October 18, 2001, 9:00 a.m. to 1:00 p.m.

*Agenda:* Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

*Place:* National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

*Closed:* October 18, 2001, 1:00 p.m. to 2:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

*Open:* October 18, 2001, 2:00 p.m. to 5:00 p.m.

*Agenda:* Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

*Place:* National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

*Open:* October 19, 2001, 9:00 a.m. to 12:00 p.m.

*Agenda:* Review of research and development programs and preparation of reports of the Lister Hill National Center for Biomedical Communications.

*Place:* National Library of Medicine, 8600 Rockville Pike, Board Room, Bethesda, MD 20894.

*Contact Person:* Jackie Duley, Program Assistant, Lister Hill National Center for Biomedical Communications, National Library of Medicine, Bldg 38A, Rm 7N–705, Bethesda, MD, 301–496–4441.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 16, 2001.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 01–21255 Filed 8–22–01; 8:45 am]

BILLING CODE 4140–01–M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a closed meeting of the Center for Substance

Abuse Prevention (CSAP) National Advisory Council in August 2001.

The agenda of the meeting will include the review, discussion, and evaluation of individual grant applications. Therefore this meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with Title 5 U.S.C. 552b(c)(6) and 5 U.S.C. App.2, 10(d). If anyone needs special accommodations for persons with disabilities, please notify the contact listed below.

A roster of committee members may be obtained from Yuth Nimit, Ph.D., Executive Secretary, Rockwall II Building, Suite 901, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–8455. Substantive program information may be obtained from the contact person listed below.

*Committee Name:* Center for Substance Abuse Prevention National Advisory Council.

*Meeting Date:* Monday, August 29, 2001.

*Place:* 5515 Security Lane, Rockwall II Building, Suite 1075Rockville, Maryland 20857, Telephone: (301) 443–8455.

*Closed:* August 29, 2001, 2–3 p.m.

*Contact:* Yuth Nimit, Ph.D., 5515 Security Lane, Rockwall II Building, Suite 901, Rockville, Maryland 20852, Telephone: (301) 443–8455.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: August 15, 2001.

**Toian Vaughn,**

*Executive Secretary/Committee Management Officer, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 01–21248 Filed 8–22–01; 8:45 am]

**BILLING CODE 4160–20–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Availability of a Draft Environmental Assessment and Receipt of an Application for an Incidental Take Permit for a Multi-Phase Commercial and Residential Development, in Flagler County, Florida

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice.

Palm Coast Blue Water International Corporation and Matanzas Shores Owners Association (Applicant), seek an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize the take of two families of the threatened Florida scrub-jay (*Aphelocoma coerulescens*) and the threatened eastern indigo snake (*Drymarchon corais couperi*) in Flagler County, Florida, for a period of twenty (20) years. The proposed taking is incidental to land clearing activities and development on a multi-phase project site (Project). The Project contains about 19.5 acres of occupied Florida scrub-jay habitat, and the potential exists for the Project to provide over 200 acres of habitat to the Eastern indigo snake. 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 a draft environmental assessment (EA) and the HCP for the incidental take permit application. Copies of the EA and 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).

The Service specifically requests information, views, and opinions from the public via this Notice on the federal action, including the identification of any other aspects of the human environment not already identified in the Service's EA. Further, the Service specifically solicits information regarding the adequacy of the HCP as measured against the Service's ITP 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. Please reference permit number TE038885–0 in such comments. 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, EA, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before October 22, 2001.

**ADDRESSES:** Persons wishing to review the application, HCP, and EA 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, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912. Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments and requests for the documentation must be in writing to be processed. Please reference permit number TE038885–0 in such comments, or in requests of the documents discussed herein.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Dell, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Mr. Miles A. Meyer, Fish and Wildlife Biologist, Jacksonville Field Office, (see

**ADDRESSES** above), telephone: 904/232–2580, extension 114.

**SUPPLEMENTARY INFORMATION:** The Florida scrub-jay is geographically isolated from other species of scrub-jays found in Mexico and the western United States. The Florida scrub-jay is found exclusively in peninsular Florida and is restricted to scrub habitat. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub-jay population has been reduced by at least half in the last 100 years.

Historically, the eastern indigo snake occurred throughout Florida and into the coastal plain of Georgia, Alabama, and Mississippi. Georgia and Florida currently support the remaining, endemic populations of eastern indigo snake. Over most of its range, the eastern indigo snake frequents a diversity of habitat types such as pine flatwoods, scrubby flatwoods, xeric sandhill communities, tropical hardwood hammocks, edges of freshwater marshes, agricultural fields, coastal dunes and human altered habitats. Due to its relatively large home range, this snake is especially vulnerable to habitat loss, degradation, and fragmentation. The wide distribution and territory size requirements of the eastern indigo snake make evaluation of status and trends very difficult.

Surveys have indicated that two families of Florida scrub-jays (5 individuals) utilize habitat associated with the coastal scrub habitat on the Project site. Approximately 9.11 acres of occupied scrub-jay habitat are proposed to be impacted. Additionally, 41.1 acres of potential habitat for the eastern indigo snake are proposed for development. Eastern indigo snakes have not been observed on the project site. Construction of the Project's infrastructure and residential buildings will likely result in death of, or injury to, Florida scrub-jay and eastern indigo snake incidental to carrying out these otherwise lawful activities. Habitat alteration associated with property development will reduce the availability of habitat used for feeding, nesting, and shelter.

The draft EA considers the environmental consequences of two alternatives. The no action alternative may result in loss of habitat for the Florida scrub-jay and eastern indigo snake, and exposure of the Applicant under section 9 of the Act. The applicant's proposed action alternative is issuance of the ITP with on-site mitigation. The on-site preservation would restore and preserve 10.75 acres of unoccupied scrub-jay habitat and 15.95 acres of occupied scrub-jay habitat along the coastal dune east of the old SR A1A roadbed. This on-site habitat would remain suitable for any eastern indigo snakes in the Project area. The affirmative conservation measures outlined in the HCP to be employed to offset the anticipated level of incidental take to the protected species are the following:

1. The impacts associated with the proposed project include 9.11 acres of permanent impacts associated with infrastructure and lot development. To mitigate for the proposed impacts to occupied habitat the applicant will restore and preserve habitat within two areas of the project site. Approximately 10.75 acres of unoccupied scrub habitat and 15.95 acres of occupied habitat will be enhanced and preserved east of, and including, the old SR A1A roadbed. This amount provides mitigation at a ratio of 2.9:1 (2.9 acres restored for every one acre impacted). Management of the mitigation sites will be conducted on a regular basis by the applicant and funding will be provided by the applicant and homeowners association dues. After initial habitat restoration of the 27.1-acre on-site mitigation area, the property would be set apart through an easement, requiring preservation and management for Florida scrub-jays and eastern indigo snakes into perpetuity.

2. No construction activities would occur within 150 feet of an active Florida scrub-jay nest during the nesting season.

3. The HCP provides a funding mechanism for these mitigation measures. Funding will be provided by the applicant and the homeowners association dues.

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 draft EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.

2. The proposed take is incidental to an otherwise lawful activity.

3. The Applicant has ensured that adequate funding will be provided to implement the measures proposed in the submitted HCP.

4. Other than impacts to endangered and threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

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: August 3, 2001.

**J. Mitch King,**

*Acting Regional Director.*

[FR Doc. 01–21273 Filed 8–22–01; 8:45 am]

BILLING CODE 4310–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of a Permit Application (Beathard) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Gerry and Mary Beathard (Applicants) have applied for an incidental take permit (TE–046419–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence and the expansion of an existing pond on approximately 0.75 acres of a 23.751-acre property on FM 2104, Bastrop County, Texas.

**DATES:** Written comments on the application should be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to

review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–046419–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

## Applicant

Gerry and Mary Beathard plan to construct a single-family residence and expand an existing pond, within 5 years, on approximately 0.75 acres of a 23.751-acre property on FM 2104, Bastrop County, Texas. This action will eliminate 0.75 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $3,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

**Steven M. Chambers,**

*Acting Regional Director, Region 2.*

[FR Doc. 01–21274 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Receipt of a Permit Application (Clayton) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** James and Wanda Clayton (Applicants) have applied for an incidental take permit (TE–046417–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 10.0-acre property on Dube Lane, Bastrop County, Texas.

**DATES:** Written comments on the application should be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–046417–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

*Applicant:* James and Wanda Clayton plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 10.0-acre property on Dube Lane, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

**Steven M. Chambers,**

*Acting Regional Director, Region 2.*

[FR Doc. 01–21275 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Receipt of a Permit Application (Little) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Timothy Little (Applicant) has applied for an incidental take permit (TE–045265–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 16.71-acre property on FM 2104, Bastrop County, Texas.

**DATES:** Written comments on the application should be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be

available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–045265–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

*Applicant:* Timothy Little plans to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 16.71-acre property on FM 2104, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

**Steven M. Chambers,**

*Acting Regional Director, Region 2.*

[FR Doc. 01–21276 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of a Permit Application (Jacobson) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Robert Jacobson (Applicant) has applied for an incidental take permit (TE–045267–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 3.219-acre property on Red Bird Lane, Bastrop County, Texas.

**DATES:** Written comments on the application should be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–045267–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

*Applicant*: Robert Jacobson plans to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 3.219-acre property on Red Bird Lane, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicant proposes to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

**Steven M. Chambers,**

*Acting Regional Director, Region 2.*

[FR Doc. 01–21277 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–55–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

### Receipt of a Permit Application (Beveridge) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** Cliff and Sheila Beveridge (Applicants) have applied for an incidental take permit (TE–045264–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 97.01-acre property on Gotier Trace Road, Bastrop County, Texas.

**DATES** Written comments on the application should be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be

available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–045264–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

## Applicant

Cliff and Sheila Beveridge plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 97.01-acre property on Gotier Trace Road, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

**Steven M. Chambers,**

*Acting Regional Director, Region 2.*

[FR Doc. 01–21278 Filed 8–22–01; 8:45 am]

**BILLING CODE 4510–55–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Receipt of a Permit Application (Akin) for Incidental Take of the Houston Toad

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability.

**SUMMARY:** R. Harry and Julia E. Akin (Applicants) have applied for an incidental take permit (TE–045263–0) pursuant to Section 10(a) of the Endangered Species Act (Act). The requested permit would authorize the incidental take of the endangered Houston toad. The proposed take would occur as a result of the construction and occupation of a single-family residence on approximately 0.5 acres of a 98.942-acre property on Gotier Trace Road, Bastrop County, Texas.

**DATES** Written comments on the application should be received on or before September 24, 2001.

**ADDRESSES:** Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the EA/HCP may obtain a copy by contacting Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Supervisor, U.S. Fish and Wildlife Service, Austin, Texas, at the above address. Please refer to permit number TE–045263–0 when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Clayton Napier at the above U.S. Fish and Wildlife Service, Austin Office.

**SUPPLEMENTARY INFORMATION:** Section 9 of the Act prohibits the ''taking'' of endangered species such as the Houston toad. However, the Fish and Wildlife Service (Service), under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The Service has prepared the Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

## Applicant

R. Harry and Julia E. Akin plan to construct a single-family residence, within 5 years, on approximately 0.5 acres of a 98.942-acre property on Gotier Trace Road, Bastrop County, Texas. This action will eliminate 0.5 acres or less of Houston toad habitat and result in indirect impacts within the lot. The Applicants propose to compensate for this incidental take of the Houston toad by providing $2,000.00 to the Houston Toad Conservation Fund at the National Fish and Wildlife Foundation for the specific purpose of land acquisition and management within Houston toad habitat.

**Steven M. Chambers,**

*Acting Regional Director, Region 2.*

[FR Doc. 01–21279 Filed 8–22–01; 8:45 am]

**BILLING CODE 4510–55–P**

## DEPARTMENT OF THE INTERIOR

## Fish and Wildlife Service

## Preparation of an Environmental Impact Report/Statement for the South Subregion Natural Community Conservation Plan/Habitat Conservation Plan, County of Orange, California

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent.

**SUMMARY:** Pursuant to the National Environmental Policy Act, the Fish and Wildlife Service (Service) advises the public that we intend to gather information necessary to prepare, in coordination with the County of Orange, California (County), a joint programmatic Environmental Impact Report/Environmental Impact Statement (EIR/EIS) on the South Subregion Natural Community Conservation Plan/Habitat Conservation Plan (NCCP/HCP) proposed by the County. The County and possibly other jurisdictions intend to request Endangered Species Act permits for federally listed threatened or endangered species and for unlisted species that may become listed during the term of the permit. The permit is needed to authorize take of listed species (including harm, injury and

harassment) during urban development in the approximately 200 square-mile study area in southern Orange County. The proposed NCCP/HCP would identify those actions necessary to maintain the viability of South Subregion coastal sage scrub habitat for the federally threatened coastal California gnatcatcher (*Polioptila californica californica*), and other species and major habitat types identified for inclusion and management during the preparation of the NCCP/HCP.

The Service is furnishing this notice to: (1) Advise other Federal and State agencies, affected Tribes, and the public of our intentions; (2) announce the initiation of a 30-day public scoping period, and (3) obtain suggestions and information on the scope of issues to be included in the EIR/EIS.

**DATES:** We will accept written comments on or before September 24, 2001.

**ADDRESSES:** Send comments to Mr. James Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Field Office, 3720 Loker Avenue West, Carlsbad, CA 92008; facsimile (760) 431–9618.

**FOR FURTHER INFORMATION CONTACT:** Ms. Karen Evans, Supervisory Fish and Wildlife Biologist, (see **ADDRESSES**); telephone (760) 431–9440.

**SUPPLEMENTARY INFORMATION:**

## Background

Section 9 of the Endangered Species Act of 1973, as amended, and Federal regulation prohibit the ''taking'' of a species listed as endangered or threatened. The term ''take'' means to harass, harm, pursue, hunt, shoot, wound, kill, capture or collect listed wildlife, or attempt to engage in such conduct. Harm includes habitat modification that kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering. Under limited circumstances, the Service may issue permits for take of listed species that is incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for threatened and endangered species are found in 50 CFR 17.32 and 50 CFR 17.22.

If the Service approves the NCCP/HCP, we may authorize incidental take of the California gnatcatcher and other identified federally listed species through issuance of Endangered Species Act incidental take permits. The NCCP/HCP, coupled with an Implementation Agreement, could also form the basis for issuing incidental take permits for other identified non-listed species should these identified species be listed during the term of the permit.

On March 25, 1993, the Service issued a Final Rule declaring the California gnatcatcher to be a threatened species (508 FR 16742). The Final Rule was followed by a special rule on December 10, 1993 (50 FR 65088) to allow take of the California gnatcatcher pursuant to section 4(d) of the Act. The special rule defined the conditions under which take of the coastal California gnatcatcher and other federally-listed species, resulting from specified land use activities regulated by state and local government, would not violate section 9 of the Act. In the special rule the Service recognized the significant efforts undertaken by the State of California through the Natural Community Conservation Planning Act of 1991 and encouraged holistic management of listed species, like the coastal California gnatcatcher, and other sensitive species. The Service declared its intent to permit incidental take of the California gnatcatcher associated with land use activities covered by an approved subregional NCCP prepared under the NCCP Program, provided the Service determines that the subregional NCCP meets the issuance criteria of an incidental take permit pursuant to section 10(a)(1) (B) of the Act and 50 CFR 17.32(b)(2). The County currently intends to obtain the Service's approval of the NCCP/HCP through a section 10(a)(1)(B) permit.

## Proposed Action

The Service will prepare a joint EIR/EIS with the County of Orange, lead agency for the NCCP/HCP. The County will prepare an EIR in accordance with the California Environmental Quality Act. The County will publish a separate Notice of Preparation for the EIR.

The South Subregional NCCP/HCP study area covers more than 200 square miles in the southern and eastern portions of Orange County. This NCCP subregion is bounded on the east by the San Diego County line and on the north by Riverside County line. Along the west, the study area boundaries follow San Juan Creek inland to the Interstate 5 (I–5) overcrossing, then northwest along I–5 to El Toro Road, and north along El Toro Road to the intersection of Live Oak Canyon Road and northeasterly on a straight line from that intersection to the northern apex of the County boundary. The subregion is bounded on the south by the Pacific Ocean.

The NCCP/HCP will describe strategies to conserve coastal sage scrub and other major upland and aquatic habitat types identified for inclusion and management, while allowing incidental take of endangered and threatened species associated with development. Development may include residential, commercial, industrial, and recreational development; public infrastructure such as roads and utilities; and maintenance of public facilities.

## Preliminary Alternatives

The EIR/EIS for the South Subregion NCCP/HCP will assist the Service during its decision making process by enabling us to analyze the environmental consequences of the proposed action and a full array of alternatives identified during preparation of the NCCP/HCP. Although specific programmatic alternatives have not been prepared for public discussion, the range of alternatives preliminarily identified for consideration include:

### *Alternative 1, No Project/No Development Alternative*

No land development and no NCCP/HCP directly impacting listed species. Conservation would rely on existing or future amended General Plans, growth management programs and habitat management efforts, and continuing project-by-project review and permitting pursuant to the National Environmental Policy Act and Sections 7 and 10 of the Endangered Species Act.

### *Alternative 3, NCCP/HCP Alternative Based on Orange County Projections (OCP) 2000*

Land uses projected by the County's OCP 2000 for Rancho Mission Viejo Lands would be considered for implementation under a Subregional NCCP/HCP approach designed to comply with the requirements of section 10(a) of the Endangered Species Act by assuring long-term value of coastal sage scrub and other major habitat types on a subregional level through the following measures:

(1) Permanently set aside coastal sage scrub and other major habitats consistent with Scientific Review Panel Reserve Design Criteria (1993).

(2) Address habitat needs of coastal sage scrub species and of other species that use major habitat types specifically identified for inclusion and management within the NCCP Reserve.

(3) Maintain and enhance habitat connectivity within the subregion and between adjacent subregions.

(4) Provide for adaptive habitat management within the NCCP Reserve, including, habitat restoration and enhancement.

*Alternative 4, NCCP/HCP Alternative Based on Other Land Use Scenarios*

Formulation of alternative subregional conservation plans and habitat reserve configurations designed to comply with the requirements of Section 10(a) by assuring the long-term value of coastal sage scrub and other major habitat types on a subregional level through the same four general measures listed under Alternative 3.

**Other Governmental Actions**

The NCCP/HCP is being prepared concurrently and coordinated with the joint preparation by the U.S. Army Corps of Engineers and CDFG of a Special Area Management Plan (SAMP) and Master Streambed Alteration Agreement (MSAA) for the San Juan Creek and western San Mateo Creek watersheds. These watersheds cover most of the South NCCP Subregion. In addition to the concurrent SAMP/MSAA process, the County and Rancho Mission Viejo, the owner of the largest undeveloped property in the subregion, will be proceeding with consideration of amendments to the County General Plan and Zoning Code for that portion of the subregion owned by Rancho Mission Viejo. The SAMP/MSAA will involve the preparation of a concurrent joint programmatic EIR/EIS and the General Plan/Zoning amendment programs will involve the preparation of an EIR that will distributed for review during the NCCP/HCP public planning process. The County of Orange will prepare and publish a separate Notice of Preparation for the General Plan Amendment and Zone Change EIR.

**Service Scoping**

We invite comments from all interested parties to ensure that the full range of issues related to the permit requests are addressed and that all significant issues are identified. We will conduct environmental review of the permit applications in accordance with the requirements of the National Environmental Policy Act of 1969 as amended (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500 through 1508), and with other appropriate Federal laws and regulations, policies, and procedures of the Service for compliance with those regulations. We expect a draft EIR/EIS for the South Subregion NCCP/HCP to be available for public review in Fall 2002.

Dated: August 16, 2001.

**Mary Ellen Mueller,**

*Acting Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California.*

[FR Doc. 01–21272 Filed 8–22–01; 8:45 am]

BILLING CODE 4310–55–P

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–462]**

## Certain Plastic Molding Machines With Control Systems Having Programmable Operator Interfaces Incorporating General Purpose Computers, and Components Thereof II; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 19, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Milacron Inc. of Cincinnati, Ohio. A corrected exhibit was filed on August 8, 2001. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain plastic molding machines with control systems having programmable operator interfaces incorporating general purpose computers, and components thereof, by reason of infringement of claims 1–4 and 9–13 of U.S. Letters Patent 5,062,052, as amended by Reexamination Certificate B1 5,062,052. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue permanent exclusion orders and permanent cease and desist orders.

**ADDRESSES:** The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing-impaired individuals are advised that information on this matter can be obtained 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 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–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

**FOR FURTHER INFORMATION CONTACT:** T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2575.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

**Scope of Investigation**

Having considered the complaint, the U.S. International Trade Commission, on August 16, 2001, *Ordered* That—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:

(a) whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain plastic molding machines with control systems having programmable operator interfaces incorporating general purpose computers, or components thereof, by reason of infringement of claim 1, 2, 3, 4, 9, 10, 11, 12, or 13 of U.S. Letters Patent 5,062,052, as amended by Reexamination Certificate B1 5,062,052, and whether there exists an industry in the United States as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Milacron Inc., 2090 Florence Avenue, Cincinnati, Ohio 45206.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Dr. Boy GmbH, Neschner Strasse 6, D–53577 Neustadt/Fernthal, Germany

Boy Machines Inc., 199 Phillips Road, Exton, Pennsylvania 19341

Cannon S.p.A., Via C. Colombo 49, I–20090 Trezzano s/Naviglio (Milano), Italy

Automata S.p.A., Via G. Carducci, 705, I–21042 Caronno,Pertusella (Va), Italy
Sandretto Industrie, S.p.A., Via E. De Amicis, 44, I–10097 Collegno (To), Italy
Sandretto USA, Inc., Tri-County Commerce Park, 2507 Lovi Road, Freedom, Pennsylvania 15042–9395
Sidel SA, Avenue de la Patrouille de France, Octeville-sur-Mer, B.P. 204, 76053 Le Havre Cedex, France
Sidel Inc., 5600 Sun Court, Norcross, Georgia 30092
Zoppas Industries S.p.A., Viale Venezia, 31, 31020 San Vendemiano (TV), Italy
SIPA Italia (Societa' Industrializzazione, Progettazione e Automazione), S.p.A., Via Caduti del Lavoro, 3, 31029 Vittorio Veneto (TV), Italy
SIPA North America, Inc., 3800 Camp Creek Parkway, Building 2400, Suite 106, Atlanta, Georgia 30331

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Room 401–F, Washington, DC 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Delbert R. Terrill, Jr. is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a) of the Commission's Rules, such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

Issued: August 17, 2001.

By order of the Commission.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–21266 Filed 8–22–01; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[Inv. No. 337–TA–463]**

## Certain Power-Saving Integrated Circuits and Products Containing Same; Notice of Investigation

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Institution of investigation pursuant to 19 U.S.C. 1337.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 20, 2001, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Cypress Semiconductor Corp., of San Jose, California. Supplements to the complaint were filed on July 30, August 1, and August 3, 2001. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation and the sale within the United States after importation of certain power saving integrated circuits and products containing same that infringe claims 1–4, 6–10, and 12–15 of United States Patent No. 5,949,261. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a permanent exclusion order and permanent cease and desist orders.

**ADDRESSES:** The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained 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 at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS–ON–LINE) at *http://dockets.usitc.gov/eol/public.*

**FOR FURTHER INFORMATION CONTACT:** Anne Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–205–2574.

**Authority:** The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2000).

*Scope of Investigation:* Having considered the complaint, the U.S. International Trade Commission, on August 16, 2001, *ordered* that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain power saving integrated circuits and products containing same by reason of infringement of claims 1–4, 6–10, 12–14, or 15 of U.S. Letters Patent 5,949,261 and whether an industry in the United States exists as required by subsection (a)(2) of section 337.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Cypress Semiconductor Corp.,3901 North First Street,San Jose, CA 95134.

(b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Pericom Semiconductor Corp., 2830 Bering Drive, San Jose, CA 95131
Integrated Circuit Systems, Inc., 2435 Boulevard of the Generals, Norristown, PA 19482

(c) Anne Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401–P, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and

(3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the

Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and to authorize the administrative law judge and the Commission, without further notice to that respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against that respondent.

By order of the Commission.

Issued: August 17, 2001.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–21267 Filed 8–22–01; 8:45 am]

BILLING CODE 7020–02–P

## INTERNATIONAL TRADE COMMISSION

**[USITC SE–01–031]**

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** August 28, 2001 at 11:00 a.m.

**PLACE:** Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meeting: none.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–891 (Final) (Foundry Coke from China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on September 5, 2001.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission.

Issued: August 21, 2001.

**Donna R. Koehnke,**

*Secretary.*

[FR Doc. 01–21485 Filed 8–21–01; 2:27 pm]

BILLING CODE 7020–02–P

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy and 28 CFR 50.7, the Department of Justice gives notice that a proposed consent decree with Appleton Papers Inc. and NCR Corporation in the case captioned *United States and the State of Wisconsin* v. *Appleton Papers Inc. and NCR Corporation*, Civil Action No. 01–C–0816 (E.D. Wis.) was lodged with the United States District Court for the Eastern District of Wisconsin on August 14, 2001. The complaint filed in the case by the United States and the State of Wisconsin (the ''Plaintiffs'') alleges that Appleton Papers Inc. and NCR Corporation (the ''Defendants'') are parties liable for response costs and injunctive relief associated with the release and threatened release of hazardous substances from facilities at or near the Fox River/Green Bay Site in northeastern Wisconsin (the ''Site''), pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq*.

The proposed consent decree sets forth the terms of a proposed interim settlement between the Plaintiffs and the Defendants. Under the interim settlement, the Defendants would agree to pay up to $10 million each year for four years ($40 million in total) to fund cleanup-related response action projects and natural resource damage restoration projects to be selected by the responsible governmental agencies. The U.S. Environmental Protection Agency and the Wisconsin Department of Natural Resources would jointly select the cleanup projects and the Federal, State, and Tribal natural resources trustees would jointly select the restoration projects. The funding for cleanup projects would allow an early start on some facets of the cleanup at the Site. The restoration projects would be designed to restore or protect natural resources at the Site, or natural resources equivalent to those injured at the Site. In addition to the $40 million to be paid for cleanup and restoration projects, the Defendants would pay $1.5 million toward natural resource damage assessment costs incurred by the U.S. Department of the Interior.

For a period of thirty (30) days from the date of this publication, the Department of Justice will receive comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Washington, DC 20044–7611, and should refer to *United States and the State of Wisconsin* v. *Appleton Papers Inc. and NCR Corporation*, Civil Action No. 01–C–0816 (E.D. Wis.), and DOJ Reference Numbers 90–11–2–1045 and 90–11–2–1045Z.

An electronic copy of the proposed consent decree is posted on the U.S. Environmental Protection Agency's web site at www.epa.gov/region5/foxriver and on the Wisconsin Department of Natural Resource's web site at www.dnr.state.wi.us/org/water/wm/lowerfox. A signed copy of the proposed consent decree may be examined at: (1) The Office of the United States Attorney for the Eastern District of Wisconsin, U.S. Courthouse and Federal Building—Room 530, 517 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202 (contact Matthew Richmond (414–297–1700)); and (2) the U.S. Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604 (contact Peter Felitti (312–886–5114)). Copies of the proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting copies, please refer to the above-referenced case name and DOJ Reference Numbers, and enclose a check made payable to the Consent Decree Library for $14.50 (58 pages at 25 cents per page reproduction cost).

**Bruce S. Gelber,**

*Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 01–21325 Filed 8–22–01; 8:45 am]

BILLING CODE 4410–15–M

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

Notice is hereby given that a proposed consent decree in *United States* v. *Gulf Oil L.P., and Catamount Management Co.*, Civ. No. 3:98CV2226 (AVC), was lodged on July 5, 2001 with the United States District Court for the District of Connecticut. The consent decree would resolve this action as the Gulf Oil, L.P.

and Catamount Management Co., as a general partner in Gulf Oil L.P., (collectively, ''Gulf''), against whom the United States asserted a claim for penalties on behalf of the United States Environmental Protection Agency under 42 U.S.C. 7401 *et seq.*, the Connecticut State Implementation Plan, authorized pursuant to Section 110 of the Act, 42 U.S.C. 7210, and the New Source Performance Standards for Bulk Gasoline Terminals (''NSPS''), 40 CFR Part 60, Subpart XX, for violations which took place at a bulk gasoline terminal in New Haven, Connecticut. The Complaint, which was filed in November 1998, seeks penalties for (1) failure to apply for and obtain valid pre-construction and operating permits for changes made to gas loading bays in 1993; (2) failure to conduct performance tests of emissions of volatile organic compound (''VOCs'') from the Terminal in 1994; (3) failure to apply for and obtain permits to construct and operate one of its liquid storage tanks (Tank 1 13) at the Terminal; (4) emission of excess VOCs from on or about March 7, 1997, through on or about March 10, 1997; and (5) failure to maintain emission controls according to good air pollution practices. Under the Consent Decree, Gulf will pay $40,000 in a civil penalty, and will perform supplemental environmental projects (''SEPs'') designed to reduce VOC emissions at Gulf facilities at a minimum cost of $421,000. Gulf will be required to limit gasoline throughput so as to qualify as a minor source of VOCs, and to apply to the Connecticut Department of Environmental Protection (''CT DEP'') for a permit amendment that restricts its potential emissions to minor source levels. For the SEPS, Gulf will make improvements to gasoline storage tanks at its facilities in Connecticut, Massachusetts, Maine, Pennsylvania, and New Jersey.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Gulf Oil L.P. and Catamount Management Co.*, DOJ Ref. # 90–5–2–1–06457.

The proposed consent decree may be examined at the office of the United States Attorney for the District of Connecticut, 157 Church Street, 23rd Floor, New Haven, Connecticut 06510 (contact Assistant United States Attorney Carolyn Ikari); and the Region I Office of the Environmental Protection Agency, 1 Congress Street, Suite 1100, Boston, Massachusetts 02114–2023 (contact Senior Enforcement Counsel, Thomas T. Olivier). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the reference case and enclose a check in the amount of $6.25 (25 cents per page reproduction costs) for the Consent Decree without Appendices, or in the amount of $7.00 for the Consent Decree with all Appendices, payable to the Consent Decree Library.

**Bruce S. Gelber,**

*Section Chief, Environmental Enforcement Section; Environment and Natural Resources Division.*

[FR Doc. 01–21324 Filed 8–22–01; 8:45 am]

BILLING CODE 4410–15–M

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## DEPARTMENT OF JUSTICE

### Office of Justice Programs

**[OJP(OJP)–1328]**

### Meeting of the Global Justice Information Network Federal Advisory Committee

**AGENCY:** Office of Justice Programs, Bureau of Justice Assistance, Justice.

**ACTION:** Notice of meeting.

**SUMMARY:** Announcement of a meeting of the Global Justice Information Network Federal Advisory Committee to discuss the Global Initiative, as described in Initiative A07 ''Access America: Re-Engineering Through Information Technology.''

**DATES:** The meeting will take place on Thursday, September 20, 2001, from 9 a.m. to 5:30 p.m. ET.

**ADDRESSES:** The meeting will take place at the Department of Justice, Office of Justice Programs, 3rd floor Ballroom, 810 7th Street, NW., Washington, DC, 20531; Phone: (202) 616–6500. All attendees will be required to sign in at the security desk, so please allow extra time.

**FOR FURTHER INFORMATION CONTACT:** To register to attend the meeting, please contact Karen Sublett, Global Designated Federal Employee, Bureau of Justice Assistance, Office of Justice Programs, 810 7th Street NW, Fourth Floor, Washington, DC 20531; Phone: (202) 616–3463. [This is not a toll-free number]. Anyone requiring special accommodations should contact Ms. Sublett at least seven (7) days in advance of the meeting. Due to security measures in the building, members of the public who wish to attend the meeting must register with Ms. Sublett at least (7) days in advance of the meeting. Access to the meeting will not be allowed without registration.

**SUPPLEMENTARY INFORMATION:**

### Authority

The Global Justice Information Network Federal Advisory Committee was established pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended.

### Purpose

The Global Justice Information Network Federal Advisory Committee (GAC) will act as the focal point for justice information systems integration activities in order to facilitate the coordination of technical, funding, and legislative strategies in support of the Administration's justice priorities.

The GAC will guide and monitor the development of the Global information sharing concept. It will advise the Attorney General, the President (through the Attorney General), and local, state, tribal, and federal policymakers in the executive, legislative, and judicial branches and advocate for strategies for accomplishing a Global information sharing capability.

The Committee will meet to address the Global Initiative, as described in Initiative A07 ''Access America: Re-Engineering Through Information Technology''. This meeting will be open to the public, and registrations will then be accepted on a space available basis. Interested persons whose registrations have been accepted may be permitted to participate in the discussions at the discretion of the meeting chairman and with the approval of the Designated Federal Employee (DFE). Further information about this meeting can be obtained from Karen Sublett, DFE, at (202) 616–3463.

Dated: August 20, 2001.

**Karen Sublett,**

*Global DFE, Bureau of Justice Assistance, Office of Justice Programs.*

[FR Doc. 01–21310 Filed 8–22–01; 8:45 am]

BILLING CODE 4410–18–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

1. That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) that sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) that increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determinations for Worker Adjustment Assistance**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA–W–38,891; Pelton Casteel, Inc., Milwaukee, WI*

*TA–W–39,375; Sun Studs, Inc., Lone Rock Timber Co., Lone Rock Logging Co., Roseburg, OR*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

*TA–W–39,498; Hibbing Taconite, Hibbing, MN*

*TA–W–39,639; Food Filters, Camden, OH*

*TA–W–38,819; New Era Die Co., Red Lion, PA*

The works firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–39,501; Thos. Iseri Produce Co., Ontario, OR*

*TA–W–39,457; Agilent Technologies, Imaging Electronics Div., Fort Collins, CO*

*TA–W–38,919; Battle Mountain Gold Co., Sparks, NV*

*TA–W–39,510; Cadmus Professional Communication, Akron, PA*

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

*TA–W–39,534; Robert Bosch Corp., Automotive Group, Braking Systems Div., Ashland, OH: June 14, 2000.*

*TA–W–39,598; Palliser Furniture Corp., Carolina Div., Troutman, NC: June 21, 2000.*

*TA–W–39,526; CTS Reeves Frequency Products, Carlisle, PA: June 18, 2000.*

*TA–W–38,395 & A, B, C, D; Flynt Fabrics, Inc., Graham, NC, Hillsborough, NC, Burlington, NC, Wadesboro, NY and New York, NY: May 24, 2000.*

*TA–W–39,475; Thomas and Betts Corp., Including Leased Workers of Manpower, Inc., Vidalia, GA: July 3, 2001.*

*TA–W–39,572; Owens-BriGam Medical Co., Fletcher, NC: June 28, 2000.*

*TA–W–38,981; Equatorial Tonopah, Inc., Tonopah, NV: March 21, 2000.*

*TA–W–38,427; M.H. Rhodes, Avon, CT: December 1, 1999.*

*TA–W–39,589; Northwest Alloys, Inc., Addy, WA: January 9, 2001.*

*TA–W–39,773 & A, C; Russell Corp., Jerzees Activewear, Lafayette, AL Russell Yarn—Coosa, Alexander City, AL and Russell Athletic (HI-Tech Plant, Alexander City, AL: July 9, 2000.*

*TA–W–39,773B; Russell Corp., Jerzees Activewear, Sylacauga, AL: June 9, 2001.*

*TA–W–39,128; Delta Fashions, Newark, NJ: April 11, 2000.*

*TA–W–38,979; Skf-USA, C.R. Bearing Seals Div., Bethehem, PA: March 21, 2000.*

*TA–W–39,244; Hart, Schaffner, and Marx, Biltwell Clothing Company, Farmington, MO: May 3, 2000.*

*TA–W–39,305; Stearns, Inc., Carlton, MN: April 25, 2000.*

*TA–W–39,387; Steiger Lumber Company, Bessemer, MI: May 21, 2000.*

*TA–W–39,007; Fruit of the Loom, Union Yarn Mills, Jacksonville, AL: March 26, 2000.*

*TA–W–39,592; Viceroy Gold Corp., Castle Mountain Mine, Searchlight, NV: June 20, 2000.*

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) That imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases imports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) That there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

**Negative Determinations NAFTA–TAA**

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subjection firm to Canada or Mexico during the relevant period.

*NAFTA–TAA–04606; Collis, Inc., Elizabethtown, KY*

*NAFTA–TAA–04939; Sun Studs, Inc., Lone Rock Timber Co., Lone Rock Logging Co., Roseburg, OR*

*NAFTA–TAA–04927 & A,B,C,D; Flynt Fabrics, Inc., Graham, NC, Hillsborough, NC, Burlington, NC, Wadesboro, NC and New York, NY*

*NAFTA–TAA–04965; Hibbing Taconite, Hibbing, MN*

The investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*NAFTA–TAA–04986; Thos. Iseri Produce Co., Ontario, OR*

*NAFTA–TAA–04429; Benetti, Inc., Rock Hill, SC*

**Affirmative Determinations NAFTA–TAA**

*NAFTA–TAA–05141 & A, C: Russell Corp., Jerzees Activewear, Lafayette, AL, Russell Yarn—Coosa, Alexander City, AL, and Russell Atheletic (HI-Tech Plant), Alexander City, AL: July 9, 2000.*

*NAFTA–TAA–05141B; Russell Corp., Jerzees Activewear, Sylacauga, AL: June 9, 2001.*

*NAFTA–TAA–04945; Thomas and Betts Corp. Including Leased Workers of Manpower, Inc., Vidalia, GA: May 30, 2000.*

*NAFTA–TAA–05126; AMI Doduco, Inc., Cedar Knolls, NJ: August 4, 2001.*

*NAFTA–TAA–05070; Owens-BriGam Medical Co., Fletcher, NC: June 28, 2000.*

*NAFTA–TAA–04855; Price Pfister, Injection Molding Department, Pacoima, CA: March 19, 2000.*

*NAFTA–TAA–05076; H. Oritsky, Reading, PA: June 29, 2000.*

*NAFTA–TAA–04873; Hart, Schaffner, and Marx, Biltwell Clothing Co., Farmington, MO: May 3, 2000.*

I hereby certify that the aforementioned determinations were issued during the month of August, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 10, 2001.

**Edward A. Tomchick,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21317 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

**Negative Determinations for Worker Adjustment Assistance**

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

*TA–W–39,594; Spectrum Control, Inc., Signal Products Group, Elizabethtown, PA*

*TA–W–39,429A; Mele Manufacturing Co., Inc., Farrington packaging, Utica, NY*

*TA–W–39,296; P.E. Technologies, Inc., Cleveland, OH*

*TA–W–38,975; Fox River Paper Co., Vicksburg, MI*

In the following cases, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

Increased imports did not contribute importantly to worker separations at the firm.

*TA–W–39,785; GKN Sinter Metals, Inc., Plant II, St. Marys, PA*

*TA–W–39,650; Micron Electronics, Inc., Micronpc.Comm, Nampa, ID*

*TA–W–39,416 & TA–W–39,416C; Pillowtex Corp., Fieldcrest Cannon Plant #4, Kannapolis, NC and Pillowtex Corp., Fieldcrest Cannon—Eagle & Phenix, Columbus, GA*

*TA–W–39,864; International Wire Group, Insulated Wire Div., Elkmont Fine Wire, Elkmont, AL*

*TA–W–39,742; Republic Technologies International, Johnstown, PA*

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

*TA–W–39,651; Ditto Apparel of California, Inc., Bastrop, LA*

*TA–W–39,252; Teck Resources, Inc., A Subsidiary of Teck, Corp., Reno, NV*

*TA–W–39,284; London Fog Industries, New York, NY*

*TA–W–39,245; Isaae Hazen & Co., Secaucus, NJ*

*TA–W–39,283; Ingram Micro, Jonestown, PA*

*TA–W–39,707; Pillowtex Corp., Phenix City, AL*

*TA–W–39,447; Quantum Corp., U.S. Configuration Center, Milpitas, CA*

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

*TA–W–38,644; International Paper Co., Courtland, AL: January 18, 2000*

*TA–W–39,390; J and A Manufacturing Co., Scranton, PA: May 21, 2000*

*TA–W–39,542; Calumet Lubricants Co., LP, Rouseville, PA: June 18, 2000*

*TA–W–39,200; Corning Frequency Control, Carlisle, PA: April 20, 2000*

*TA–W–38,826; Giddings and Lewis, Fond du Lac, WI: February 22, 2000*

*TA–W–39,429 and TA–W–39,429B; Mele Manufacturing Co., Inc., Mele Jewel Box, Utica, NY and Mele Manufacturing Co., Inc., Blue Star Leather, Utica, NY: May 27, 2000*

*TA–W–39,416A and TA–W–39,416B; Pillowtex Corp., Rocky Mount Plant, Rocky Mount, NC and Pillowtex Corp., Fieldcrest Cannon Plant 1, Kannapolis, NC: June 11, 2000*

*TA–W–39,168; Tamfelt, Inc., Canton, MA: April 12, 2000*

*TA–W–39,756; Kimberly Clark, Conway, AR: July 24, 2000*

*TA–W–39,596; Quilt Gallery, Easley, SC: June 20, 2000*

*TA–W–39,552; HS Industries, Independence, WI:* June 8, 2000

Also, pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment

assistance hereinafter called (NAFTA–TAA) and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act as amended, the Department of Labor presents summaries of determinations regarding eligibility to apply for NAFTA–TAA issued during the month of August, 2001.

In order for an affirmative determination to be made and a certification of eligibility to apply for NAFTA–TAA the following group eligibility requirements of Section 250 of the Trade Act must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, (including workers in any agricultural firm or appropriate subdivision thereof) have become totally or partially separated from employment and either—

(2) that sales or production, or both, of such firm or subdivision have decreased absolutely,

(3) that imports from Mexico or Canada of articles like or directly competitive with articles produced by such firm or subdivision have increased, and that the increases in ports contributed importantly to such workers' separations or threat of separation and to the decline in sales or production of such firm or subdivision; or

(4) that there has been a shift in production by such workers' firm or subdivision to Mexico or Canada of articles like or directly competitive with articles which are produced by the firm or subdivision.

**Negative Determinations NAFTA–TAA**

In each of the following cases the investigation revealed that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations. There was no shift in production from the subject firm to Canada or Mexico during the relevant period.

*NAFTA–TAA–04948, A, B, C; Pillowtex Corp., Fieldcrest Cannon—Plant 4, Kannapolis, NC, Rockey Mount Plant, Rock Mount, NC Fieldcrest Cannon—Plant 1, Kannapolis, NC and Fieldcrest Cannon—Eagle & Phenix, Columbus, GA*

*NAFTA–TAA–05152; GKN Sinter Metals, Inc., Plant II, St. Marys, PA*

*NAFTA–TAA–04926; C and J Specialties, Inc., Dallas, NC*

*NAFTA–TAA–05045; Micron Electronics, Inc., Micronpc.com, Nampa, ID*

*NAFTA–TAA–04715; Fox River Paper Co., Vicksburg, MI*

*NAFTA–TAA–05046; Harvard Industries, IN., Pottstown Precision Casting, Stowe, PA*

*NAFTA–TAA–05121; Thermo King Corp., Div. Of Ingersoll Rand, Bloomington, MN*

*NAFTA–TAA–04629; Kolb-Lena Bresse Bleu, Watertown, WI*

**Affirmative Determination NAFTA–TAA**

*NAFTA–TAA–05054; Spectrum Control, Inc., Signal Products Group, Elizabethtown, PA: June 21, 2000*

*NAFTA–TAA–04881; Honeywell International, Inc., Consumer Products Group, Automotive Div., Nevada, MO: April 25, 2000*

*NAFTA–TAA–05099 & A; Merry Maid Novelties, Bangor, PA and Tatamy, PA: July 13, 2000*

*NAFTA–TAA–05090; Square D Company, Schneider Electric, Huntington, IN: July 11, 2000*

*NAFTA–TAA–05031; Cordis Corp., A Johnson and Johnson Co., Miami Lakes, FL: May 29, 2000*

*NAFTA–TAA–04877; Corning Frequency Control, Carlisle, PA: May 14, 2000*

*NAFTA–TAA–05131; Lincoln Automotive Company, Jonesboro, AR: July 15, 2001*

*NAFTA–TAA–05125; Sola Optical USA, Inc., Eldon, MO: July 20, 2000*

*NAFTA–TAA–04830; Centis, Inc., Brea, CA: April 24, 2000*

I hereby certify that the aforementioned determinations were issued during the month of August, 2001. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: August 17, 2001.

**Edward A. Tomchick,**

*Director, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21314 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–39, 371]**

### DV & P, Inc., New York, New York; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on June 4, 2001, in response to a petition filed on behalf of workers at DV & P, Inc., New York, New York.

The workers submitting the petition have 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 7th day of August, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21319 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA—39,533]**

### FCI Electronics Mount Union, PA; Notice of Termination and Investigation

Pursuant to Title 221 of the Trade Act of 1974, anan investigation was initiated on July 2, 2001 in response to a petition filed on behalf of workers at FCI Electronics Mount Union, Pennsylvania.

All workers of the subject firm were already the subject of an on-going investigation, TA–W–39,519. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Dated: Signed at Washington, D.C., this 14th day of August, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21315 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

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## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–38, 755]**

### Jewel Fashions, Jersey City, New Jersey; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on March 5, 2001, in response to a worker petition which was filed by UNITE Local 133/162 on behalf of its workers at Jewel Fashions, Jersey City, New Jersey.

This case is being terminated because the Department was unable to locate an official of the company to obtain the information necessary to issue a determination. Consequently, further investigation in this case would serve

no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 8th day of August, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21322 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–37,279]**

### Sterling Diagnostic Imaging, Inc., Now Known as Agfa Corporation, Brevard, North Carolina; 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 March 22, 2000, applicable to workers of Sterling Diagnostic Imaging, Inc., Brevard, North Carolina. The notice was published in the **Federal Register** on April 21, 2000 (65 FR 21474).

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 medical X-ray film and the polyester base chemicals used in its manufacture. The company reports that in May, 1999, Agfa Corporation purchased Sterling Diagnostic Imaging, Inc. and became known as Agfa Corporation.

Information also shows that workers separated from employment at the subject firm, had their wages reported under a separate unemployment insurance (UI) tax account for Agfa Corporation.

Accordingly, the Department is amending the certification determination to properly reflect this matter.

The intent of the Department's certification is to include all workers of Sterling Diagnostic Imaging, Inc., now known as Agfa Corporation who were adversely affected by increased imports.

The amended notice applicable to TA–W–37,279 is hereby issued as follows:

All workers of Sterling Diagnostic Imaging, Inc., now known as Agfa Corporation, Brevard, North Carolina who became totally or partially separated from employment on or after January 6, 1999, through March 22, 2002, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 8th day of August, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21318 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–39,720]**

### Waukesha Cherry-Burrell Louisville, Kentucky; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 30, 2001, in response to a petition filed by a company official on behalf of workers at Waukesha Cherry-Burrell, Louisville, Kentucky.

The official submitting the petition has decided to withdraw it. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed in Washington, D.C. this 8th day of August, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21321 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA—05073]**

### DV & P, Inc., New York, New York; Notice of Termination and Investigation

Pursuant to Title V of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) concerning transitional adjustment assistance, hereinafter called (NAFTA–TAA), and in accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), an investigation was initiated on July 2, 2001 in response to a petition filed on behalf of workers at DV & P, Inc., New York, New York.

The petitioners requested that the petition for NAFTA–TAA be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, D.C., this 7th day of August, 2001.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21320 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[NAFTA–5071]**

### Modine Aftermarket Holdings, Inc. Merced, CA; Notice of Termination of Investigation

Pursuant to Section 221 of the Trade Act of 1974, an investigation was initiated on July 5, 2001, in response to a worker petition filed on behalf of workers at Modine Aftermarket Holdings, Inc., Merced, California.

An active certification covering the petitioning group of workers remains in effect until August 27, 2001 (NAFTA–3324). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

**Linda G. Poole,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. 01–21316 Filed 8–22–01; 8:45 am]

BILLING CODE 4510–30–M

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice 01–098]**

### Notice of Prospective Patent License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of prospective patent license.

**SUMMARY:** NASA hereby gives notice that Bioque Technologies Inc. of Blacksburg, VA has applied for an exclusive license to practice the invention described and claimed in U.S. Patent No. 6,110,730, entitled ''Whole Blood Cell Staining Device,'' which is assigned to the United States of America as represented by the Administrator of the NationalAeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Johnson Space Center.

**DATES:** Responses to this notice must be received by September 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Hardie R. Barr, PatentAttorney, NASA Johnson Space Center, Mail Stop HA,

Houston,TX 77058–8452; telephone (281) 483–1001.

Dated: August 16, 2001.

**Edward A. Frankle,**

*General Counsel.*

[FR Doc. 01–21218 Filed 8–22–01; 8:45 am]

BILLING CODE 7510–01–P

## NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

### Meeting of the National Museum Services Board

**AGENCY:** Institute of Museum and Library Services.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the function of the board. Notice of this meeting is required under the Government through the Federal Advisory Committee Act (5 U.S.C. App.) and regulations of the Institute of Museum and Library Services, 45 CFR 1180.84.

*Time/Date:* 9 am–12 pm on Friday, September 14, 2001.

*Status:* Open.

**ADDRESSES:** The Board Room at Old Sturbridge Village, One Old Sturbridge Village Road, Sturbridge, MA 01566, (508) 347–3362.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Lyons, Special Assistant to the Director, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Room 510, Washington, DC 20506, (202) 606–4649.

**SUPPLEMENTARY INFORMATION:** The National Museum Services Board is established under the Museum Services Act, Title II of the Arts, Humanities, and Cultural Affairs Act of 1976, Public Law 94–462. The Board has responsibility for the general policies with respect to the powers, duties, and authorities vested in the Institute under the Museum Services Act.

The meeting on Friday, September 14, 2001 will be open to the public. If you need special accommodations due to a disability, please contact: Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Washington, DC 20506—(202) 606–8536—TDD (202) 606–8636 at least seven (7) days prior to the meeting date.

**Agenda**

82nd Meeting of The National Museum Services Board in the Board Room of Old Sturbridge Village, One Old Sturbridge Village Road, Sturbridge, MA 01566 on Friday, September 14, 2001

9 am–12 pm

I. Chairman's Welcome
II. Approval of Minutes from the 81st NMSB Meeting
III. Director's Report
IV. Staff Reports
  (a) Office of Management and Budget
  (b) Office of Public and Legislative Affairs
  (c) Office of Technology and Research
  (d) Office of Museum Services
  (e) Office of Library Services
V. General Operating Support Grants: Program Review
VI. Looking Ahead: General Board Discussion

Dated: August 16, 2001.

**Linda Bell,**

*Director of Policy, Planning and Budget, National Foundation on the Arts and Humanities, Institute of Museum and Library Services.*

[FR Doc. 01–21326 Filed 8–22–01; 8:45 am]

BILLING CODE 7036–01–M

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–237 and 50–249]**

### Exelon Generation Company, LLC; Notice of Consideration of Issuance of Amendment To Facility Operating License and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–19 and DPR–25, issued to Exelon Generation Company, LLC (EGC, or the licensee), for the operation of Dresden Nuclear Power Station, Units 2 and 3, respectively, located in Grundy County, Illinois.

The proposed amendment, requested by application dated September 29, 2000, as supplemented by letters dated March 1 and August 13, 2001, would change the Technical Specifications (TS) to support a change in fuel vendors from Siemens Power Corporation to General Electric (GE) and a transition to the use of GE–14 fuel. The March 1 and August 13, 2001, supplements each increased the scope of the September 29, 2000, application. The March 1, 2001, supplement increased the scope of the proposed amendment by requesting TS changes to (1) Increase the number of required automatic depressurization system (ADS) valves from four to five, (2) add surveillance requirements for the operability of the additional ADS valve, (3) change a surveillance requirement to verify the flow rate of two low-pressure coolant injection pumps instead of three pumps, consistent with the accident analyses, and (4) remove an allowance to continue operating for 72 hours if certain combinations of emergency core cooling system (ECCS) systems are inoperable. The August 13, 2001, supplement further increased the scope of the proposed amendment by requesting changes to the TS allowable values for two ECCS functions, the containment spray time delay and the low-pressure coolant injection time delay. All of these changes support the transition to the use of GE–14 fuel. The changes proposed by the application dated September 29, 2000, were noticed in the **Federal Register** on December 27, 2000 (65 FR 81908).

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. For the changes requested by letter dated March 1, 2001, related to the ADS system and the ECCS surveillances, the licensee provided the following analysis of the issue of no significant hazards consideration:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect the initiators of analyzed events or the assumed mitigation of accident or transient events. Analyzed events are initiated by the failure of plant structures, systems or components. The proposed changes do not impact the condition or performance of these structures, systems or components. Consequences of analyzed events are the result of the plant being operated within assumed parameters at the onset of any events. The evaluations supporting the transition to GE fuel revealed

that the current Technical Specification (TS) Limiting Condition for Operation (LCO) and conditions must be revised to place additional limitations on equipment to ensure that the plant is operated within the assumptions of the safety analyses. With the additional limitations, the analyses demonstrate that all of the acceptance criteria continue to be met. As a result, the changes do not involve a significant increase in the probability of consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve a physical alteration of the facility or change the normal facility operation. No new or different equipment is being installed and no installed equipment is being removed. There is no alteration to the parameters within which the plant is normally operated or in the setpoints that initiate protective or mitigative actions. Consequently, no new failure modes are introduced and the changes therefore do not increase the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

Margin of safety is established through the design of the plant structures, systems and components, the parameters within which the plant is operated, and the establishment of setpoints for the actuation of equipment relied upon to respond to an event. The proposed changes do not impact the condition or performance of structures, systems or components relied upon for accident mitigation or any safety analysis assumptions. The changes reflect a reduction in redundancy in the capability of the Automatic Depressurization System (ADS)[.] However, the proposed changes impose more restrictive requirements on operation to ensure that all of the accident analyses continue to meet acceptance criteria. Therefore the proposed changes do not involve a significant reduction in margin of safety.

For the changes requested by letter dated August 13, 2001, related to the ECCS setpoints, the licensee provided the following analysis of the issue of no significant hazards consideration:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed changes do not affect the initiators of analyzed events. Analyzed events are initiated by the failure of plant structures, systems or components. The proposed changes do not impact the condition or performance of these structures, systems, or components. Therefore, the proposed changes do not affect the probability of an accident previously evaluated.

The proposed changes to the time delays for the core spray and low pressure coolant injection pumps ensure that the assumptions in the safety analyses for the Loss of Coolant Accident (LOCA) are met. The safety analyses demonstrate that all of the acceptance criteria continue to be met. As a result, the proposed changes do not involve an increase in the consequences of an accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not involve a physical alteration of the facility or change the normal facility operation. No new or different equipment is being installed and no installed equipment is being removed. The new setpoints do not alter the parameters within which the plant is normally operated. Consequently, no new failure modes are introduced and the changes therefore do not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

The proposed changes to the time delays for the core spray and low pressure coolant injection pumps ensure that the assumptions in the safety analyses for the LOCA are met. The safety analyses demonstrate that all of the acceptance criteria continue to be met. As a result, there is no reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland.

The filing of requests for hearing and petitions for leave to intervene is discussed below. By September 24, 2001, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to *pdr@nrc.gov*. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set

forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. Robert Helfrich, Senior Counsel, Nuclear, Mid-West Regional Operating Group, Exelon Generation Company, LLC, 1400 Opus Place, Suite 900, Downers Grove, Illinois, 60515, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated September 29, 2000, as supplemented by letters dated March 1 and August 13, 2001, which are available for public inspection at the Commission's Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/NRC/ADAMS/index.html*. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737 or by email to pdr@nrc.gov.

Dated at Rockville, Maryland, this 17th day of August 2001.

For the Nuclear Regulatory Commission.

**Lawrence W. Rossbach,**

*Project Manager, Section 2, Project Directorate III, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–21290 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

## [Docket No. 40–8681]

## International Uranium (USA) Corporation; Notice of Opportunity for Hearing

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of Receipt of Request from International Uranium (USA) Corporation to Amend Source Material License SUA–1358 To Receive and Process Alternate Feed Materials from Maywood, New Jersey.

**SUMMARY:** Notice is hereby given that the U.S. Nuclear Regulatory Commission has received, by letters dated June 15, 2001, June 22, 2001, and August 3, 2001, a request from International Uranium (USA) Corporation (IUSA) to amend its NRC Source Material License SUA–1358, to allow its White Mesa Uranium Mill near Blanding, Utah, to receive and process up to 600,000 cubic yards (840,000 tons) of alternate feed material from the Maywood site located in Maywood, New Jersey. The Maywood site is being remediated under the Formerly Utilized Sites Remedial Action Program (FUSRAP) by the U.S. Army Corps of Engineers. The materials are by-products from the processing of thorium and lanthanum from monazite sands. IUSA is requesting that the material may be received and processed for its source material content. By-products from the extraction of source material will be disposed in lined tailings cells with a groundwater detection monitoring program.

**FOR FURTHER INFORMATION CONTACT:** Mr. William von Till, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety and Safeguards, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail

Stop T–8A–33, Washington, D.C. 20555. Telephone (301) 415–6251.

**SUPPLEMENTARY INFORMATION:** By its submittals dated June 15, 2001, June 25, 2001, and August 3, 2001, IUSA requested that the NRC amend Materials License SUA–1358 to allow the receipt and processing of material other than natural uranium ore (i.e., alternate feed material) at its White Mesa uranium mill located near Blanding, Utah. These materials would be used as an ''alternate feed material'' (i.e., matter that is processed in the mill to remove the uranium but which is different from natural uranium ores, the normal feed material).

IUSA is requesting to receive material from the Maywood, New Jersey FUSRAP site. The site is being remediated under the authority of the U.S. Army Corps of Engineers. This site began operations in 1895 and over the years monazite sands were processed for thorium, lanthanum, and other rare earth elements. Uranium was not extracted and remains in the process residues. The material is currently located in three pits and is also being cleaned up from off-site properties. Material in the three pits is licensed by the NRC under STC–1333 for the Stepan Chemical Company. This license covers 19,000 cubic yards of buried tailings.

The average uranium content, based on 4000 samples, ranges from non-detectable to 0.06 weight percent, with an average grade of 0.0018 percent uranium. However, IUSA is proposing to only receive material that contains higher than 0.01 percent uranium. The thorium content of the material ranges from non-detectable to 3,800 pCi/g with an average of 970 pCi/g. The thorium content is relatively low due to thorium extraction at the Maywood site. IUSA states that hazardous wastes regulated under the Resource Conservation and Recovery Act (RCRA) have not been identified in this material. IUSA also proposes that verification sampling at the Maywood site will be implemented to assure that the material does not contain hazardous wastes regulated under RCRA. IUSA does not have a contract to receive this material at this time and therefore, the exact mode of transporting the materials to the mill has not been determined. Transportation may be similar to that of other alternate feed materials shipped to the mill. This would consist of inter-modal containers shipped by rail then by truck. If the maximum volume requested were to be shipped to the mill, IUSA estimates that 7500 rail cars over seven years by rail and 46–86 truckloads per week would occur. It is more likely that 206,000 cubic yards would be shipped which would consist of 46 truckloads per week. IUSA does not expect there to be an impact from the transportation of these materials due to exclusive-use containers, the small increase in truck traffic (4 to 7.4 percent), and the material will be transported in lined, covered containers.

This application will be reviewed by the staff using NRC formal guidance, ''Final Position and Guidance on the Use of Uranium Mill Feed Material Other Than Natural Ores''. The NRC has approved similar amendment requests in the past for separate alternate feed material under this license.

The amendment application is available for public inspection and copying at the NRC Public Document Room, U.S. Nuclear Regulatory Commission Headquarters, Room 0–1F21, 11555 Rockville Pike, Rockville, MD 20852.

**Notice of Opportunity for Hearing**

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR part 2, subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(d), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, International Uranium (USA) Corporation, Independence Plaza, Suite 950, 1050 Seventeenth Street, Denver, Colorado 80265; Attention: Michelle Rehmann; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

In addition, members of the public may provide comments on the subject application within 30 days of the publication of this notice in the **Federal Register**. The comments may be provided to Michael Lesar, Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Rockville, Maryland, this 9th day of August 2001.

For the U.S. Nuclear Regulatory Commission.

**Melvyn Leach,**

*Chief, Fuel Cycle Licensing Branch, Division of Fuel Cycle Safety & Safeguards, Office of Nuclear Material Safety and Safeguards.*

[FR Doc. 01–21291 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket Nos. 50–334 AND 50–412]**

## Firstenergy Nuclear Operating Company, Ohio Edison Company, Pennsylvania Power Company, Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and 2); Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission is considering issuance of an amendment to Technical Specifications (TSs) for Facility Operating License Nos. DPR–66 and NPF–73, issued to FirstEnergy Nuclear Operating Company, *et al.* (the licensee), for operation of BVPS–1 and 2, located in Shippingport, Pennsylvania. Therefore, as required by Title 10 of the Code of Federal

Regulations (10 CFR), Section 51.21, the NRC is issuing this environmental assessment and finding of no significant impact.

**Environmental Assessment**

*Identification of the Proposed Action*

The proposed amendments would revise the BVPS–1 and 2 Updated Final Safety Analysis Report assumptions, descriptions, and calculated radiological consequences of a postulated fuel handling accident (FHA), including implementation of a revised accident source term for a postulated FHA. These revisions would demonstrate that the consequences of an FHA, once the fuel has undergone radioactive decay for 100 hours, would result in calculated radiation exposures within the guidelines of 10 CFR 50.67, ''Accident Source Term.'' Consistent with the assumptions and description of the revised FHA analysis, the licensee proposes to revise the BVPS–1 and 2 TSs associated with the requirements for handling irradiated fuel assemblies in the reactor containment and fuel building. The proposed amendment would also revise the TSs associated with ensuring that safety analysis assumptions for a postulated FHA are met. The term ''recently irradiated'' fuel would be defined in the applicable TS Bases as ''fuel that has occupied part of a critical reactor core within the previous 100 hours'' and the term ''recently irradiated'' fuel would be added in various locations throughout the TSs. The purpose of the addition of the term ''recently irradiated'' throughout the TSs is to establish a point where operability of those systems typically used to mitigate the consequences of an FHA is no longer required to meet the radiation exposure limits of 10 CFR 50.67. This amendment would revise the TSs to eliminate TS controls over the integrity of the fuel building and the reactor containment building and the operability of the associated building's ventilation/filtration systems after the decay period of 100 hours.

The proposed action is in accordance with the licensee's application dated March 19, 2001 (Agencywide Documents Access and Management System [ADAMS] Accession No. ML010810433), as supplemented by letters dated July 6 (ADAMS Accession No. ML011980423), and August 8 (ADAMS Accession No. ML012260302), 2001.

*The Need for the Proposed Action*

The proposed action involves an accepted method for implementation of a revised accident source term for postulated design basis accident analyses (such as the FHA) in accordance with 10 CFR 50.67. The proposed action would result in a reduction in an unnecessary regulatory burden and would result in greater flexibility in execution of refueling outage operations.

*Environmental Impacts of the Proposed Action*

The NRC has completed its evaluation of the proposed action and concludes that the revised assumptions, descriptions, and methodologies used by the licensee for a postulated FHA for BVPS–1 and 2 follow regulatory guidance and that there is reasonable assurance that, in the event of a postulated FHA, the offsite and control room doses would be well within the 10 CFR 50.67 guidelines.

The proposed action will not significantly increase the probability or consequences of accidents, no changes are being made in the types of effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not have a potential to affect any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the NRC concludes that there are no significant environmental impacts associated with the proposed action.

*Environmental Impacts of the Alternatives to the Proposed Action*

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.,* the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

*Alternative Use of Resources*

The action does not involve the use of any different resource than those previously considered in the Final Environmental Statements for BVPS–1 and 2, dated July 31, 1973, and September 30, 1985, respectively (Nuclear Documents Systems Accession Nos. 8907200125 and 8509300559, respectively).

*Agencies and Persons Consulted*

On August 9, 2001, the NRC staff consulted with the Pennsylvania State official, Mr. Larry Ryan of the Pennsylvania Department of Environmental Protection, Bureau of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

**Finding of No Significant Impact**

On the basis of the environmental assessment, the NRC concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

Further details with respect to the proposed action may be found in the licensee's letter dated March 19, 2001, as supplemented by letters dated July 6, and August 8, 2001. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland. Publically available records will be accessible electronically from the ADAMS Public Library component on the NRC Web site, *http://www.nrc.gov* (the Public Electronic Reading Room). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737, or by e-mail at *pdr@nrc.gov*.

Dated at Rockville, Maryland, this 17th day of August 2001.

For the Nuclear Regulatory Commission.

**Lawrence J. Burkhart,**

*Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–21287 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Docket Nos. 50–369 and 50–370

### Duke Energy Corporation, McGuire Nuclear Station, Units 1 and 2; Notice of Intent to Prepare an Environmental Impact Statement and Conduct Scoping Process

Duke Energy Corporation (Duke) has submitted an application for renewal of

operating licenses NPF–9 and NPF–17 for an additional 20 years of operation at McGuire Nuclear Station (McGuire), Units 1 and 2. McGuire is located in Mecklenburg County, North Carolina. The application for renewal was submitted by letter dated June 13, 2001, pursuant to 10 CFR Part 54. A notice of receipt of application, including the environmental report (ER), was published in the **Federal Register** on July 16, 2001 (66 FR 37072). A notice of acceptance for docketing of the application for renewal of the facility operating license was published in the **Federal Register** on August 15, 2001 (66 FR 42893). The purpose of this notice is to inform the public that the U.S. Nuclear Regulatory Commission (NRC) will be preparing an environmental impact statement in support of the review of the license renewal application and to provide the public an opportunity to participate in the environmental scoping process as defined in 10 CFR 51.29.

In accordance with 10 CFR 54.23 and 10 CFR 51.53(c), Duke submitted the ER as part of the application. The ER was prepared pursuant to 10 CFR Part 51 and is available for public inspection at the NRC Public Document Room, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, Maryland, or from the Publicly Available Records component of NRC's document system (ADAMS). ADAMS is accessible at *http://www.nrc.gov/NRC/ADAMS/index.html*, (NRC's Public Electronic Reading Room). If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room Reference staff at 1–800–397–4209, or 301–415–4737, or by e-mail to *pdr@nrc.gov.* In addition, the J. Murray Atkins Library at the University of North Carolina—Charlotte, located at 9201 University City Blvd., Charlotte, North Carolina, has agreed to make the ER available for public inspection.

This notice advises the public that the NRC intends to gather the information necessary to prepare a plant-specific supplement to the Commission's ''Generic Environmental Impact Statement (GEIS) for License Renewal of Nuclear Plants,'' (NUREG–1437) in support of the review of the application for renewal of the McGuire operating licenses for an additional 20 years. Possible alternatives to the proposed action (license renewal) include no action and reasonable alternative energy sources. 10 CFR 51.95 requires that the NRC prepare a supplement to the GEIS in connection with the renewal of an operating license. This notice is being published in accordance with the National Environmental Policy Act (NEPA) and the NRC's regulations found in 10 CFR part 51.

The NRC will first conduct a scoping process for the supplement to the GEIS and, as soon as practicable thereafter, will prepare a draft supplement to the GEIS for public comment. Participation in this scoping process by members of the public and local, State, and Federal government agencies is encouraged. The scoping process for the supplement to the GEIS will be used to accomplish the following:

a. Define the proposed action which is to be the subject of the supplement to the GEIS.

b. Determine the scope of the supplement to the GEIS and identify the significant issues to be analyzed in depth.

c. Identify and eliminate from detailed study those issues that are peripheral or that are not significant.

d. Identify any environmental assessments and other environmental impact statements (EISs) that are being or will be prepared that are related to but are not part of the scope of the supplement to the GEIS being considered.

e. Identify other environmental review and consultation requirements related to the proposed action.

f. Indicate the relationship between the timing of the preparation of environmental analyses and the Commission's tentative planning and decision-making schedule.

g. Identify any cooperating agencies and, as appropriate, allocate assignments for preparation and schedules for completing the supplement to the GEIS to the NRC and any cooperating agencies.

h. Describe how the supplement to the GEIS will be prepared, including any contractor assistance to be used.

The NRC invites the following entities to participate in the scoping process:

a. The applicant, Duke Energy Corporation.

b. Any Federal agency that has jurisdiction by law or special expertise with respect to any environmental impact involved, or that is authorized to develop and enforce relevant environmental standards.

c. Affected State and local government agencies, including those authorized to develop and enforce relevant environmental standards.

d. Any affected Indian tribe.

e. Any person who requests or has requested an opportunity to participate in the scoping process.

f. Any person who intends to petition for leave to intervene.

In accordance with 10 CFR 51.26, the scoping process for an EIS may include a public scoping meeting to help identify significant issues related to a proposed activity and to determine the scope of issues to be addressed in an EIS. The NRC has decided to hold public meetings for the McGuire license renewal supplement to the GEIS. The scoping meetings will be held in the auditorium of the North Campus of the Central Piedmont Community College, at 11920 Verhoeff Road, Huntersville, North Carolina, on Tuesday, September 25, 2001. There will be two sessions to accommodate interested parties. The first session will convene at 1:30 p.m. and will continue until 4:30 p.m. The second session will convene at 7:00 p.m. with a repeat of the overview portions of the meeting and will continue until 10:00 p.m. Both sessions will be transcribed and will include (1) an overview by the NRC staff of the National Environmental Policy Act (NEPA) environmental review process, the proposed scope of the supplement to the GEIS, and the proposed review schedule; (2) an overview by Duke of the proposed action, McGuire license renewal, and the environmental impacts as outlined in the ER; and (3) the opportunity for interested Government agencies, organizations, and individuals to submit comments or suggestions on the environmental issues or the proposed scope of the supplement to the GEIS. Additionally, the NRC staff will host informal discussions one hour prior to the start of each session at the North Campus of the Central Piedmont Community College. No comments on the proposed scope of the supplement to the GEIS will be accepted during the informal discussions. To be considered, comments must be provided either at the transcribed public meetings or in writing, as discussed below. Persons may register to attend or present oral comments at the meetings on the NEPA scoping process by contacting Mr. James H. Wilson by telephone at 1 (800) 368–5642, extension 1108, or by Internet to the NRC at *jhw1@nrc.gov* no later than September 20, 2001. Members of the public may also register to speak at the meeting within 15 minutes of the start of each session. Individual oral comments may be limited by the time available, depending on the number of persons who register. Members of the public who have not registered may also have an opportunity to speak, if time permits. Public comments will be considered in the scoping process for the supplement to the GEIS. If special equipment or accommodations are needed to attend or present information

at the public meeting, the need should be brought to Mr. Wilson's attention no later than September 20, 2001, so that the NRC staff can determine whether the request can be accommodated.

Members of the public may send written comments on the environmental scoping process for the supplement to the GEIS to Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mailstop T–6 D 59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

Comments may be hand-delivered to the NRC at 11545 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. on Federal workdays. To be considered in the scoping process, written comments should be postmarked by October 21, 2001. Electronic comments may be sent by the Internet to the NRC at *McGuireEIS@nrc.gov.* Electronic submissions should be sent no later than October 21, 2001, to be considered in the scoping process. Comments will be available electronically and accessible through the NRC's Public Electronic Reading Room link *http://www.nrc.gov/NRC/ADAMS/index.html* at the NRC Homepage.

Participation in the scoping process for the supplement to the GEIS does not entitle participants to become parties to the proceeding to which the supplement to the GEIS relates. Notice of opportunity for a hearing regarding the renewal application was the subject of the aforementioned **Federal Register** notice of acceptance for docketing. Matters related to participation in any hearing are outside the scope of matters to be discussed at this public meeting.

At the conclusion of the scoping process, the NRC will prepare a concise summary of the determination and conclusions reached, including the significant issues identified, and will send a copy of the summary to each participant in the scoping process. The summary will also be available for inspection through the PERR link. The staff will then prepare and issue for comment the draft supplement to the GEIS, which will be the subject of separate notices and a separate public meeting. Copies will be available for public inspection at the above-mentioned addresses, and one copy per request will be provided free of charge. After receipt and consideration of the comments, the NRC will prepare a final supplement to the GEIS, which will also be available for public inspection.

Information about the proposed action, the supplement to the GEIS, and the scoping process may be obtained from Mr. Wilson at the aforementioned telephone number or e-mail address.

Dated at Rockville, Maryland, this 16th day of August 2001.

For the Nuclear Regulatory Commission.

**Cynthia A. Carpenter,**

*Chief, Generic Issues, Environmental, Financial and Rulemaking Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.*

[FR Doc. 01–21288 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Application for A License to Export Radioactive Waste

Pursuant to 10 CFR 110.70(b)(4) ''Public notice of receipt of an application,'' please take notice that the Nuclear Regulatory Commission has received the following application for an export license. Copies of the application are available electronically through ADAMS and can be accessed through the Public Electronic Reading Room (PERR) link <*http://www.nrc.gov/NRC/ADAMS/index.html*> at the NRC Homepage.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington D.C. 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; and the Executive Secretary, U.S. Department of State, Washington, D.C. 20520.

The information concerning the application follows.

NRC EXPORT LICENSE APPLICATION

| Name of applicant Date of application Date received Application Number | Description of material | | | |
|---|---|---|---|---|
| | Material type | Total qty | End use | Country of destination |
| Framatome ANP Richland, Inc. July 26, 2001 XW007. | Radioactive waste ..... | 60 kilograms Uranium and 3.0 kilograms Uranium-235 (5% maximum U–235). | Uranium will be removed and disposed of as waste at AECL Chalk River Ontario, disposal site. The zirconium and molybdenum will be processed for recycling. | |
| July 26, 2001 kilograms .... | 150,000.0 Zirconium tubing; 25,000.0 kilograms Molybdenum metal pieces contaminated with low-enriched uranium. | Canada. | | |

Dated this 15th day of August 2001 at Rockville, Maryland.

For The Nuclear Regulatory Commission.

**Ronald D. Hauber,**

*Deputy Director, Office of International Programs.*

[FR Doc. 01–21286 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Reactor Safeguards; Revisions

The agenda for the 485th ACRS meeting, scheduled to be held on September 5–8, 2001, has been revised to reflect the changes noted below. Notice of this meeting was previously published in the **Federal Register** on Thursday, August 16, 2001 (66 FR 43035).

*Wednesday, September 5, 2001*

• The discussion of Reconciliation of ACRS Comments and Recommendations has been rescheduled to Wednesday, September 5, 2001, between 1:00 p.m. and 1:30 p.m.

• The discussion of the Thermal-Hydraulics Phenomena Subcommittee has been rescheduled to Wednesday, September 5, 2001, between 1:30 p.m. and 2:00 p.m.

• The discussion time of the Reactor Oversight Process has been rescheduled between 2:30 p.m. and 4:00 p.m.

• The preparation of ACRS reports will start at 4:00 p.m. instead of 2:50 p.m. as previously announced.

All other items for September 5, 2001 meeting remain the same as previously announced in the **Federal Register** on Thursday, August 16, 2001 (66 FR 43035).

*Thursday, September 6, 2001*

• The discussion of Peer Review of PRA Certification Process has been rescheduled to Thursday, September 6, 2001, between 8:35 and 9:00 a.m.

All other items for September 6, 2001 meeting remain the same as previously announced in the **Federal Register** on Thursday, August 16, 2001 (66 FR 43035).

**FOR FURTHER INFORMATION CONTACT:** Dr. Sher Bahadur (telephone 301–415–0138), between 7:30 a.m. and 4:15 p.m., EDT.

Dated: August 17, 2001.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 01–21285 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## NUCLEAR REGULATORY COMMISSION

### Termination of Uranium Milling Licenses in Agreement States; Opportunity to Comment on Draft Revision of NRC Procedure

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Request for comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is announcing the availability of a draft revision of the Office of State and Tribal Programs (STP) Procedure SA–900: Termination of Uranium Milling Licenses in Agreement States for review and comment. The procedure describes the NRC review process for making determinations that all applicable standards and requirements have been met before Agreement State uranium milling license termination. Stakeholder's comments are requested on the draft revised procedure before the completion of the final procedure.

**DATES:** The comment period expires September 24, 2001. Comments received after this date will be considered if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

**ADDRESSES:** Comments may be submitted either electronically or via U.S. mail. Submit written comments to: Chief, Rules and Directives Branch, Mail Stop T6–D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Comments may be submitted by electronic mail to *mtl@NRC.GOV.*

The procedure is available at the STP Web site at ''U Mill License Termination,'' *http://www.hsrd.ornl.gov/nrc/Umill.htm* on the tool bar. A single paper copy of the procedure may be obtained from the For Further Information Contact.

**FOR FURTHER INFORMATION CONTACT:** Kevin Hsueh, Mail Stop: O–3C10, Office of State and Tribal Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone 301–415–2598.

**SUPPLEMENTARY INFORMATION:** On March 29, 2001 (66 FR 17206), the NRC published a document in the **Federal Register** (FR) announcing the formation of a working group composed of representatives from the NRC and Agreement States. The working group was tasked to identify areas that need improvements in the NRC review process and propose a draft revised procedure that addresses issues identified by the working group and stakeholders.

The working group, consisting of five representatives from the States, three NRC representatives and an NRC resource representative, began work in April 2001. Over the past four months, the working group has held three teleconference calls and one face-to-face meeting with stakeholders. Comments and input received from the working group, stakeholders and NRC staff have been considered and reflected in the procedure.

Before finalizing its task, the working group would like to make the procedure available to NRC offices, Agreement States and stakeholders for review and comment. The procedure is available at the STP Web site at ''U Mill License Termination,'' http://www.hsrd.ornl.gov/nrc/Umill.htm on the tool bar. The last working group teleconference call is scheduled in late September. Comments received by the working group will be reviewed and discussed, and incorporated into the procedure, if accepted. The working group is scheduled to complete the project by October 2001. The final STP SA–900 procedure is expected to be issued in November 2001.

Dated at Rockville, Maryland this 17th day of August, 2001.

For the Nuclear Regulatory Commission.

**Paul H. Lohaus,**

*Director, Office of State and Tribal Programs.*

[FR Doc. 01–21289 Filed 8–22–01; 8:45 am]

BILLING CODE 7590–01–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. IC–25115; 812–11198]**

### Investec Ernst & Company et al.; Notice of Application

August 17, 2001.

**AGENCY:** Securities and Exchange Commission (''SEC'').

**ACTION:** Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 12(d)(3) of the Act.

*Summary of Application:* The requested order would permit certain series of unit investment trusts to invest up to 10.5%, 14.5% or 34.5% of their respective total assets in securities of issuers that derived more than 15% of their gross revenues in their most recent fiscal year from securities related activities (''Securities Related Issuers'').

*Applicants:* Investec Ernest & Company (''Sponsor''); The Pinnacle Family of Trusts, Schwab Trusts, Equity Securities Trust, and EST Symphony Trust (''Trusts''); all presently outstanding and subsequently issued series of the Trusts (''Series''); and all future unit investment trusts (''UITs'') containing qualified securities and sponsored or co-sponsored by the Sponsor or a sponsor controlling, controlled by, or under common control, within the meaning of section 2(a)(9) of the Act, with the Sponsor (these UITs are included in the term Trusts and their series included in the term Series).

*Filing Dates*: The application was filed on June 26, 1998 and amended on December 8, 1998 and August 15, 2001.

*Hearing or Notification of Hearing*: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by

mail. Hearing requests should be received by the SEC by 5:30 p.m. on September 11, 2001 and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW, Washington, DC, 20549. Applicants, Investec Ernst & Company, One Battery Park Plaza, 7th Floor, New York, NY 10004.

**FOR FURTHER INFORMATION CONTACT:** Julia Kim Gilmer, Senior Counsel, at (202) 942–0528, or Nadya B. Roytblat, Assistant Director, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC, 20549 (tel. (202) 942–8090).

## Applicants' Representations

1. Each Trust is a UIT registered under the Act and consists of various Series. The Sponsor is a sponsor or co-sponsor of the Series. The investment objective of certain Series is to seek a greater total return than the stocks comprising the Dow Jones Industrial Average (''DJIA,'' and the Series, ''Dow Series''). Certain of the Dow Series (''Top Ten Series'') will invest approximately 10% of the value of its total assets in each of the ten common stocks in the DJIA that have the highest dividend yields (the ''Top Ten''). In no event will a Top Ten Series invest more than 10.5% of the value of its total assets in the common stock of a Securities Related Issuer in the Top Ten. Certain other Dow Series (''Triple Strategy Series'') invest 20% of its assets in the Top Ten. 60% of its assets in the five lowest priced stocks of the Top Ten (the ''Focus Five''), and 20% in the single stock which is the second lowest priced stock of the Focus Five (the ''Penultimate Pick''). A Triple Strategy Series will invest no more than 10.5% with respect to the Top Ten, 14.5% with respect to the Focus Five, or 34.5% with respect to the Penultimate Pick, if the Penultimate Pick is itself a Securities Related Issuer, of the value of its total assets in a Securities Related Issuer.

2. The DJIA comprises 30 widely-held common stocks listed on the New York Stock Exchange which are chosen by the editors of The Wall Street Journal. The DJIA is the property of Dow Jones & Company, Inc., which is not affiliated with any Series, the Sponsor, or any co-sponsor and does not participate in any way in the creation of any Series or the selection of its stocks. The securities deposited in each Dow Series will be chosen solely according to the formula described above. The sponsor will not have any discretion as to which securities are purchased. Sales of securities in the Dow Series' portfolios will be made in connection with redemptions and at termination of the Trust on a date specified a year in advance. The sponsor does not have discretion as to when the securities will be sold except in extremely limited circumstances, such as default by the issuer in the payment of amounts due on a security or the institution of certain legal proceedings against the issuer.

## Applicants' Legal Analysis

1. Section 12(d)(3) of the Act prohibits, with limited exceptions, an investment company from acquiring any security issued by any person who is a broker, dealer, underwriter, an investment adviser of an investment company, or a registered investment adviser. Rule 12d3–1 under the Act exempts the purchase of securities of an issuer that derived more than fifteen percent of its gross revenues in its most recent fiscal year from securities related activities, provided that, among other things, immediately after an acquisition, the acquiring company has not invested more than 5% of the value of its total assets in the securities of the issuer.

2. Section 6(c) of the Act provides that the SEC may exempt a person from any provision of the Act or any rule under the Act, if and to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

3. Applicants request an exemption under section 6(c) from section 12(d)(3) to permit a Top Ten Series to invest up to approximately 10%, but in no event more than 10.5%, of the value of its total assets in a Securities Related Issuer in the Top Ten, and to permit a Triple Strategy Series to invest up to approximately 10%, but in no event more than 10.5%, in a Securities Related Issuer in the Top Ten, approximately 14%, but in no event more than 14.5%, of the value of its total assets in a Securities Related Issuer in the Focus Five, and approximately 34%, but in no event more than 34.5%, of the value of its total assets in the Penultimate Pick, if the Penultimate Pick is itself a Securities Related Issuer. Each of the Top Ten Series and Triple Strategy Series will comply with all of the conditions of rule 12d3–1, except the condition prohibiting an investment company from investing more than 5% of the value of its total assets in securities of a Securities Related Issuer.

4. Applicants state that section 12(d)(3) was designed to prevent certain potential conflicts of interest and to eliminate certain reciprocal practices between investment companies and securities related businesses. One potential conflict of interest could occur if an investment company purchased securities or other interests in a broker-dealer to reward that broker-dealer for selling investment company shares, rather than solely on investment merit. Applicants state that this concern does not arise in connection with the Top Ten Series and the Triple Strategy Series because neither the Series nor the sponsor has discretion in choosing the portfolio securities or the amount purchased. Applicants also state that the effect of a Series' purchase on the stock of a Securities Related Issuer would be *de minimis* because the common stocks represented in the DJIA are widely held and have active markets.

5. Applicants state that another potential conflict of interest could occur if an investment company directed brokerage to a broker-dealer in which the investment company has invested to enhance the broker-dealer's profitability or to assist it during financial difficulty, even though that broker-dealer may not offer the best price and execution. To preclude this type of conflict, applicants agree, as a condition to the requested order, that no company held in a Series' portfolio nor any affiliated person of that company will act as a broker for any Series in the purchase or sale of any security for its portfolio.

## Applicants' Condition

Applicants agree that the order granting the requested relief will be subject to the following condition:

No company held in the Series' portfolios nor any affiliated person of that company will act as a broker for any Series in the purchase or sale of any securities for the Series' portfolios.

For the SEC, by the Division of Investment Management, under delegated authority.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–21306 Filed 8–22–01; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of August 27, 2001:

Closed meetings will be held on Tuesday, August 28, 2001, at 10:00 a.m. and Thursday, August 30, 2001, at 10:00 a.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. 552b(c)(5), (7), (9)(A), 9(B), and (10) and 17 CFR 200.402(a)(5), (7), (9)(i), 9(ii) and (10), permit consideration of the scheduled matters at the closed meeting.

The subject matters of the closed meeting scheduled for Tuesday, August 28, 2001, and Thursday, August 30, 2001, will be:

Institution and settlement of injunctive actions; and

Institution and settlement of administrative proceedings of an enforcement nature.

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: August 21, 2001.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–21521 Filed 8–21–01; 3:48 pm]

BILLING CODE 8010–01–M

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44718; File No. SR–CBOE–2001–33]**

### Self-Regulatory Organizations; Notice of Proposed Rule Change and Amendment No. 1 Thereto by the Chicago Options Exchange, Incorporated Relating to Step-up From the Designated Primary Market Maker's Autoquote Price

August 17, 2001.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 14, 2001, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared by the CBOE. On August 16, 2001, the Exchange submitted Amendment No. 1 to the proposed rule change.[3]

The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to clarify, for purposes of automated step-up, that the term ''Exchange's best bid or offer'' would refer to the Designated Primary Market Maker's (''DPM'') Autoprice price or the price from the DPM's proprietary automated quotation updating system. The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments if received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

Interpretation .02 to CBOE Rule 6.8 establishes the process for the automatic execution of orders through the Retail Automatic Execution System (''RAES'') when the Exchange's best bid or offer (''Exchange's BBO'') is inferior to that of another market. Under this provision, the Exchange automatically fills any equity option order submitted through RAES at any better price being quoted in another market (''step-up''), so long as the price on the away market is better than the Exchange's BBO by no more than one tick (''step-up amount'').[4] If the price on the away market is better by more than the automatic step-up amount (*i.e.,* more than one-tick), the order is rerouted to the DPM for non-automated handling.[5]

As mentioned above, in determining whether the CBOE price is inferior to that of another market, CBOE measures from the ''the Exchange's BBO.'' The term ''Exchange's BBO'' could be interpreted to include any price displayed by the Exchange, whether that price represents Autoquote, a customer order in the limit order book, or a market maker's quote. The purpose of this rule filing is to clarify the term ''Exchange's BBO.'' Under the proposal, the Exchange would amend CBOE Rule 6.8.02 to include new subsection (b).

Under this new subsection, CBOE proposes that the term ''Exchange's BBO'' for purposes of the step-up feature would mean the Autoquote price as established by the DPM or the DPM's proprietary automated quotation updating system[6] for the class or series. Under this change, the Exchange will ''step-up'' to an away market price when the away market price is better than the Exchange's Autoquote price or the DPM's proprietary automated quotation updating system for the same series by

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[1] 15 U.S.C. 78(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter to Debby Flynn, Assistant Director, Division of Market Regulation, Commission, from Steve Youhn, Attorney, CBOE, dated August 15, 2001. (''Amendment No. 1'') In Amendment No. 1, the Exchange made two changes to be proposed rule text. First, the Exchange modified the reference point from which the Exchange will step-up from the Exchange BBO to the Autoquote price. The Exchange amended the rule text to state that step-up will be measured from the price for the series as established by the Autoquote *or* the DPM's proprietary automated quotation updating system. Second, Amendment No. 1 amended the proposed rule text to clarify that if Autoquote is not activated for a particular class or series, that class or series would not be designated as a step-up class. Specifically, the amendment deleted the phrase ''unless otherwise designated by the appropriate FPC'' from the proposal.

[4] The Commission approved the CBOE automatic step-up plan in Exchange Act Release No. 40096 (June 16, 1998), 63 FR 34209 (June 23, 1998) (order approving SR–CBOE–98–13). CBOE Rule 6.42 establishes the minimum trading increments for bids and offers. For option series quoted at or below $3 per contract, the minimum increment is 5 cents. For option series quoted above $3, the trading increment is 10 cents.

[5] The Commission published notice of the filing and immediate effectiveness of a CBOE proposed rule change that would allow the DPM to vary the step-up amount by order size parameter. *See* Exchange Act Release No. 44490 (June 28, 2001), 66 FR 35681 (July 6, 2001) (SR–CBOE–2001–32). The Exchange also has a filing before the Commission (SR–CBOE–2001–08), which would allow the DPM to vary the step-up amount by order entry firm.

[6] *See* Amendment No. 1, *supra* note 3.

no more than the step-up amount applicable to that series. If Autoquote or the DPM's proprietary automated quotation updating system is not activated for a particular class or series, step-up shall not be applicable to that particular class or series. With the exception of this definitional change, the Exchange's step-up procedures as contained in CBOE Rule 6.8.02 remain unchanged.

As an example, assume the following scenario:

- CBOE Autoquote price is $3–$3.30
- Customer order in EBook to sell for $3.20
- Price on Pacific Exchange (''PCX'') is $3–$3.10

In this example, the Exchange's ''BestQuote'' [7] would be $3–$3.20, with the $3.20 price representing a customer limit order in EBook. Under the current rule, a RAES order to buy would be executed on RAES at the PCX price of $3.10 because the CBOE EBook price is within one tick (*i.e.*, $0.10) of the PCX price. Thus, CBOE market participants would be obligated to fill this order automatically, even though the Autoquote price or the DPM's proprietary automated quotation updating system price is two ticks away from the PCX price. The order in the EBook that triggered the step-up would not trade against the RAES order and instead would remain on the book.

The Exchange believes it is reasonable to establish as the Exchange's BBO the Autoquote price or the DPM's proprietary automated quotation updating system for the series for purposes of the step-up feature. The Exchange notes that a customer limit order may not necessarily be representative of the prevailing market. If that customer limit order is, in fact, out of alignment with the prevailing market price, DPMs and market makers, under the current rule, would still be obligated to fill orders automatically at an away market's price if that CBOE customer limit order is within the step-up amount (*i.e.*, one tick) of the away market price. The Exchange believes that this places CBOE market participants at risk of having to fill orders based on errant or uninformed prices.

Furthermore, given the differences in proprietary automatic quotation systems used by market participants on different exchanges, there often are times when one exchange's prices may be several ticks away from another market's prices for a particular class or series. For example, in setting the Autoquote price, a specialist on one exchange may input a volatility figure that is considerably higher or lower than the volatility figure used by the CBOE DPM. As a result, the away market price may be expected to be different (perhaps by several ticks) from the CBOE Autoquote price or the DPM's proprietary automated quotation updating system. The Exchange believes that to force CBOE crowd members to step-up not from their Autoquote price, but from an order that may or may not bear any relation to their Autoquote price, places them at substantial financial risk by forcing them to automatically execute orders at prices they do not believe accurately represent the current market. When the away market is within the step-up amount of the CBOE Autoquote price or the DPM's proprietary automated quotation updating system, however, the Exchange represents that at least CBOE market participants are assured that when a CBOE order is ''stepped-up,'' that it bears some relation to their Autoquote price or the DPM's proprietary automated quotation updating system price.

Accordingly, in the above example under this proposal, a RAES order to buy would not receive automatic step-up and instead, would be routed to the floor for manual handling. If, however, the CBOE Autoquote price were instead $3.00–$3.20, the incoming RAES order to buy would receive automatic step-up and would be executed at $3.10, the price of the away market.

2. Statutory Basis

This proposal would clarify that, for step-up purposes, the Exchange's BBO would only reflect the DPM's Autoquote price or the DPM's proprietary automated quotation updating system. Accordingly, the Exchange believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[8] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [9] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

CBOE does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

No written comments were solicited or received with respect to the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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 CBOE. All submissions should refer File No. SR–CBOE–2001–33 and should be submitted by September 13, 2001.

[7] BestQuote simply refers to the best bid and offer currently offered on the Exchange.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–21309 Filed 8–22–01; 8:45 am]

BILLING CODE 8010–01–M

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44716; File No. SR–PHLX–2001–73]**

## Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., To Suspend Imposition of its Payment for Order Flow Fee

August 16, 2001.

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 August 2, 2001, the Philadelphia Stock Exchange, Inc. (''Phlx'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items, I, II, and III, below, which Items the Phlx has prepared. 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 Phlx proposes to suspend imposition of its $1.00 payment for order flow fee beginning with contracts settling on or after August 1, 2001.[3] The text of the proposed rule change is available at the principal offices of the Phlx and at the Commission.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to suspend imposition of the Phlx's payment for order flow fee for contracts settling on or after August 1, 2001.

In August 2000, the Phlx imposed a $1.00 per contract fee on transactions by Phlx specialists and Registered Options Traders (''ROTs'') in the top 120 options traded on the Phlx.[4] The payment for order flow fee did not apply to index or currency options. In addition, transactions between: (1) A specialist and an ROT; (2) an ROT and an ROT; (3) a specialist and a firm; (4) an ROT and a firm; (5) a specialist and a broker-dealer; and (6) an ROT and a broker-dealer were excepted from the $1.00 fee.[5]

The Phlx believes that its proposal to suspend imposition of the fee is consistent with Section 6(b) of the Act[6] and furthers the objectives of Sections 6(b)(4) and (5) of the Act[7] in that it is an equitable allocation of reasonable fees among the Phlx's members. The Phlx notes that, although it is suspending the imposition of its payment for order flow fee, members may continue to negotiate their own private arrangements with order flow providers to attract options orders to the Phlx.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Phlx neither solicited nor received any written comments with respect to the proposal.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Phlx has designated the foregoing proposed rule change as a fee change pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(2) thereunder,[9] and therefore the proposal has become effective upon filing with the Commission. At any time within 60 days after 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 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 Phlx. All submissions should refer to File No. SR–Phlx–2001–73 and should be submitted by September 13, 2001.

[10] 17 CFR 200.30.3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Phlx would continue to provide Phlx specialists and order flow providers with reports regarding the quality of execution of options orders, and specialists or specialist units would continue to be governed by the books and records requirements of Phlx Rule 760. *See* Securities Exchange Act Release Nos. 43436 (October 11, 2000), 65 FR 63281 (October 23, 2000) (SR–Phlx–00–83) and 44405 (June 11, 2001), 66 FR 32859 (June 18, 2001) (SR–Phlx–2001–08).

[4] The Phlx defines a top 120 option as one of the 120 most actively traded equity options in terms of the total number of contracts that are traded nationally based on volume reflected by the Options Clearing Corporation. The Phlx recalculates the top 120 options every six months. For the period from April 2, 2001 through June 30, 2001, when options on the Nasdaq-100 Trust (trading under the symbol QQQ) were added to the program, there were 121 options on the Phlx's list. *See* Securities Exchange Act Release No. 44237 (April 30, 2001), 66 FR 23308 (May 8, 2001) (SR–Phlx–2001–43).

[5] *See* Securities Exchange Act Release Nos. 43177 (August 18, 2000), 65 FR 51889 (August 25, 2000) (SR–Phlx–00–77); 43480 (October 25, 2000), 65 FR 66275 (Nov. 3, 2000) (SR–Phlx–00–86 and SR–Phlx–00–87); and 43481 (Oct. 25, 2000), 65 FR 66277 (November 3, 2000) (SR–Phlx–00–88 and SR–Phlx–00–89).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–21307 Filed 8–22–01; 8:45 am]

**BILLING CODE 8010–01–M**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–44715; File No. SR–SCCP–2001–07]**

## Self-Regulatory Organizations; Stock Clearing Corporation of Philadelphia; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to a Waiver of PACE Trade Recording Fees

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 29, 2001, the Stock Clearing Corporation of Philadelphia (''SCCP'') filed with the Securities and Exchange Commission (''Commission'') and on August 6, 2001, amended the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by SCCP. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends SCCP's fee schedule to waive trade recording fees for orders that are electronically routed to the Philadelphia Stock Exchange, Inc. (''Phlx'') through Phlx's automated communication and execution system (''PACE'').[2] The waiver includes the Nasdaq–100 Index Tracking Stock℠ (''QQQ'') PACE user fees applicable to QQQ orders delivered through PACE. In addition, the proposal amends SCCP's fee schedule to codify the current fee schedule and to make minor technical amendments to clarify certain charges that appear on the schedule. The proposed waiver of fees was implemented on June 1, 2001.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule

In its filing with the Commission, SCCP included statements concerning the purpose of and statutory basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. SCCP has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[3]

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to waive SCCP trade recording fees for orders that are electronically routed to Phlx through PACE.[4] Presently, orders routed through PACE, including QQQ orders, are charged a PACE trade recording fee of $0.30 per side (except for certain orders executed on the opening).[5]

SCCP states that the proposed amendment is designed to promote SCCP's reputation as a cost effective clearing organization, which should, in turn, encourage additional order flow to Phlx. In addition, SCCP proposes to amend its fee schedule to make minor, technical amendments to the schedule.[6] Among other things, reference to VTS trades will be changed to ''eVWAP'' trades.[7]

For these reasons, SCCP believes that the proposed rule change is consistent with Section 17A(b)(3)(D) of the Act[8] which requires that the rules of a registered clearing agency provide for equitable allocation of reasonable dues, fees, and other charges for services which it provides to its participants.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

SCCP does not believe that the proposed rule change will impose any inappropriate burden on competition.

*(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

No written comments were either solicited or received.

### III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by SCCP, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[9] and Rule 19b–4(f)(2) thereunder.[10] At any time within sixty 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 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 Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at SCCP. All submissions should refer to the File No. SR–SCCP–2001–07 and should be submitted by September 13, 2001.

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] PACE is Phlx's order routing, delivery, execution, and reporting system for its equity trading floor.

[3] The Commission has modified parts of these statements.

[4] Securities Exchange Act Release No. 44381 (June 1, 2001), 66 FR 31264 (June 11, 2001) (SR–Phlx–2001–57) provides for a waiver of Phlx equity transaction value charges for orders that are electronically routed to Phlx through PACE.

[5] Securities Exchange Act Release No. 44278 (May 8, 2001), 66 FR 27193 (May 16, 2001) (SR–SCCP–2001–05), which eliminated certain specialist fees for transactions with PACE orders entered before the opening.

[6] Although SCCP intended to implement SR–SCCP–2001–05 (the waiver of certain specialist fees for transactions with PACE orders entered before the opening) effective May 1, 2001, it has not done so because the fee schedule attached to that filing erroneously included asterisks indicating a waiver of two other fees. Specifically, SCCP did not intend to waive the trade recording fee for regular trades or PACE trades because (1) trade recording fees for PACE trades are paid by PACE users rather than specialists, who were the targets of SCCP's fee waivers in that rule change, and (2) trade recording fees for regular trades do not apply to PACE trades at all. Therefore, SCCP amended this filing to correct the errors in SR–SCCP–2001–05. Letters from Diana Tenenbaum, SCCP, dated August 3, 2001, to Jerry Carpenter Assistant Director, Commission.

[7] Securities Exchange Act Release No. 42702 (April 19, 2000), 65 FR 24528 (April 26, 2000) (SR–Phlx–00–19). ''eVWAP'', formerly known as ''VWAP'' and ''VTS'', is the Volume Weighted Average Price trading system (''VTS'' stands for VWAP Trading System).

[8] 15 U.S.C. 78q–1(b)(3)(D).

[9] 15 U.S.C. 78s(b)(3)(A)(ii).

[10] 17 CFR 240.19b–4(f)(2).

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–21308 Filed 8–22–01; 8:45 am]

BILLING CODE 8010–01–M

[11] 17 CFR 200.30–3(a)(12).

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3359]**

### District of Columbia

As a result of the President's major disaster declaration on August 16, 2001, I find that the District of Columbia constitutes a disaster area due to damages caused by severe storms, flooding and mudslides occurring on August 10 through August 12, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 15, 2001 and for economic injury until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Fl., Niagara Falls, NY 14303–1192.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Montgomery and Prince Georges counties in the State of Maryland; Arlington and Fairfax counties and the City of Alexandria in the Commonwealth of Virginia.

The interest rates are:

*For Physical Damage*

Homeowners With Credit Available Elsewhere: *6.750%*

Homeowners Without Credit Available Elsewhere: *3.375%*

Businesses With Credit Available Elsewhere: *8.000%*

Businesses and Non-Profit Organizations Without Credit Available Elsewhere: *4.000%*

Others (Including Non-Profit Organizations) With Credit Available Elsewhere: *7.125%*

*For Economic Injury*

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere: *4.000%*

The number assigned to this disaster for physical damage is 335911. For economic injury the number is 9M3600 for District of Columbia; 9M3700 for Maryland; and 9M3800 for Virginia.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 17, 2001.

**James E. Rivera,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 01–21348 Filed 8–22–01; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Disaster #3358]**

### State of Mississippi

Rankin County and the contiguous counties of Copiah, Hinds, Madison, Scott, Simpson and Smith constitute a disaster area due to damages caused by severe thunderstorms and flash floods that occurred on August 12, 2001. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on October 15, 2001 and for economic injury until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rates are:

*For Physical Damage*

Homeowners with Credit Available Elsewhere: 6.750%

Homeowners without Credit Available Elsewhere:3.375%

Businesses with Credit Available Elsewhere: 8.000%

Businesses and Non-Profit Organizations without Credit Available Elsewhere: 4.000%

Others (Including Non-Profit Organizations) with Credit Available Elsewhere: 7.125%

*For Economic Injury*

Businesses and Small Agricultural Cooperatives Without Credit Available Elsewhere: 4.000%

The number assigned to this disaster for physical damage is 335811 and for economic injury the number assigned is 9M3400.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 6, 2001.

**John Whitmore,**

*Acting Administrator.*

[FR Doc. 01–21346 Filed 8–22–01; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

**[Declaration of Economic Injury Disaster #9M35]**

### Commonwealth of Pennsylvania

Lehigh County and the contiguous counties of Berks, Bucks, Carbon, Montgomery, Northampton, and Schuylkill constitute an economic injury disaster loan area as a result of severe storms and flooding that occurred on August 12, 2001. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance as a result of this disaster until the close of business on May 16, 2002 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South 3rd Floor, Niagara Falls, NY 14303.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent. The number assigned for economic injury for this disaster is 9M3500 for Pennsylvania.

(Catalog of Federal Domestic Assistance Program No. 59002)

Dated: August 16, 2001.

**John Whitmore,**

*Acting Administrator.*

[FR Doc. 01–21347 Filed 8–22–01; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Region I—Connecticut District Advisory Council Public Meeting

The Small Business Administration Region I Connecticut District Advisory Council, located in the geographical area of Hartford, Connecticut, will hold a public meeting at 9:00 a.m. EST on Monday, Sept. 17, 2001, at the Connecticut District Office, 330 Main Street 2nd Floor, Hartford, CT 06106, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Marie A. Record, District Director, in writing by letter or fax no later than August 20, 2001, in order to be put on the agenda. Marie A. Record, District Director, U.S. Small Business Administration 330 Main Street, 2nd Floor Hartford, Connecticut 06106–1800

(860) 240–4670 phone (860) 240–4659 fax.

**Steve Tupper,**

*Committee Management Officer.*

[FR Doc. 01–21349 Filed 8–22–01; 8:45 am]

BILLING CODE 8025–01–P

## SMALL BUSINESS ADMINISTRATION

### Region IX—Hawaii District Advisory Council Public Meeting

The Small Business Administration Region IX Hawaii District Advisory Council, located in the geographical area of Honolulu, Hawaii, will hold a public meeting at 10:00 a.m. Pacific Time on Thursday, September 6, 2001, at the Prince Kuhio Federal Building, 300 Ala Moana Blvd., Room 5–161, Honolulu, HI 96850, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present.

Anyone wishing to make an oral presentation to the Board must contact Andrew K. Poepoe, District Director, in writing by letter or fax no later than August 22, 2001, in order to be added to the agenda. Andrew K. Poepoe, District Director, U.S. Small Business Administration 300 Ala Moana Boulevard, Room 2–235, Honolulu, Hawaii 96850–4981 (808) 541–2965 phone (808) 541–2976 fax.

**Steve Tupper,**

*Committee Management Officer.*

[FR Doc. 01–21351 Filed 8–22–01; 8:45 am]

BILLING CODE 8025–01–P

## DEPARTMENT OF STATE

**[Public Notice 3756]**

### Office of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

**AGENCY:** Department of State.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(e) of the Arms Export Control Act (22 U.S.C. 2776).

**EFFECTIVE DATE:** As shown on each of the twenty-eight letters.

**FOR FURTHER INFORMATION CONTACT:** Mr. William J. Lowell, Director, Office of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202 663–2700).

**SUPPLEMENTARY INFORMATION:** Section 38(e) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: August 9, 2001.

**William J. Lowell,**

*Director, Office of Defense Trade Controls.*

BILLING CODE 4710–25–P

United States Department of State

*Washington, D.C. 20520*

JUL 24 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed manufacturing license agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves logistical support for S-61 helicopters for use by the Japanese Defense Agency for maritime patrol and antisubmarine warfare.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 075-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

JUL 31 2001

COPY

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of JQ-70 defense hardware to Japan for use in Japanese Defense Agency (JDA) military ships.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 085-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

COPY

Dear Mr. Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed manufacturing license agreement with Italy for defense articles and defense services in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the transfer of technical data and assistance in the manufacture of Enhanced Paveway II and Enhanced Paveway III airfoil groups, computer control groups, and major assemblies and components. The Enhanced Paveway groups, assemblies, and associated components will be for end use in Italy.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification, which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. 019-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

COPY

United States Department of State

*Washington, D.C. 20520*

AUG -2

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and services for the provision of a Combined Operations Center for the Egyptian Air Defense Command.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 064-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

CN

COPY

United States Department of State

*Washington, D.C. 20520*

AUG 2 [illegible]

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of four (4) FPS-117(E)1 Primary Radars to the Government of Korea.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 067-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $50,000,000 or more.

The transaction described in the attached certification involves the sale of one (1) SH-2G (NZ) helicopter to the Government of New Zealand.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 068-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

AUG - 2 2001

COPY

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of major defense equipment sold under a contract in the amount of $14,000,000 or more.

The transaction described in the attached certification involves the sale of nine (9) S-70A-42 helicopters to the Government of Austria.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 069-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export to Italy of four (4) C-130J-30 aircraft and the conversion of six (6) C-130J Italian aircraft to the C-130J-30 configuration.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 070-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY AUG - 2

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance to support intermediate level maintenance training for the AN/ALQ-165 Airborne Self Protection Jammer, test equipment and system replaceable units with the Republic of Korea Air Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 076-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

CCPY

AUG -2 2001

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement with France.

The transaction described in the attached certification involves the transfer of technical data and technical assistance to manufacture GRG5 Rate Gyroscopes and APS-3/4 Accelerometers in France for resale to various European countries.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 077-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with the United Kingdom.

The transaction described in the attached certification involves the transfer of technical data and assistance for the manufacture of components and subassemblies of the Narrowband Data Link System in the United Kingdom for the UK ASTOR System Program.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly
Assistant Secretary/
Legislative Affairs

Enclosure:
Transmittal No. DTC 078-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

COPY

CW

**United States Department of State**

*Washington, D.C. 20520*

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, training and hardware to Brazil for the operational support, overhaul and manufacture of support equipment for the J85 gas turbine engine.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 079-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

CN

United States Department of State

*Washington, D.C. 20520*

COPY

AUG -2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical information, data and assistance for the manufacture in Canada of the gearbox assembly and components, the power takeoff gearbox and bevel gear on F110-100/129/400, F101-102/F118/F29, F404/F414/RM12/LM1600, T700, TF34 and J85 series aircraft engines.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 080-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

AUG 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Manufacturing License Agreement with Germany.

The transaction described in the attached certification involves the transfer of technical data and production know-how for the manufacture of M865 TPCSDS-T and M831A1 TP-T 120mm Practice Ammunition in Germany with added sales in Austria, Belgium, Denmark, Italy, Japan, Norway, South Korea, Spain, Sweden, Switzerland and the Netherlands.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 081-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

Washington, D.C. 20520

AUG -2

COPY

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, assistance and services for the manufacture of Signal Data Processor LRUs and components for the F-16, AN/APG-66(V) Mid Life Update Production Contract in Belgium.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 082-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction described in the attached certification involves the re-transfer of three Intelsat VIII series commercial communications satellites to The Netherlands.

The United States Government is prepared to license the re-export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 084-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed technical assistance agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the sale of eight F100-PW-229 engines, spares, ten-year warranty and maintenance support to the Hellenic Air Force for use in their F-16 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 086-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed Technical Assistance Agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data and assistance in the manufacture, launch, and operation of the ROCSAT-3 Constellation System for Meteorology, Ionosphere and Climate (COSMIC), comprised of six low earth orbit scientific satellites. The satellites are for end-use by the National Space Program Office of the National Science Council of Taiwan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 088-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY CW

AUG 2 - 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) and (d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement with Canada.

The transaction contained in the attached certification involves the export of technical data, defense services and know-how for the manufacture in Canada of M16 series rifles for sale to Australia, and NATO member governments.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 089-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

CN

COPY

**United States Department of State**

*Washington, D.C. 20520*

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the temporary export of one Direct TV commercial communications satellite, replacement parts, and associated satellite fuels to French Guiana for launch on an Ariane Launch Vehicle.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 091-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

MAY 2

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves technical data and defense services for integration of GPS Guidance capability into the GBU-15 air-to-ground weapon system for Israel.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 092-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

AUG - 2

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves technical data and defense services related to the Hunter unmanned aerial vehicle system for export to Israel for ultimate end-use by the United States Army.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 093-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(d) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement with Japan.

The transaction described in the attached certification involves the manufacture of two UP-3D airframes for use by the Japanese Self Defense Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 094-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

**United States Department of State**

*Washington, D.C. 20520*

COPY

AUG - 2 2001

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed manufacturing license agreement for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the manufacture of T-4 aircraft parts in Japan for end use by the Japanese Self Defense Force.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 095-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

CCT

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount $50,000,000 or more.

The transaction contained in the attached certification involves the export of two Landing Craft Air Cushion (LCAC) to Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 096-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

**United States Department of State**

*Washington, D.C. 20520*

COPY

AUG - 2

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of major defense equipment sold commercially under a contract in the amount $14,000,000 or more.

The transaction contained in the attached certification involves the export of 18 LANTIRN Navigation Pods and related spares to Singapore for use on Government of Singapore F-16 aircraft.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 097-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

Dear Mr. Speaker:

Pursuant to Section 36 (c) and (d) of the Arms Export Control Act, I am transmitting herewith certification of a proposed manufacturing license agreement with Japan.

The transaction described in the attached certification involves the transfer of technical data and assistance in the manufacture of the AN/ARN-118 TACAN and related equipment for end use by the Government of Japan.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. 100-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

United States Department of State

*Washington, D.C. 20520*

COPY

AUG - 2

Dear Mr. Speaker:

Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of technical data, defense services and defense articles for the Paveway II Airfoil Groups, associated components, and containers for end-use by the United Kingdom Ministry of Defence and Saudi Arabian Ministry of Defense and Aviation.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights, and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly
Assistant Secretary
Legislative Affairs

Enclosure:
Transmittal No. DTC 101-01

The Honorable
J. Dennis Hastert,
Speaker of the House of Representatives.

[FR Doc. 01–21343 Filed 8–22–01; 8:45 am]
BILLING CODE 4710–25–C

## DEPARTMENT OF STATE

**[Public Notice 3757]**

## Bureau of Educational and Cultural Affairs Request for Grant Proposals: Language and Cultural Enhancement Program

**NOTICE:** Request for Grant Proposals.

**SUMMARY:** The Office of Citizen Exchanges, Youth ProgramsDivision of the Bureau of Educational and Cultural Affairs announces an open competition for a Language and Cultural Enhancement Program (LCE). Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may submit proposals to conduct a four-week homestay-based, English Language and Cultural Enhancement program from mid-July to mid-August, 2002 for 50 students from the New Independent States (NIS) of the former Soviet Union selected for the Freedom Support Act (FSA) Future Leaders Exchange (FLEX) program. Approximately 15 of the participants will be students with physical disabilities who were specially recruited and selected. The remaining 35 students will be from more isolated regions of the NIS, where there is less opportunity for quality English instruction. The purpose of the program is to raise the English capability of these students to the level where they are able to attend regular classes when their academic program starts in fall. Additionally, this program will ease the acculturation process when students transit to their permanent host families and communities. Only one grant will be awarded. Funds requested for this project may not exceed $105,000.

### Program Information Objectives

To prepare a select group of students with special needs to attend school in the fall and perform at a level closer to that of those FSA/FLEX students who make up the majority of the program finalists. To provide students with cultural tools and strategies that will foster a successful exchange experience.

### Background

Academic year 2002/2003 will be the tenth year of the FSA/FLEX program, which now includes over 10,000 alumni. This component of the NIS Secondary School Initiative was originally authorized under the FREEDOM Support Act of 1992 and is funded by annual allocations from the Foreign Operations and Department of State appropriations. The goals of the program are to promote mutual understanding and foster a relationship between the people of the NIS and the U.S.; assist the successor generation of the NIS to develop the qualities it will need to lead in the transformation of those countries in the 21st century; and to promote democratic values and civic responsibility by giving NIS youth the opportunity to live in American society for an academic year.

During the program's early years, there was concern that students from the more remote regions of the NIS might be underrepresented because the lack of English competence in those regions could prevent applicants from meeting the rigorous English language requirements of the FLEX recruitment process, including attaining a reasonable score on the Pre-TOEFL proficiency examination. To address this concern, a pre-academic year English language Enhancement program was developed so that some students from the remote areas could be selected whose Pre-TOEFL scores were slightly lower than the standard required by the program. In 1996, the FLEX program added a component incorporating students with disabilities, who do have a need for some special language and cultural training before initiating their academic year program. The enhancement program for which proposals are being solicited here is in support of both groups of students.

The essential components of the enhancement program are:

- A four-week course of study in English, approximately 5.5 hours a day, to build on the language skills that the students already have and focusing primarily on conversation and comprehension.
- Programming that builds on cultural issues that will have been introduced at the pre-departure orientation for all FSA FLEX students.
- Orientation programming that addresses the special needs of the students with disabilities and their unique adjustment issues.
- Developing independence skills for disabled students, specifically blind students who may need English Braille training as well as assistance in specific techniques, e.g., using a cane.
- Accommodation with volunteer host families for the period of the workshop.
- Preparing the students for the transition to their permanent host families and communities.

### Other Components

Two organizations have already been awarded grants to perform the following functions: recruitment and selection of all FLEX students; preparation of cross-cultural materials; pre-departure orientation; international travel from home to host community and return; facilitation of ongoing communication between the natural parents and placement organizations, as needed; maintenance of a student database and provision of data to Department of State; and ongoing follow-up with alumni upon their return to the NIS.

Additionally, ''placement organizations'' will, through a grants competition, place the 2002–2003 FSA FLEX students in schools and homestays for the academic year, to monitor their progress, and to conduct program-related cultural enrichment activities. The organization selected for the Language and Cultural Enhancement Program will be asked to interact with the placement organizations to ensure the students' smooth transition from this pre-academic training to their permanent placements.

### Guidelines

Applicants should consult the Project Objectives Goals and Implementation (POGI) guidelines for a detailed statement of work. Ideally, the program should take place from mid-July to mid-August, 2002. The venue for the program should be one with minor distractions to enable students to focus on the coursework and experience life in a typical American family and community. It should be conducive to a smooth transition to the students' permanent placements. Whenever possible, the coursework should provide opportunities for students to view situations in the context of the host family and community to which they'll be going, rather than the LCE host family with whom they are staying only for the duration of this special program. The region in which the LCE program is taking place should also have resources that can be drawn upon for cultural enrichment. Students with disabilities will need to be carefully assessed by someone with expertise in working with persons with disabilities. This individual(s) should also provide support and serve as a resource on disabilities for the LCE teachers, as well as the students, during the duration of the program. At all times, reasonable accommodations must be provided, as needed, for all participants with disabilities. FLEX participants travel on J–1 visas issued by the Department of State using a government program

number. The students are covered by the health and accident insurance policies used by their placement organizations. The grantee organization will acknowledge its responsibility to coordinate with the appropriate organization(s) any time medical treatment is needed for the duration of the students' participation in the enhancement program.

Pending availability of funds, applicants may assume that grant activity will begin on or about May 1, 2002. Programs must comply with J–1 visa regulations. Please refer to the Solicitation Package for further information.

**Budget Guidelines**

Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. The Bureau anticipates awarding one grant in the amount of $105,000 to support program and administrative costs required to implement this program. The Bureau encourages applicants to provide maximum levels of cost-sharing and funding from private sources in support of its programs.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. See POGI for allowable costs for the program. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

**Announcement Title and Number**

All correspondence with the Bureau concerning this RFP should reference the above title and number—ECA/PE/C/PY–02–20.

**FOR FURTHER INFORMATION, CONTACT:** Youth Programs Division, ECA/PE/C/PY, Room 568, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, tel. (202) 619–6299, fax (202) 619–5311, e-mail <lbeach@pd.state.gov> to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Anna Mussman on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

**To Download a Solicitation Package Via Internet**

The entire Solicitation Package may be downloaded from the Bureau's website at *http://exchanges.state.gov/education/rfgps*. Please read all information before downloading.

**Deadline for Proposals**

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5:00 p.m. Washington, DC time on Monday, October 1, 2001. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and seven copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref: ECA/PE/C/PY–02–20, Program Management, ECA–IIP/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

**Diversity, Freedom and Democracy Guidelines**

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

**Review Process**

The Bureau will acknowledge receipt of all and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as other Bureau officers, where appropriate. Eligible proposals will be forwarded to panels of Department of State officers for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Bureau elements. Final funding decisions are at the discretion of the Department of State's Acting Assistant Secretary for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the Bureau's Grants Officer.

**Review Criteria**

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

*1. Quality of the Program Idea*

Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission. Integration of language and culture components should adhere to stated objectives of this project.

*2. Program Planning*

Detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above. Refer to POGI regarding elements that should be included in a calendar of activities/timetable.

*3. Ability to Achieve Program Objectives*

Objectives should be measurable, tangible and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives and plan.

*4. Support of Diversity*

Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of staff and speakers, program venue, host families) and program content

(curriculum, orientation and wrap-up sessions, program meetings, and resource materials).

*5. Institutional Capacity*

Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. Coordinator responsible for curriculum, materials development and instruction should demonstrate relevant ESL/U.S. culture teaching experience and qualifications. Disability resource specialist(s) should have appropriate background and experience, and proposal must ensure that students with disabilities will be provided with adequate supports and reasonable accommodations.

*6. Institution's Record/Ability*

Proposals should demonstrate an institutional record of successful language/culture programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

*7. Project Evaluation*

Proposals should include a plan to evaluate the program's success, both as the activities unfold and at the end of the program. A draft survey questionnaire, tests, or other techniques plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicant will be expected to submit a final report after project is concluded.

*8. Cost-effectiveness/Cost-sharing*

The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost-sharing through other private sector support as well as institutional direct funding contributions.

**Authority**

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation appropriating funds annually for Department of State's exchange programs.

**Notice**

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

**Notification**

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: August 17, 2001.

**Helena Kane Finn,**

*Acting Assistant Secretary for Educational and Cultural Affairs, Department of State.*

[FR Doc. 01–21344 Filed 8–22–01; 8:45 am]

BILLING CODE 4710–11–P

## TENNESSEE VALLEY AUTHORITY

### Paperwork Reduction Act of 1995, as Amended by Public Law 104–13; Submission for OMB Review; Comment Request

**AGENCY:** Tennessee Valley Authority.

**ACTION:** Submission for OMB Review; comment request.

**SUMMARY:** The proposed information collection described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). The Tennessee Valley Authority is soliciting public comments on this proposed collection as provided by 5 CFR 1320.8(d)(1). Requests for information, including copies of the information collection proposed and supporting documentation, should be directed to the Agency Clearance Officer: Wilma H. McCauley, Tennessee Valley Authority, 1101 Market Street (EB 5B), Chattanooga, Tennessee 37402–2801; (423) 751–2523.

Comments should be sent to OMB Office of Information and Regulatory Affairs, Attention: Desk Officer for Tennessee Valley Authority no later than September 24, 2001.

**SUPPLEMENTARY INFORMATION:**

*Type of Request:* Regular submission, proposal to extend without revision a currently approved collection of information (OMB control number 3316–0096).

*Title of Information Collection:* Customer Input Card for TVA Recreation Areas.

*Frequency of Use:* On occasion.

*Type of Affected Public:* Individuals or households.

*Small Business or Organizations Affected:* No.

*Estimated Number of Annual Responses:* 1,000.

*Estimated Total Annual Burden Hours:* 50.

*Estimated Average Burden Hours Per Response:* .05.

*Need For and Use of Information:* This information collection asks visitors to selected TVA public use areas to provide feedback on the condition of the facilities they used and the services they received. The information collected will be used to evaluate current maintenance, facility, and service practices and policies and to identify new opportunities for improvements.

**Jacklyn J. Stephenson,**

*Senior Manager, Enterprise Operations, Information Services.*

[FR Doc. 01–21327 Filed 8–22–01; 8:45 am]

BILLING CODE 8120–08–P

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

**[USCG–2001–10423]**

### Towing Safety and Merchant Marine Personnel Advisory Committees

**AGENCY:** Coast Guard, DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** The Towing Safety Advisory Committee (TSAC) and the Merchant Marine Personnel Advisory Committee (MERPAC), along with their working groups, will meet jointly to discuss various issues relating to: (1) Shallow-draft inland and coastal waterway navigation and towing safety, and (2) merchant marine personnel, including safety, training, and qualifications. All meetings will be open to the public.

**DATES:** The Committees will meet on Thursday, September 27, 2001, from

8:30 a.m. to 3:30 p.m. The TSAC working groups on License Implementation, Fire Suppression and Voyage Planning, and Operator Alertness, and the MERPAC working groups will meet on Wednesday, September 26, 2001, from 9 a.m. to 3:30 p.m. Additionally, the TSAC working group on License Implementation will hold a special meeting from 8:30 a.m. to 3:30 p.m. on Tuesday, September 25, 2001. These meetings may close early if all business is finished. Requests to make oral presentations should reach the Coast Guard on or before September 19, 2001. Requests to have a copy of your material distributed to each member of the Committee or working group at the meeting should reach the Coast Guard on or before September 12, 2001. If you would like a copy of your material distributed to each member of the Committee or working group in advance of the meeting, that material must reach the Coast Guard no later than September 7, 2001 or, if submitted by e-mail, no later than September 12, 2001.

**ADDRESSES:** The Committees will meet in room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The Committees and working groups, on Wednesday, will first meet in room 2415 and may move to separate rooms designated at that time. The special meeting, on Tuesday, of the TSAC working group on License Implementation will be held in room 3317 at the same address. Send written material and requests to make oral presentations to Mr. Gerald Miante, Assistant Executive Director of TSAC, or Mr. Mark Gould, Assistant Executive Director of MERPAC, Commandant (G–MSO–1), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001. This notice is available on the Internet at http://dms.dot.gov.

**FOR FURTHER INFORMATION CONTACT:** Mr. Miante or Mr. Gould, telephone 202–267–0229, fax 202–267–4570, or e-mail at: *gmiante@comdt.uscg.mil* and *mgould@comdt.comdt.uscg.mil*.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

## Agendas of Meetings

The agenda tentatively includes the following:

(1) Introduction of the new Sponsor and Executive Directors and of Chairpersons and members.

(2) Remarks by Sponsor (Rear Admiral Paul Pluta), Committee Chairpersons, and Executive Directors.

(3) Briefing by the Office of Planning and Resources on the G–M Business Plan.

(4) Briefing by Captain Fink on the status of the National Maritime Center (NMC).

(5) Briefing on Marine Transportation Recruiting and Retention.

(6) Project Update on Licensing and Manning for Officers of Towing Vessels and Status report on the Licensing Implementation Working Group.

(7) Project Update on Current Initiatives Regarding Crew Alertness and Status report of the Operator Alertness Working Group.

(8) Project Update on the rulemaking on Fire-Suppression Systems and Voyage Planning for Towing Vessels and Status report of the Working Group.

(9) Status Reports of other working groups, as required, and discussion of other items brought up by the Committees or the public.

## Procedural

All meetings are open to the public. Please note that the meetings may close early if all business is finished. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Assistant Executive Directors no later than September 19, 2001. Written material for distribution at a meeting should reach the Coast Guard no later than September 12, 2001. If you would like a copy of your material distributed to each member of the Committees or working groups in advance of a meeting, please submit 35 copies to the Assistant Executive Directors no later than September 7, 2001; or, you may submit electronic versions, complete and ready for distribution via e-mail to members, by September 12, 2001.

## Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Assistant Executive Directors as soon as possible.

Dated: August 16, 2001.

**Joseph J. Angelo,**

*Director of Standards, Marine Safety and Environmental Protection.*

[FR Doc. 01–21354 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–15–P

# DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## Advisory Circular; Compliance Criteria for 14 CFR 33.28, Aircraft Engines, Electrical and Electronic Engine Control Systems

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of availability of advisory circular (AC) No. 33.28–1, Compliance Criteria for 14 CFR 33.28, Aircraft Engines, Electrical and Electronic Engine Control Systems.

**SUMMARY:** The Federal Aviation Administration (FAA) announces the availability of AC No. 33.28–1, Compliance Criteria for 14 CFR 33.28, Aircraft Engines, Electrical and Electronic Engine Control Systems.

**DATES:** The Engine and Propeller Directorate, Aircraft Certification Service, issued AC 33.28–1 on June 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Gary Horan, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 10803; telephone: (781) 238–7164; fax: (781) 238–7199; e-mail: gary.horan@faa.gov. The subject AC is available on the Internet at the following address: www.airweb.faa.gov/rgl.

**SUPPLEMENTARY INFORMATION:** The FAA published a notice in the **Federal Register** on January 26, 2000 (65 FR 4296) to announce the availability of the proposed AC and invite interested parties to comment. The FAA has carefully considered all comments received.

## Background

This AC provides guidance material for methods of complying with § 33.28, Electrical and Electronic Control (EEC) Systems. Initially, EEC technology was primarily applied to engines designed for large transport aircraft applications; the certification practice and implementation of § 33.28 was oriented toward these applications. When the use of EEC technology was limited to a small group of manufacturers, the information and guidance provided in the rule itself was adequate. However, because the use of EEC controls has spread, the need for additional advisory material has become evident in several recent engine certification programs.

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

Dated: Issued in Burlington, Massachusetts, on August 16, 2001.

**Jay J. Pardee,**

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

[FR Doc. 01–21300 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Public Notice for Waiver of Aeronautical Land-Use Assurance Rhinelander-Oneida County Airport, Rhinelander, WI

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of intent of waiver with respect to land.

**SUMMARY:** The Federal Aviation Administration (FAA) is giving notice that a portion of the airport property containing 0.95 acres located in the southeast corner of the airport, south of and immediately adjacent to U.S. Highway (USH) 8, is not needed for aeronautical use as currently identified on the Airport Layout Plan.

The subject of this request is acreage which was originally acquired through Grant No. FAAP–9–47–027–C904 in 1966 as part of an FAA project related to Runway 33. The parcel is presently wooded and undeveloped. The airport wishes to convey ownership of the parcel of vacant land to the Wisconsin Department of Transportation to facilitate planned widening of USH 8 from the present two lanes to four lanes.

Acquisition of the property is needed for site grading. Income from the sale will be used to improve the airport. There are no impacts to the airport by allowing the airport to dispose of the property.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the Federal Register 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

**DATES:** Comments must be received on or before September 24, 2001.

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel J. Millenacker, Program Manager, Federal Aviation Administration, Airports District Office, 6020 28th Avenue South, Room 102, Minneapolis, MN 55450–2706. Telephone Number (612) 713–4359/FAX Number (612) 713–4364. Documents reflecting this FAA action may be reviewed at this same location or at the Rhinelander-Oneida County Airport, Rhinelander, WI.

**SUPPLEMENTARY INFORMATION:** This notice announces that the FAA intends to authorize the disposal of the subject airport property at Rhinelander-Oneida County Airport, Rhinelander, WI. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination that all measures covered by the program are eligible for Airport Improvement Program funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the Federal Register on February 16, 1999.

Issued in Minneapolis, MN on July 30, 2001.

**Nancy M. Nistler,**

*Manager, Minneapolis Airports District Office, FAA, Great Lakes Region.*

[FR Doc. 01–21356 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Agency Information Collection Activity Under OMB Review

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for a request for an extension of the currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on February 15, 2001, pages 10558–10559.

**DATES:** Comments must be submitted on or before September 24, 2001. A comment to OMB is most effective if OMB receives it within 30 days of publication.

**FOR FURTHER INFORMATION CONTACT:** Judy Street on (202) 267–9895.

**SUPPLEMENTARY INFORMATION:**

**Federal Aviation Administration (FAA)**

*Title:* High Density traffic Airports; Slot Allocation and Transfer Methods.

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

*OMB Control Number:* 2120–0524.

*Form(s):* None.

*Affected Public:* 102 air carriers and commuter operators.

*Abstract:* The information collection requirements of the rule involve the air carriers or commuter operators notifying the FAA of their current and planed activities regarding use of the arrival and departure slots at the high-density airports. The FAA logs, verifies, and processes the requests made by the operators. This information is used to allocate and withdraw takeoff and landing slots at the high-denisty airports. The FAA logs, verifies, and processes the requests made by the operators. This information is used to allocate and withdraw takeoff and landing slots at the high-density airports, and confirms transfers of slots made among the operators.

*Estimated Annual Burden Hours:* 3064 hours annually.

**ADDRESSES:** Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on August 17, 2001.

**Steve Hopkins,**

*Manager, Standards and Information Division, APF–100.*

[FR Doc. 01–21357 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Availability of Final Environmental Impact Statement and Final General Conformity Determination; Hartsfield Atlanta International Airport, Atlanta, Georgia

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Availability—Final Environmental Impact Statement (FEIS)

and Final General Conformity Determination.

**SUMMARY:** Pursuant to Section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969, as amended, as implemented by the Council on Environmental Quality (40 CFR Parts 1500–1508), and the requirements of Section 176 of the Clean Air Act Amendments (CAAA) of 1990, the Federal Aviation Administration announces the availability of the Final Environmental Impact Statement and Final General Conformity Determination (Appendix I). The FEIS and Final General Conformity Determination have been filed with the Environmental Protection Agency, and have been made available to other government agencies and interested private parties for the City of Atlanta Department of Aviation's proposal to construct a 9,000-foot long by 150-foot wide Fifth runway and associated projects at Hartsfield Atlanta International Airport, Atlanta, Georgia. The FEIS and Final Conformity Determination are available for a 30-day review starting August 24, 2001 after 1:00 p.m. at locations listed under **SUPPLEMENTARY INFORMATION**. Written comments will be accepted by the FAA until September 24, 2001, or 30 days after the publication of this **Federal Register** Notice, whichever is later.

**FOR FURTHER INFORMATION CONTACT:** Ms. Donna M. Meyer, Environmental Specialist, Federal Aviation Administration, Atlanta Airports District Office, 1701 Columbia Avenue, Suite 2–260, College Park, Georgia, 30337–2747, Phone (404) 305–7150.

**SUPPLEMENTARY INFORMATION:** The City of Atlanta Department of Aviation (DOA), owner and operator of the airport, proposes to construct and operate airside and landside improvements at the Hartsfield Atlanta International Airport. The DOA's proposed project consists of constructing and operating a full service air carrier runway 9,000-feet long by 150-feet wide, with a lateral separation from Runway 9R/27L of 4,200 feet, and shifted approximately 1,900 feet east of the previously environmentally approved 6,000-foot by 100-foot wide runway laterally separated by approximately 4,100 feet from Runway 9R/27L. Projects associated with the runway include two airfield bridges spanning across Interstate 285, the modification of local roadways, and land acquisition. The FEIS has examined the sponsor's proposal project and improvements along with other reasonable alternatives to the proposed project. The FEIS has assessed and considered the potential short and long term impacts on the natural and built environments that would occur as the result of DOA's proposal. Mitigation measures to compensate unavoidable adverse impacts from the proposed project have been identified and committed to by the Department of Aviation.

The Federal Highway Administration (FHWA) has acted as a cooperating agency to the FAA in this EIS. The FAA encourages interested parties to review the FEIS and Final General Conformity Determination and provide any comments during the timeframe identified above.

For the convenience of interested parties and the public, the FEIS and Final General Conformity Determination may be reviewed at the following locations:

Fulton County Central Library, 1 Margaret Mitchell Square, Atlanta
College Park Library, 3647 Main Street, College Park
Clayton County Headquarters Library, 865 Battlecreek Road, Jonesboro
South Fulton Branch, Atlanta-Fulton Public Library, 4055 Flat Shoals Road, Union City
Forest Park Public Library, 696 Main Street, Forest Park
Hartsfield Atlanta International Airport, Department of Aviation Offices—Atrium Suite 430, Atlanta
Federal Aviation Administration, Atlanta Airports District Office, Suite 2–260, 1701 Columbia Avenue, College Park

Issued in College Park, Georgia, August 16, 2001.

**Scott L. Seritt,**

*Manager, Atlanta Airports District Office.*

[FR Doc. 01–21358 Filed 8–22–01; 8:45 am]

BILLING CODE 4901–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–61]**

### Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, D.C. on August 16, 2001.

**Gary A. Michel,**

*Acting Assistant Chief Counsel for Regulations.*

### Dispositions of Petitions

*Docket No.:* FAA–2001–9863.

*Petitioner:* Hospital AirTransport, Inc., dba Helicopter AirTransport, Inc.

*Section of 14 CFR Affected:* 14 CFR 133.45(e)(1).

*Description of Relief Sought/Disposition:* To permit HAT to conduct Class D rotorcraft-load combination operations with an Agusta A 109K2 helicopter certificated in the normal category under 14 CFR part 27.

*Grant, 08/03/2001, Exemption No. 7583.*

*Docket No.:* FAA–2001–9807.

*Petitioner:* Mountain West Helicopters, L.L.C.

*Section of 14 CFR Affected:* 14 CFR 133.19(a)(3) and 133.51.

*Description of Relief Sought/Disposition:* To permit Mountain West to conduct external-load operations in the United States using a leased, Canadian-registered Kaman K–1200 K-Max helicopter (registration No. C–FXFT, serial No. 007).

*Grant, 08/03/2001, Exemption No. 7584.*

*Docket No.:* FAA–2001–9578.

*Petitioner:* General Dynamics Aviation Services.

*Section of 14 CFR Affected:* 14 CFR 145.45(f).

*Description of Relief Sought/Disposition:* To permit GDAS to assign copies of its Inspection Procedures Manual (IPM) to certain individuals and make the IPM available electronically to its supervisory and inspection personnel rather than give a copy of the IPM to each of its supervisory and inspection personnel.

*Grant, 07/13/2001, Exemption No. 7577.*

*Docket No.:* FAA–2001–9783 (previously Docket No. 27911).

*Petitioner:* Líder Táxi Aéreo.

*Section of 14 CFR Affected:* 14 CFR 145.47(b).

*Description of Relief Sought/Disposition:* To permit Líder Táxi to substitute the calibration standards of the Instituto Nacional de Metrologia, Normalização e Qualidade Industrial (INMETRO), Brazil's national standards organization, for the calibration standards of the U.S. National Institute of Standards and Technology (NIST) to test its inspection and test equipment.

*Grant, 07/13/2001, Exemption No. 6999A.*

[FR Doc. 01–21297 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–62]**

### Petitions for Exemption; Summary of Dispositions of Petitions Issued

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of Dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 17, 2001.

**Gary A. Michel,**

*Acting Assistant Chief Counsel or Regulations.*

### Disposition of Petitions

*Docket No.:* FAA–2001–8786 (previously Docket No. 29492).

*Petitioner:* Lynden Air Cargo.

*Section of 14 CFR Affected:* 14 CFR 121.344.

*Description of Relief Sought/Disposition:* To permit LAC to operate its 5 Lockheed Martin 382G Hercules (L382G) airplanes (Registration Nos. N401LC, N402LC, N403LC, N404LC, N405LC; Serial Nos. 4606, 4698, 4590, 4763, and 5025 respectively) under part 121 without those aircraft being equipped with an approved flight data recorder.

*Grant, 07/13/2001, Exemption 6921B.*

*Docket No.:* FAA–2001–9097 (previously Docket No. 27205).

*Petitioner:* Federal Express Corporation.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit part 135 certificate holders that lease aircraft from FedEx to operate those aircraft under part 135 without TSO–C112 (Mode S) transponders installed.

*Grant, 07/09/2001, Exemption 5711F.*

[FR Doc. 01–21298 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Summary Notice No. PE–2001–63]**

### Petitions for Exemption; Summary of Petitions Received

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of petitions for exemption received.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

**DATES:** Comments on petitions received must identify the petition docket number involved and must be received on or before September 12, 2001.

**ADDRESSES:** Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

**FOR FURTHER INFORMATION CONTACT:** Forest Rawls (202) 267–8033, Sandy Buchanan-Sumter (202) 267–7271, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on August 17, 2001.

**Gary A. Michel,**

*Acting Assistant Chief Counsel for Regulations.*

### Petitions for Exemption

*Docket No.:* FAA–2001–9500.

*Petitioner:* Mr. Stephen J. Walsh.

*Section of 14 CFR Affected:* 14 CFR 61.159(c)(2)(ii) and (iii).

*Description of Relief Sought:* To permit Mr. Walsh to use Military Flight Engineer time towards the 1500 hours of total time required for an airline transport pilot certificate.

[FR Doc. 01–21299 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–13–M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

**[Policy Statement No. ANE–2001–35.1–R0]**

### Policy for Parts Manufacturer Approval (PMA) for Critical Propeller Parts

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of proposed policy statement; request for comments.

**SUMMARY:** The Federal Aviation Administration (FAA) announces the availability of proposed policy for parts

manufacturer approval (PMA) for critical propeller parts.

**DATES:** Comments must be received by September 28, 2001.

**ADDRESSES:** Send all comments on the proposed policy to the individual identified under **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Jay Turnberg, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803; e-mail: jay.turnberg@faa.gov; telephone (781) 238–7116; fax: (781) 238–7199.

**SUPPLEMENTARY INFORMATION:**

### Comments Invited

The proposed policy statement is available on the Internet at the following address: http://www.faa.gov/avr/air/ane/ane110/hpage.htm. If you do not have access to the Internet, you may request a copy by contacting the individual listed under **FOR FURTHER INFORMATION CONTACT**. The FAA invites interested parties to comment on the proposed policy. Comments should identify the subject of the proposed policy and be submitted to the individual identified under **FOR FURTHER INFORMATION CONTACT**. The FAA will consider all comments received by the closing date before issuing the final policy.

### Background

This policy would establish a uniform approach for Aircraft Certification Offices (ACOs) to evaluate PMA applications for both critical and life-limited propeller parts. The proposed policy would not establish new requirements.

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

Issued in Burlington, Massachusetts, on August 16, 2001.

**Jay J. Pardee,**

*Manager, Enginer and Propeller Directorate, Aircraft Certification Service.*

[FR Doc. 01–21302 Filed 8–22–01; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

**[Policy Statement No. ANE–1993–33.28TLD–R1]**

## Policy for Time Limited Dispatch (TLD) of Engines Fitted With Full Authority Digital Engine Control (FADEC) Systems

**AGENCY:** Federal Aviation Administration, DOT.

**ACTION:** Notice of availability; policy statement.

**SUMMARY:** The Federal Aviation Administration (FAA) announces the availability of policy for the time limited dispatch (TLD) of engines fitted with full authority digital engine control (FADEC) systems. The FAA has revised its current policy to clarify it; the basic intent of the policy has not changed.

**DATES:** The FAA issued policy statement number ANE–1993–33.28TLD–R1 on June 29, 2001.

**FOR FURTHER INFORMATION CONTACT:** Gary Horan, FAA, Engine and Propeller Standards Staff, ANE–110, 12 New England Executive Park, Burlington, MA 01803; e-mail: gary.horan@faa.gov; telephone: (781) 238–7164; fax: (781) 238–7199. The policy statement is available on the Internet at the following address: http://www.faa.gov/avr/air/ane/ane110/hpage.htm. If you do not have access to the Internet, you may request a copy of the policy by contacting the individual listed in this section.

**SUPPLEMENTARY INFORMATION:** The FAA published in the Federal Register on January 10, 2001 (66 FR 2043) to announce the availability of the proposed policy and invite interested parties to comment.

### Background

The FAA Engine and Propeller Directorate (EPD) issued the original policy on time limited dispatch (TLD) on October 28, 1993. The purpose of that policy is to assure uniformity in applying TLD to engines fitted with FADEC systems. In this revision, the FAA recommends that an applicant for engine type design approval include appropriate TLD information in the engine installation manual. This revised policy does not create any new requirements.

(**AUTHORITY**: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.)

Issued in Burlington, Massachusetts, on August 16, 2001.

**Jay J. Pardee,**

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

[FR Doc. 01–21301 Filed 8–22–01; 8:45 am]

**BILLING CODE 4910–13–M**

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## DEPARTMENT OF TRANSPORTATION

## Federal Highway Administration

**[Docket No. FHWA–2001–10399]**

## Agency Information Collection Activities; Request for Comments; Clearance of a New Information Collection; FHWA Highway Design Handbook for Older Drivers and Pedestrians Workshop Participants' Feedback Survey

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection. The collection involves a survey of participants who have attended the FHWA Highway Design Handbook For Older Drivers and Pedestrians Workshop to determine the extent of use and barriers to the recommendations and guidelines discussed in the Handbook and Workshop. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by October 22, 2001.

**ADDRESSES:** You may mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590; telefax comments to 202/493–2251; or submit electronically at *http://dmses.dot.gov/submit.* All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you desire a receipt you must include a self-addressed stamped envelope or postcard or, if you submit your comments electronically, you may print the acknowledgment page.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Smith, 202–366–6614, Safety Core Business Unit, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

**SUPPLEMENTARY INFORMATION:**

*Title:* FHWA Highway Design Handbook For Older Drivers and Pedestrians Workshop Participants' Feedback Survey

*Background:* The FHWA developed and published in 1998 an ''Older Driver Highway Design Handbook, Recommendation and Guidelines'' for highway designers, traffic engineers and highway safety specialists involved in the design and operation of highway facilities. The Handbook provides practitioners with a practical information source that links older driver road user characteristics to highway design, operational, and traffic engineering recommendations by addressing specific roadway features. A new, revised handbook, ''Guidelines and Recommendations to Accommodate Older Drivers and Pedestrians,'' was published in 2001 that documents new research findings and technical developments since the 1998 publication.

A series of workshops began in 1998 to familiarize practitioners with the recommendations and guidelines. Over 30 workshops have been presented to approximately 900 practitioners, and the workshops are continuing with additional workshops scheduled to provide information to practitioners from the new, revised handbook.

This survey is needed to determine if recommendations and guidelines presented to practitioners in past workshops are being utilized in new and redesigned highway facilities to accommodate the needs and functional limitations of an aging population of road users. The survey is also needed to gauge the success of the workshop presentations in imparting information and determine if adjustments should be considered for future workshops.

*Respondents:* Participants in past workshops, including highway designers, highway engineers and highway safety specialists; and future workshop participants.

*Frequency:* This one-time survey will be conducted initially with a selection of past participants (approximately 500). Thereafter, a survey of participants will be conducted annually, consisting of approximately 50 percent of the participants who attended workshops during that year (approximately 125). The survey will be mailed, and for those participants with known e-mail addresses, the survey will be administered electronically to reduce completion time.

*Estimated Total Annual Burden Hours:* The FHWA estimates that each respondent will be able to complete the survey in approximately 10 minutes. For the initial survey to approximately 500 respondents, total burden hours would be 84 hours. Future annual surveys to approximately 125 respondents are estimated at 21 burden hours.

**Public Comments Invited:**

You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

**Electronic Access:**

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: August 17, 2001.

**James R. Kabel,**

*Chief, Management Programs and Analysis Division.*

[FR Doc. 01–21304 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–22–P

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## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

### Agency Information Collection Activities: Submission for OMB Review

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice and request for comments.

**SUMMARY:** The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for review and approval. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on July 14, 2000 (65 FR 43824). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

**DATES:** Please submit comments by September 24, 2001.

**ADDRESSES:** You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of these information collections, including: (1) Whether the proposed collections are necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burdens could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

**SUPPLEMENTARY INFORMATION**

*Title:* Design/Build Research Study.

*Abstract:* The Transportation Equity Act for the 21st Century (TEA–21), Section 1307, prescribes the interim provisions under which projects can be advanced utilizing design/build contracting procedures. TEA–21 mandates that regulations will be developed to carry out the amendments made by section 1307. With the increased funding available under TEA–21, States are expected to increase their use of design/build contracting to advance projects. One unique aspect of design/build contracting is that it authorizes construction at the time the project agreement is signed. This allows the contractor to begin construction on a parcel of land as soon as it is acquired. The contractor is responsible for maintaining access, availability of utilities and any related safety concerns for vacant landowners, homeowners and/or businesses that await acquisition of, or relocation from, their property for right-of-way purposes. The FHWA Office of Real Estate Services, in conjunction with South Carolina State University, will conduct a survey of the approximately 100 property owners, residents, business owners and various contractors who were involved in a recent design/build project in Virginia. The purpose is to ascertain their perceptions of the prime contractor's ability and responsiveness to possible safety-related, access or utility issues that may have affected them. The information will be collected by telephone/written surveys, personal

interviews and/or site visits. The information gathered from the survey will be used by the Office of Real Estate Services to assist in the drafting of the regulations as prescribed in TEA–21 and any subsequent guidance issued to the states.

*Respondents:* Approximately 100 affected property owners, residents, business owners and various contractors involved in a recent design/build project in Virginia.

*Estimated Total Annual Burden:* 30 minutes per response; total estimate of 50 burden hours.

**FOR FURTHER INFORMAITON CONTACT:** Mr. David Walterscheid, 202–366–9901, Department of Transportation, Federal Highway Administration, Office of Real Estate Services, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 5:00 p.m., Monday through Friday, except Federal holidays.

**Electronic Access**

Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions online for more information and help. An electronic copy of this document may be downloaded using a modem and suitable communications software from the Government Printing Office Electronic Bulletin Board Service at telephone number 202–512–1661. Internet users may reach the **Federal Register**'s home page at *http://www.nara.gov/fedreg* and the Government Printing Office's database at *http://www.access.gpo.gov/nara.*

**Authority:** The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: August 17, 2001.

**James R. Kabel,**

*Chief, Management Programs and Analysis Division.*

[FR Doc. 01–21303 Filed 8–22–01; 8:45 am]

**BILLING CODE 4910–22–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2001–10444]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel ISIS.

**SUMMARY:** As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

**DATES:** Submit comments on or before September 24, 2001.

**ADDRESSES:** Comments should refer to docket number MARAD 2001–10444. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 am and 5 pm, E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

**SUPPLEMENTARY INFORMATION:** Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

**Vessel Proposed for Waiver of the U.S.-Build Requirement**

(1) Name of vessel and owner for which waiver is requested. Name of vessel: ISIS. Owner: James E. Treatch.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''Its principle dimensions are length—50′11″, beam—14′0″, and draft-6′6″. The ISIS tonnage is unknown, as measured pursuant to 46 U.S.C. 14502''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant:''The ISIS intended use is a commercial passenger vessel carrying 12 or less passengers, and operating off the coast of California;''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1975. Place of construction: Hudson Boat Co., Taiwan ROC

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''The ISIS is in the operation of taking customers off-shore cruising. It is expected that, should this wavier be granted, little or no impact will be felt by other commercial passenger vessel operators;''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''Further, it is expected that the granting of this wavier to the ISIS will have no impact on U.S. shipyards.''

Dated: August 17, 2001.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 01–21236 Filed 8–22–01; 8:45 am]

**BILLING CODE 4910–81–P**

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## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

**[Docket Number: MARAD 2001–10445]**

### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of

the Coastwise Trade Laws for the vessel SIDE BY SIDE.

**SUMMARY:** As authorized by Public Law 105–383, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a description of the proposed service, is listed below. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines that in accordance with Public Law 105–383 and MARAD's regulations at 46 CFR part 388 (65 FR 6905; February 11, 2000) that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels, a waiver will not be granted.

**DATES:** Submit comments on or before September 24, 2001.

**ADDRESSES:** Comments should refer to docket number MARAD 2001–10445. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL–401, Department of Transportation, 400 7th St., SW., Washington, DC 20590–0001. You may also send comments electronically via the Internet at *http://dmses.dot.gov/submit/.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://dms.dot.gov.*

**FOR FURTHER INFORMATION CONTACT:** Kathleen Dunn, U.S. Department of Transportation, Maritime Administration, MAR–832 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–2307.

**SUPPLEMENTARY INFORMATION:** Title V of Public Law 105–383 provides authority to the Secretary of Transportation to administratively waive the U.S.-build requirements of the Jones Act, and other statutes, for small commercial passenger vessels (no more than 12 passengers). This authority has been delegated to the Maritime Administration per 49 CFR § 1.66, Delegations to the Maritime Administrator, as amended. By this notice, MARAD is publishing information on a vessel for which a request for a U.S.-build waiver has been received, and for which MARAD requests comments from interested parties. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD'S regulations at 46 CFR part 388.

**Vessel Proposed for Waiver of the U.S.-Build Requirement**

(1) Name of vessel and owner for which waiver is requested. Name of vessel: SIDE BY SIDE. Owner: Ben and Marilyn Siebert.

(2) Size, capacity and tonnage of vessel. According to the applicant: ''42 ft. 6 in. LOA / 24 ft. 8 in. beam / 42 in. draft; Gross Tonnage—22 tons / Net Tonnage—19 tons (US standard); Fuel Capacity—100 gal / Water Capacity—212 gal.''

(3) Intended use for vessel, including geographic region of intended operation and trade. According to the applicant: ''Day sails and multi-day charters, harbor tours, bareboat and crew, in South Florida between Key Largo and Palm Beach (exclusive).''

(4) Date and Place of construction and (if applicable) rebuilding. Date of construction: 1992. Place of construction: Merignac, France.

(5) A statement on the impact this waiver will have on other commercial passenger vessel operators. According to the applicant: ''This Vessel will have negligible impact upon the Miami and South Florida operators. Currently, there are no catamaran day charters operating between Palm Beach and Key Largo (exclusive). All harbor cruises are currently done on large power yachts which can take up to 100 passengers at $14.50 each, with loud music and a party atmosphere. 'Side by Side' would cater to a more relaxed clientele, who prefer to sail with a small group in peace and quiet for approx. $25.00 per person. After diligent research, we could find no sailboats operating as short-term per-person sightseeing charters in Miami.''

(6) A statement on the impact this waiver will have on U.S. shipyards. According to the applicant: ''We have made an exhaustive search for a US built day sailing catamaran. However, we have found that it is very difficult if not impossible to find a vessel that fits our requirements of being U.S. built and USCG approved. There are very few companies building catamarans, and any used boat is grabbed up before I have a chance to bid on a day sailing boat. Our old, Small boat will never supercede the nice and big cats being built, as it can only hold 12 passengers.''

Dated: August 17, 2001.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 01–21237 Filed 8–22–01; 8:45 am]

BILLING CODE 4910–81–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Finance Docket No. 34080]**

### Columbus & Ohio River Rail Road Company—Lease And Operation Exemption—Norfolk Southern Railway Company

Columbus & Ohio River Rail Road Company (C&ORR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease from Norfolk Southern Railway Company (NS) and to operate approximately 0.4 miles of rail line, known as the Joyce Avenue Lead Track, between milepost N–702.5 and milepost N–702.9 in the vicinity of Columbus, Franklin County, OH. C&ORR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class I or a Class II rail carrier.

The earliest date possible for consummation of the transaction is September 25, 2001, 60 days after C&ORR certified that it posted the required notice at the affected employees' workplace and served notice of the transaction, as required, on the national offices of the labor unions with the employees on affected line. *See* 49 CFR 1150.42(e).

C&ORR expects to improve the efficiency with which it interchanges traffic with NS as well as its direct service to shippers local to the subject line.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding 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. 34080, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Kelvin J. Dowd, Slover & Loftus, 1224 17th Street, NW., Washington, DC 20036.

Board decisions and notices are available on our website at WWW.STB.DOT.GOV.

Decided: August 15, 2001.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 01–21036 Filed 8–22–01; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

**[STB Docket No. AB–330 (Sub–No. 3X)]**

### Otter Tail Valley Railroad Company—Abandonment Exemption—in Wilkin and Otter Tail Counties, MN

On August 3, 2001, Otter Tail Valley Railroad Company (OTVR) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a 2.65-mile line of railroad known as the Foxhome branch, extending between milepost 58.8 near French, MN, and milepost 61.45 near Foxhome, MN (the end of the line), in Wilkin and Otter Tail Counties, MN. The line traverses U.S. Postal Service Zip Codes 56537 and 56543, and includes the station of Foxhome.

The line does not contain federally granted rights-of-way. Any documentation in OTVR'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 issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 21, 2001.

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 offer must be accompanied by a $1,000 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 September 12, 2001. 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–330 (Sub-No. 3X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Louis E. Gitomer, 1455 F St., NW, Suite 225, Washington, DC 20005. Replies to the petition are due on or before September 12, 2001.

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) 565–1545. [TDD for the hearing impaired is available 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 website at ''WWW.STB.DOT.GOV.''

Decided: August 17, 2001.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 01–21331 Filed 8–22–01; 8:45 am]

BILLING CODE 4915–00–P

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 14, 2001.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before September 24, 2001 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–0203.

*Form Number:* IRS Form 5329.

*Type of Review:* Extension.

*Title:* Additional Taxes to IRAs, Other Qualified Retirement Plans, Annuities, Modified Endowment Contracts and MSAs.

*Description:* This form is used to compute and collect taxes related to early distributions from individual retirement arrangements (IRAs) and other qualified retirement plans; distributions from education (ED) IRAs not used for educational expenses; excess contributions to traditional IRAs, ED IRAs and medical savings accounts (MSAs); and excess accumulations in qualified retirement plans.

*Respondents:* Individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 1,000,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—2 hr., 5 min.
Learning about the law or the form—33 min.
Preparing the form—2 hr., 7 min.
Copying, assembling, and sending the form to the IRS—14 min.

*Frequency of Response:* On occasion.

*Estimated Total Reporting/Recordkeeping Burden:* 937,000 hours.

*OMB Number:* 1545–1032.

*Form Number:* IRS Form 8689.

*Type of Review:* Extension.

*Title:* Allocation of Individual Income Tax to the Virgin Islands.

*Description:* Form 8689 is used by U.S. citizens or residents as an attachment to Form 1040 when they have Virgin Islands source income. The data is used by IRS to verify the amount claimed on Form 1040 for taxes paid to the Virgin Islands.

*Respondents:* Individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 800.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—2 hr., 44 min.
Learning about the law or the form—19 min.
Preparing the form—1 hr., 1 min.
Copying, assembling, and sending the form to the IRS—20 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 3,512 hours.

*OMB Number:* 1545–1141.

*Notice Number:* Notice 89–102.

*Type of Review:* Extension.

*Title:* Treatment of Acquisition of Certain Financial Institutions; Tax Consequences of Federal Financial Assistance.

*Description:* Section 597 of the Internal Revenue Code provides that the Secretary provide guidance concerning the tax consequences of Federal financial assistance received by qualifying institutions. These institutions may defer payment of Federal income tax attributable to the assistance. Required information identifies deferred tax liabilities.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents:* 250.

*Estimated Burden Hours Per Respondent:* 30 minutes.

*Frequency of Response:* Annually.

*Estimated Total Reporting Burden:* 125 hours.

*OMB Number:* 1545–1552.

*Form Number:* IRS Form 8839.

*Type of Review:* Extension.

*Title:* Qualified Adoption Expenses.

*Description:* Section 23 of the Internal Revenue Code allows taxpayers to claim a nonrefundable tax credit for qualified adoption expenses paid or incurred by the taxpayer. Code section 137 allows taxpayers to exclude amounts paid or expenses incurred by an employer for the qualified adoption expenses of the employee which are paid under an adoption assistance program. Form 8839 is used to figure the credit and/or exclusion.

*Respondents:* Individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 27,271.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—45 min.
Learning about the law or the form—17 min.
Preparing the form—1 hr., 49 min.
Copying, assembling, and sending the form to the IRS—34 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 92,724 hours.

*OMB Number:* 1545–1619.

*Form Number:* IRS Form 8862.

*Type of Review:* Extension.

*Title:* Information to Claim Earned Income Credit After Disallowance.

*Description:* Section 32 of the Internal Revenue Code allows taxpayers as earned income credit (EIC) for each of their qualifying children. Section 32(k), as enacted by section 1085(a)(1) of P.L. 105–34, disallows the EIC for a statutory period if the taxpayer improperly claimed it in a prior year. Form 8862 helps taxpayers reestablish their eligibility to claim the EIC.

*Respondents:* Individuals or households.

*Estimated Number of Respondents/Recordkeepers:* 1,000,000.

*Estimated Burden Hours Per Respondent/Recordkeeper:*

Recordkeeping—52 min.
Learning about the law or the form—7 min.
Preparing the form—1 hr., 11 min.
Copying, assembling, and sending the form to the IRS—34 min.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 2,760,000 hours.

*Clearance Officer:* Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 01–21233 Filed 8–22–01; 8:45 am]

BILLING CODE 4830–01–P

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## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 16, 2001.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before September 24, 2001 to be assured of consideration.

**Internal Revenue Service (IRS)**

*OMB Number:* 1545–1142.

*Regulation Project Number:* INTL–939–86 NPRM.

*Type of Review:* Extension.

*Title:* Insurance Income of a Controlled Foreign Corporation for Taxable Years Beginning After December 11, 1986.

*Description:* The information is required to determine the location of moveable property; allocate income and deductions to the proper category of insurance income, determine those amounts for computing taxable income that are derived from an insurance company annual statement, and permit a Controlled Foreign Corporation (CFC) to elect to treat related person insurance income as income effectively connected with the conduct of a U.S. trade or business. The respondents will be businesses or other for-profit institutions.

*Respondents:* Business or other for-profit.

*Estimated Number of Respondents/Recordkeepers:* 500.

*Estimated Burden Hours Per Respondent/Recordkeeper:* 28 hours, 12 minutes.

*Frequency of Response:* Annually.

*Estimated Total Reporting/Recordkeeping Burden:* 14,100 hours.

*OMB Number:* 1545–1615.

*Regulation Project Number:* REG–118926–97 Final.

*Type of Review:* Extension.

*Title:* Notice of Certain Transfers to Foreign Partnerships and Foreign Corporations.

*Description:* Section 6038B requires U.S. persons to provide certain information when they transfer property to a foreign partnership or foreign corporation. This regulation provides reporting rules to identify United States persons who contribute property to foreign partnerships and to ensure the correct reporting of items with respect to those partnerships.

*Respondents:* Business or other for-profit, individuals or households.

*Estimated Number of Respondents:* 1.

*Estimated Burden Hours Per Respondent:* 1 hour.

*Frequency of Response:* On occasion.

*Estimated Total Reporting Burden:* 1 hour.

*Clearance Officer:* Garrick Shear, Internal Revenue Service, Room 5244, 1111 Constitution Avenue, NW., Washington, DC 20224.

*OMB Reviewer:* Alexander T. Hunt, (202) 395–7860,Office of Management and Budget,Room 10202, New Executive Office Building,Washington, DC 20503.

**Lois K. Holland,**

*Departmental Reports Management Officer.*

[FR Doc. 01–21234 Filed 8–22–01; 8:45 am]

BILLING CODE 4830–01–P

## DEPARTMENT OF THE TREASURY

### Bureau of Alcohol, Tobacco and Firearms

### Delegation Order—Delegation of the Director's Authorities in 27 CFR Part 250, Liquors and Articles from Puerto Rico and the Virgin Islands

To: All Bureau Supervisors.

1. *Purpose.* This order delegates certain authorities of the Director to subordinate ATF officials and prescribes the subordinate ATF officials with whom persons file documents which are not ATF forms.

2. *Background.* Under current regulations, the Director has authority to take final action on matters relating to procedure and administration. The Bureau has determined that certain of these authorities should, in the interest of efficiency, be delegated to a lower organizational level.

3. *Cancellation.* ATF O 1100.88A, Delegation Order—Delegation to the Associate Director (Compliance Operations) of Authorities of the Director in 27 CFR part 250, Liquors from Puerto Rico and Virgin Islands, dated May 10, 1984, is canceled.

4. *Delegations.* Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 120–01 (formerly 221), dated June 6, 1972, and by 26 CFR 301.7701–9, this ATF order delegates certain authorities to take final action prescribed in 27 CFR part 250 to subordinate officials. Also, this ATF order prescribes the subordinate officials with whom applications, notices, and reports required by 27 CFR part 250, which are not ATF forms, are filed. The attached table identifies the regulatory sections, authorities and documents to be filed, and the authorized ATF officials. The authorities in the table may not be redelegated.

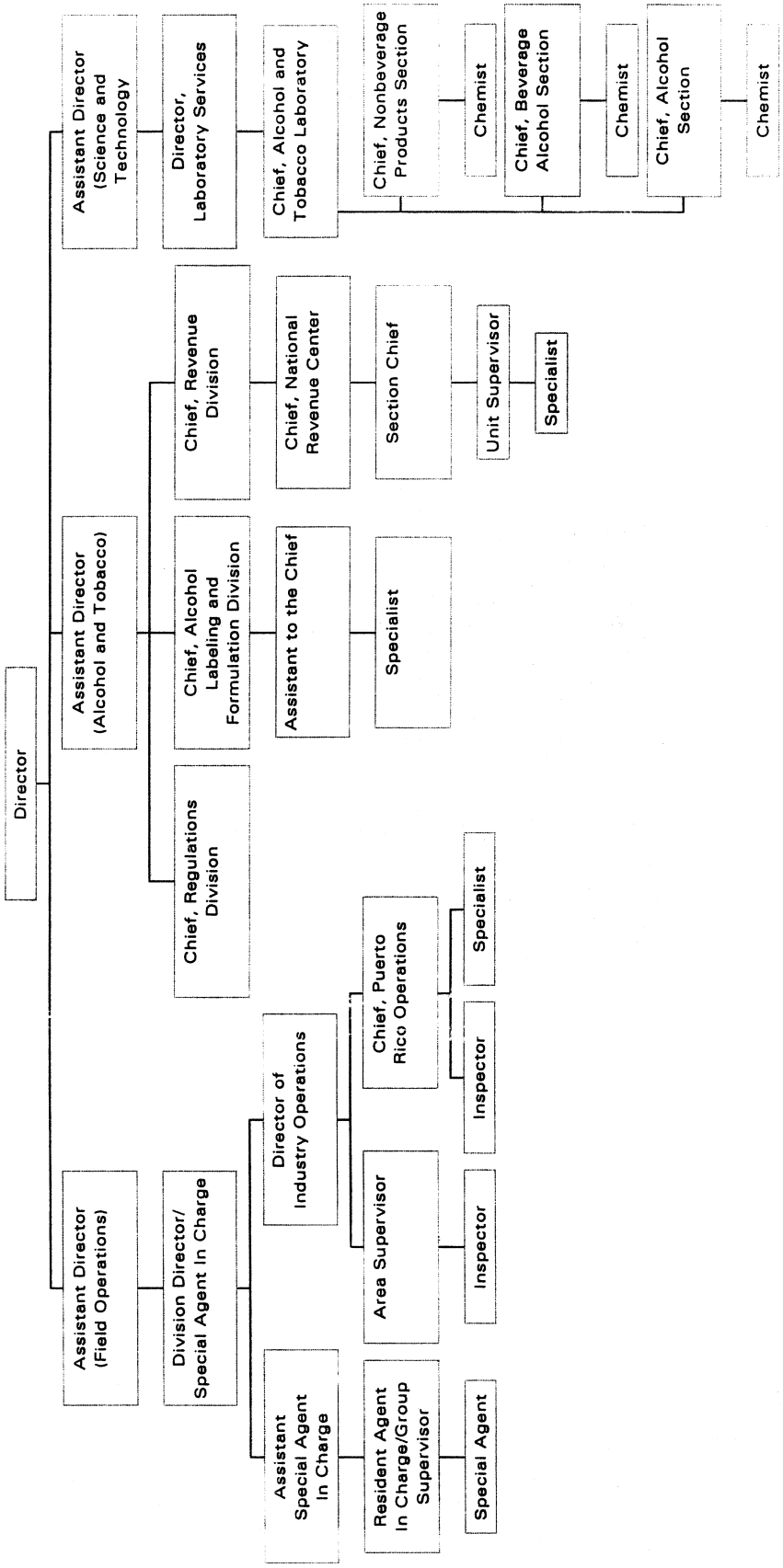
5. *Questions.* If you have questions about this ATF order, contact the Regulations Division (202–927–8210).

**Bradley A. Buckles,**
*Director.*

| Regulatory Section | Officer(s) authorized to act or receive document |
|---|---|
| § 250.2(a) | Chief, Regulations Division |
| § 250.11—liquor bottle definition | Specialist, Alcohol Labeling and Formulation Division (ALFD) |
| § 250.37 | Inspector, Specialist or Special Agent |
| § 250.43 | Chemist, Inspector, Specialist or Special Agent |
| § 250.52(b) and (c) | Chief, Puerto Rico Operations |
| § 250.62(a) | Chief, Puerto Rico Operations |
| § 250.65 | Chief, Puerto Rico Operations |
| § 250.70 | Chief, Puerto Rico Operations |
| § 250.70a | Specialist, Puerto Rico Operations |
| § 250.71(c) and (d) | Chief, Puerto Rico Operations |
| § 250.72 | Chief, Puerto Rico Operations |
| § 250.74 | Chief, Puerto Rico Operations |
| § 250.75 | Chief, Puerto Rico Operations |
| § 250.81 | Chief, Puerto Rico Operations |
| § 250.96 | Chief, Puerto Rico Operations |
| § 250.105 | Chief, Puerto Rico Operations |
| § 250.110 | Chief, Puerto Rico Operations |
| § 250.112(c)(1) and (4) and (e) | Chief, Puerto Rico Operations |
| § 250.112a(b)(1) and (3) and (c)(1) | Chief, Puerto Rico Operations |
| § 250.116 | Inspector, Specialist or Special Agent |
| § 250.119 | Chief, Puerto Rico Operations, to whom forms are forwarded. Inspector, Specialist or Special Agent to examine forms. |
| § 250.126 | Chief, Puerto Rico Operations |
| § 250.128 | Inspector, Specialist or Special Agent |
| § 250.173(a) | Chief, Puerto Rico Operations |
| § 250.174(a) and (e) | Inspector, Specialist or Special Agent |
| § 250.193(b) | Chief, Puerto Rico Operations |
| § 250.194 | Area Supervisor or Chief, Puerto Rico Operations |
| § 250.197 | Unit Supervisor, National Revenue Center (NRC) |
| § 250.209 | Specialist, Regulations Division, or Chemist, ATF Laboratory |
| § 250.222(b) and (c) | Chief, Puerto Rico Operations |
| § 250.275(a) | Section Supervisor, NRC to authorize files to be located at another business location. Inspector, Specialist or Special Agent to examine files. |
| § 250.276 | Inspector, Specialist or Special Agent to inspect and copy records. Director of Industry Operations to extend record retention. |
| § 250.303 | Section Chief, NRC |
| § 250.309(a) | Chief, Puerto Rico Operations |
| § 250.310(a) and (e) | Inspector, Specialist or Special Agent |
| § 250.314(b) | Specialist, ALFD |
| § 250.316 | Specialist, ALFD |
| § 250.318 | Specialist, ALFD |
| § 250.319 | Section Chief, NRC |
| § 250.331 | Chief, Regulations Division |

BILLING CODE 4810–38–P

ATF Organization - not a complete organization chart.



[FR Doc. 01–21074 Filed 8–22–01; 8:45 am]

BILLING CODE 4810–31–C

## DEPARTMENT OF THE TREASURY

### Customs Service

**[T.D. 01–57]**

### Recordation of Trade Name: Red Bull GmbH

**AGENCY:** Customs Service, Treasury.

**ACTION:** Notice of final action.

**SUMMARY:** This document gives notice that ''RED BULL GMBH'' is recorded by Customs as the trade name for Red Bull GmbH, an Austrian corporation organized under the laws of the State of Salzburg located at Brunn 115, A–5330 Fuschl am See, Oesterreich, Austria.

**EFFECTIVE DATE:** August 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Gwendolyn Savoy, Intellectual Property Rights Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Ave., NW.—Suite 3.4A, Washington, DC 20229; (202) 927–2330.

**SUPPLEMENTARY INFORMATION:**

#### Background

Trade names adopted by business entities may be recorded with Customs to afford the particular business entity with increased commercial protection. Customs procedure for recording trade names is provided at § 133.12 of the Customs Regulations (19 CFR 133.12). Pursuant to this regulatory provision, the Red Bull GmbH, an Austrian corporation organized under the laws of the State of Salzburg, and located at Brunn 115, A–5330 Fuschl am See, Oesterreich, Austria, applied to Customs for protection of its trade name ''RED BULL GMBH''.

On Thursday, June 14, 2001, Customs published a notice of application for the recordation of the trade name ''RED BULL GMBH'' in the **Federal Register** (66 FR 32414). The application advised that before final action would be taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name and received not later than August 13, 2001.

The comment period closed August 13, 2001. No comments were received during the comment period. Accordingly, as provided by § 133.12, of the Customs Regulations, ''RED BULL GMBH'' is recorded with Customs as the trade name used by Red Bull GmbH, and will remain in force as long as this trade name is used by this corporation, unless other action is required.

The trade name is used on a product called Red Bull Energy Drink and Point of Sale and other promotional materials for Red Bull Energy Drink. The merchandise is manufactured in Austria.

Dated: August 17, 2001.

**Joanne Roman Stump,**

*Chief, Intellectual Property Rights Branch.*

[FR Doc. 01–21281 Filed 8–22–01; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF THE TREASURY

### Customs Service

**[T.D. 01–58]**

### Recordation of Trade Name: ''Red Bull North America, Inc.''

**AGENCY:** Customs Service, Treasury.

**ACTION:** Notice of final action.

**SUMMARY:** This document gives notice that ''RED BULL NORTH AMERICA, INC.'' is recorded by Customs as the trade name for Red Bull GmbH, an Austrian corporation organized under the laws of the State of Salzburg located at Brunn 115, A–5330 Fuschl am See, Oesterreich, Austria.

**EFFECTIVE DATE:** August 23, 2001.

**FOR FURTHER INFORMATION CONTACT:** Gwendolyn Savoy, Intellectual Property Rights Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Ave., NW.—Suite 3.4A, Washington, DC 20229; (202) 927–2330.

**SUPPLEMENTARY INFORMATION**

#### Background

Trade names adopted by business entities may be recorded with Customs to afford the particular business entity with increased commercial protection. Customs procedure for recording trade names is provided at § 133.12 of the Customs Regulations (19 CFR 133.12). Pursuant to this regulatory provision, the Red Bull GmbH, an Austrian corporation organized under the laws of the State of Salzburg, and located at Brunn 115, A–5330 Fuschl am See, Oesterreich, Austria, applied to Customs for protection of its trade name ''RED BULL NORTH AMERICA, INC''.

On Thursday, June 14, 2001, Customs published a notice of application for the recordation of the trade name ''RED BULL NORTH AMERICA, INC.'' in the **Federal Register** (66 FR 32414). The application advised that before final action would be taken on the application, consideration would be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name and received not later than August 13, 2001.

On Thursday, July 12, 2001, Customs published a correction of publication in the **Federal Register** (66 FR 36617), of the June 14, 2001, notification to record a trade name because part of the corporation's full trade name was erroneously omitted (i.e., NORTH AMERICA, INC.).

The comment period closed August 13, 2001. No comments were received during the comment period. Accordingly, as provided by § 133.12 of the Customs Regulations, ''RED BULL NORTH AMERICA, INC.'' is recorded with Customs as the trade name used by Red Bull GmbH, and will remain in force as long as this trade name is used by this corporation, unless other action is required.

The trade name is used on a product called Red Bull Energy Drink and point of sale and other promotional materials for Red Bull Energy Drink. The merchandise is manufactured in Austria.

Dated: August 17, 2001.

**Joanne Roman Stump,**

*Chief, Intellectual Property Rights Branch.*

[FR Doc. 01–21282 Filed 8–22–01; 8:45 am]

BILLING CODE 4820–02–P

## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0261]**

### Proposed Information Collection Activity: Proposed Collection; Comment Request

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed reinstatement, without change, of a previously approved collection for which approval has expired, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to process the payment of refunds of contributions made by program participants who disenroll from the Post

Vietnam Era Veterans Education Program.

**DATES:** Written comments and recommendations on the proposed collection of information should be received on or before October 22, 2001.

**ADDRESSES:** Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20S52), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0261'' in any correspondence.

**FOR FURTHER INFORMATION CONTACT:** Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

**SUPPLEMENTARY INFORMATION:** Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501 '' 3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

*Title:* Application for Refund of Educational Contributions (VEAP, Chapter 32, Title 38, U.S.C.), VA Form 24–5281.

*OMB Control Number:* 2900–0261.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* VA Form 24–5281 is used by veterans and service persons to request a refund of their contributions to the Post-Vietnam Veterans Education Program. If a participant disenrolls from the program prior to discharge or release from active duty, such contributions will be refunded on the date of the participant's discharge or release from active duty or within 60 days of receipt of notice by the Secretary of Veterans Affairs of the participant's discharge or disenrollment, except that refunds may be made earlier in instances of hardship or other good reason as prescribed in regulations issued jointly by the Secretary and the Secretary of Defense. If the participant disenrolls from the program after discharge or release from active duty, the contributions shall be refunded within 60 days of receipt of the participant's VA Form 24–5281.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 8,333 hours.

*Estimated Average Burden Per Respondent:* 10 minutes.

*Frequency of Response:* On occasion.

*Estimated Number of Respondents:* 50,000.

Dated: July 30, 2001.

By direction of the Secretary.

**Donald L. Neilson,**

*Director, Information Management Service.*

[FR Doc. 01–21250 Filed 8–22–01; 8:45 am]

BILLING CODE 8320–01–P

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## DEPARTMENT OF VETERANS AFFAIRS

**[OMB Control No. 2900–0166]**

## Agency Information Collection Activities Under OMB Review

**AGENCY:** Veterans Benefits Administration, Department of Veterans Affairs.

**ACTION:** Notice.

**SUMMARY:** In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C., 3501 *et seq.*), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

**DATES:** Comments must be submitted on or before September 24, 2001.

**FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT:** Denise McLamb, Information Management Service (045A4), Department of Veterans Affairs, 8l0 Vermont Avenue, NW, Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0166.''

**SUPPLEMENTARY INFORMATION:**

a. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 65, National Service Life Insurance, VA Form 29–8485.

b. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 70, National Service Life Insurance, VA Form 29–8485a.

c. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 65, National Service Life Insurance, VA Form 29–8700.

d. Information About Modified Life Reduction, VA Forms 29–8700a–e.

e. Application for Ordinary Life Insurance, Replacement Insurance for Modified Life Reduced at Age 70, National Service Life Insurance, VA Form 29–8701.

f. Information About Modified Life Reduction, VA Forms 29–8701a–e.

*OMB Control Number:* 2900–0166.

*Type of Review:* Reinstatement, without change, of a previously approved collection for which approval has expired.

*Abstract:* The forms are used by the policyholder to apply for replacement insurance for Modified Life Insurance Reduced at Age 65 and 70. The information is used by VA to initiate the granting of coverage for which applied.

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 **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on May 3, 2001, at page 22284.

*Affected Public:* Individuals or households.

*Estimated Annual Burden:* 1,284 hours.

*Estimated Average Burden Per Respondent:* 5 minutes.

*Frequency of Response:* One-time.

*Estimated Number of Respondents:* 15,400.

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0166'' in any correspondence.

Dated: August 1, 2001.

By direction of the Secretary.

**Donald L. Neilson, Director,**

*Information Management Service.*

[FR Doc. 01–21249 Filed 8–22–01; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
August 23, 2001

# Part II

# State Justice Institute

## Grant Guideline; Notice

## STATE JUSTICE INSTITUTE

### Grant Guideline

**AGENCY:** State Justice Institute.

**ACTION:** Proposed Grant Guideline.

**SUMMARY:** This Guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 2002 State Justice Institute grants, cooperative agreements, and contracts.

**DATES:** The Institute invites public comment on the Guideline until September 24, 2001.

**ADDRESSES:** Comments should be mailed to the State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314 or e-mailed to kschwartz@statejustice.org.

**FOR FURTHER INFORMATION CONTACT:** David I. Tevelin, Executive Director, (703) 684–6100, ext. 214, dtevelin@statejustice.org, or Kathy Schwartz, Deputy Director, (703) 684–6100, ext. 215, kschwartz@statejustice.org, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314.

**SUPPLEMENTARY INFORMATION:** Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, *et seq.*, as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the quality of justice in the State courts of the United States. Complete information about the Institute and its grant program, including tutorials, forms, and instructions for all grant applications, can be found at http://www.statejustice.org.

### Funds Available for Grants

The House of Representatives has approved a $6.835 million appropriation for SJI in FY 2002 (H.R. 2500). The Senate Appropriations Committee has approved a $14.85 million appropriation (S. 1215). A House-Senate conference this fall will determine the Institute's final appropriation.

### Types of Grants Available and Funding Schedules

The SJI grant program is designed to be responsive to the most important needs of the State courts. To meet the full range of the courts' diverse needs, the Institute offers five different categories of grants. The types of grants available in FY 2002 and the funding cycles for each program are provided below:

*Project Grants.* These grants are awarded to support innovative education, research, demonstration, and technical assistance projects that can improve the administration of justice in State courts nationwide. Except for ''Single Jurisdiction'' project grants awarded under section II.D. (see below), project grants are intended to support innovative projects of national significance. As provided in section V.C.1. of the Guideline, project grants may ordinarily not exceed $200,000 a year; however, grants in excess of $150,000 are likely to be rare, and awarded only to support projects likely to have a significant national impact.

SJI also awards ''think piece'' project grants to support the development of essays of publishable quality that explore emerging issues that could result in significant changes in judicial administration. ''Think pieces'' are limited to no more than $10,000. See section II.C.

Section II.D. reserves up to $300,000 for Projects Addressing a Critical Need of a Single State or Local Jurisdiction (''Single Jurisdiction Grants''). To receive a grant under this program, an applicant must demonstrate that (1) the proposed project is essential to meeting a critical need of the jurisdiction and (2) the need cannot be met solely with State and local resources within the foreseeable future. See sections II.D.1. and 2, and VII.A. for Single Jurisdiction Grant application procedures.

To obtain any type of project grant, applicants must submit a concept paper (see section VI.) and, ordinarily, an application (see section VII.). As indicated in Section VI.C.1., the Board may make an ''accelerated'' grant of less than $40,000 on the basis of the concept paper alone when the need for the project is clear and little additional information about the operation of the project would be provided in an application.

The FY 2002 mailing deadline for project grant concept papers is November 21, 2001. Papers must be postmarked or bear other evidence of submission by that date. The Board of Directors will meet in early March 2002 to invite formal applications based on the most promising concept papers. Applications must be sent by May 8, 2002 and awards will be approved by the Board in late July. See section VII.A. for Project Grant application procedures.

*Technical Assistance Grants.* Section II.E. reserves up to $400,000 for Technical Assistance Grants. Under this program, a State or local court may receive a grant of up to $30,000 to engage outside experts to provide technical assistance to diagnose, develop, and implement a response to a jurisdiction's problems.

Letters of application for a Technical Assistance grant may be submitted at any time. Applicants submitting letters between June 11 and September 28, 2001 will be notified of the Board's decision by December 14, 2001; those submitting letters between October 1, 2001 and January 11, 2002 will be notified by March 29, 2002; those submitting letters between January 14 and March 8, 2002 will be notified by May 31, 2002; those submitting letters between March 11 and June 7, 2002 will be notified by August 23, 2002; and those submitting letters between June 10 and September 27, 2002 will be notified of the Board's decision by December 6, 2002. See section VII.D. for Technical Assistance Grant application procedures.

*Judicial Branch Education Technical Assistance Grants.* The Board of Directors seeks comment on a proposed expansion of the Institute's current Curriculum Adaptation grant program that would enable State and local courts to obtain expert assistance in designing and delivering judicial branch education. The expanded program, which would be renamed the Judicial Branch Education Technical Assistance (JBE TA) grant program, would offer grants of up to $20,000 to: (1) Enable a State or local court to adapt and deliver an education program that was previously developed and evaluated under an SJI project grant (i.e., curriculum adaptation); and/or (2) support expert consultation in planning, developing, and administering State judicial branch education programs.

The services available through the expanded program could include consultant assistance in developing systematic or innovative judicial branch education programming, or development of improved methods for assessing the need for, or evaluating, judicial branch education programs. Letters requesting Judicial Branch Education Technical Assistance grants could be submitted at any time throughout the year.

In particular, the Institute is interested in hearing from the field about whether the expanded program would meet important needs of State judicial educators and whether the proposed approach is the optimal way to meet those needs.

*Scholarships.* The Guideline allocates up to $200,000 of FY 2002 funds for scholarships to enable judges and court managers to attend out-of-State education and training programs.

Scholarships for eligible applicants are approved largely on a ''first come, first served'' basis, although the Institute may approve or disapprove scholarship requests in order to achieve appropriate balances on the basis of geography, program provider, and type of court or applicant (e.g., trial judge, appellate judge, trial court administrator). Scholarships will be approved only for programs that either (1) address topics included in the Guideline's Special Interest categories (section II.B.); (2) enhance the skills of judges and court managers; or (3) are part of a graduate program for judges or court personnel.

Applicants interested in obtaining a scholarship for a program beginning between January 2 and March 31, 2002 must submit their applications and any required accompanying documents between October 1 and December 3, 2001. For programs beginning between April 1 and June 30, 2002, the applications and documents must be submitted between January 4 and March 4, 2002. For programs beginning between July 1 and September 30, 2002, the applications and documents must be submitted between April 1 and June 3, 2002. For programs beginning between October 1 and December 31, 2002, the applications and documents must be submitted between July 5 and August 30, 2002. For programs beginning between January 1 and March 31, 2003, the applications and documents must be submitted between October 1 and December 2, 2002. See section VII.F for Scholarship application procedures.

*Continuation and Ongoing Support Grants.* Continuation grants are intended to enhance the specific program or service begun during the initial grant period (see sections III.F, V.B.2., and VII.B.). On-going support grants may be awarded for up to a three-year period to support national-scope projects that provide the State courts with critically needed services, programs, or products (see sections III.Q., V.B.3., and VII.C.).

The Guideline establishes a target for renewal grants of approximately 25% of the total amount projected to be available for grants in FY 2002. Grantees should accordingly be aware that the award of a grant to support a project does not constitute a commitment to provide either continuation funding or on-going support.

An applicant for a continuation or on-going support grant must submit a letter notifying the Institute of its intent to seek such funding, no later than 120 days before the end of the current grant period. The Institute will then notify the applicant of the deadline for its renewal grant application.

**Special Interest Categories**

The Guideline includes nine Special Interest categories, i.e., those project areas that the Board has identified as being of particular importance to State courts this year. The selection of these categories was based on the Board and staff's experience and observations over the past year; the recommendations received from judges, court managers, lawyers, members of the public, and other groups interested in the administration of justice; and the issues identified in recent years' concept papers and applications.

Section II.B. of the Proposed Guideline includes the following Special Interest categories:

Improving Public Confidence in the Courts;

Education and Training for Judges and Other Key Court Personnel;

Dispute Resolution and the Courts;

Application of Technology;

Enhancing Court Management Through Collaboration;

Substance Abuse and the Courts;

Children and Families in Court;

Improving the Courts' Response to Gender-Related Violent Crime; and

The Relationship Between State and Federal Courts.

The Institute also wishes to highlight its interest in supporting a National Symposium on the Role of the Judge in the 21st Century that would examine how evolving demands, responsibilities, and expectations are changing the role of State judges and State courts in American society. The Board of Directors contemplates a multidisciplinary, interactive forum that would help better define public and political expectations of the judiciary, as well as judges' own expectations; identify the barriers to fulfillment of those expectations; and propose ways to overcome those barriers. See section II.B.2.(b)(4).

**Recommendations to Grantwriters**

Recommendations to Grantwriters may be found in Appendix A.

The following Grant Guideline is proposed by the State Justice Institute for FY 2002:

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**I. The Mission of The State Justice Institute**

The Institute was established by Pub. L. 98–620 to improve the administration of justice in the State courts of the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

A. Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

B. Foster coordination and cooperation with the Federal judiciary;

C. Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

D. Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an 11-member Board of Directors appointed by the President, by and with the consent of the Senate. The Board is statutorily composed of six judges, a State court administrator, and four members of the public, no more than two of whom can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

B. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

C. Participate in joint projects with Federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

E. Encourage and assist in furthering judicial education;

F. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

G. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

## II. Scope of the Program

During FY 2002, the Institute will consider applications for funding support that address any of the areas specified in its enabling legislation. The Board, however, has designated nine program categories as being of special interest. See section II.B.

### *A. Authorized Program Areas*

The Institute is authorized to fund projects addressing one or more of the following program areas listed in the State Justice Institute Act, the Battered Women's Testimony Act, the Judicial Training and Research for Child Custody Litigation Act, and the International Parental Kidnapping Crime Act:

1. Assistance to State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

2. Education and training programs for judges and other court personnel for the performance of their general duties and for specialized functions, and national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

3. Research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, implementation of demonstration programs to test such innovative approaches, and evaluations of their effectiveness;

4. Studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and support to States to implement plans for improved court organization and financing;

5. Support for State court planning and budgeting staffs and the provision of technical assistance in resource allocation and service forecasting techniques;

6. Studies of the adequacy of court management systems in State and local courts, and implementation and evaluation of innovative responses to records management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

7. Collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relates to and affects the work of courts;

8. Studies of the causes of trial and appellate court delay in resolving cases, and establishing and evaluating experimental programs for reducing case processing time;

9. Development and testing of methods for measuring the performance of judges and courts, and experiments in the use of such measures to improve the functioning of judges and the courts;

10. Studies of court rules and procedures, discovery devices, and evidentiary standards to identify problems with the operation of such rules, procedures, devices, and standards, and the development of alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and testing of the utility of those alternative approaches;

11. Studies of the outcomes of cases in selected areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity, and the development, testing, and evaluation of alternative approaches to resolving cases in such problem areas;

12. Support for programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

13. Testing and evaluating experimental approaches to provide increased citizen access to justice, including processes which reduce the cost of litigating common grievances, and alternative techniques and mechanisms for resolving disputes between citizens;

14. Collection and analysis of information regarding the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, as well as sources of and methods to obtain funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants;

15. Development of training materials to assist battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use expert testimony on the experiences of battered women in appropriate cases, and individuals with expertise in the experiences of battered women to develop skills appropriate to providing such testimony;

16. Research regarding State judicial decisions relating to child custody litigation involving domestic violence;

17. Development of training curricula to assist State courts to develop an understanding of and appropriate responses to child custody litigation involving domestic violence and child sexual assault;

18. Dissemination of information and training materials and provision of technical assistance regarding the issues listed in paragraphs 14–17 above;

19. Development of national, regional, and in-State training and educational programs dealing with criminal and civil aspects of interstate and international parental child abduction; and

20. Other programs, consistent with the purposes of the State Justice Institute Act, as may be deemed appropriate by the Institute, including projects dealing with the relationship between Federal and State court systems, such as where there is concurrent State-Federal jurisdiction and where Federal courts, directly or indirectly, review State court proceedings.

Funds will not be made available for the ordinary, routine operation of court systems or programs in any of these areas.

### *B. Special Interest Program Categories*

1. General Description

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. The Institute is especially interested in funding projects that:

a. Formulate new procedures and techniques, or creatively enhance existing arrangements to improve the courts;

b. Address aspects of the State judicial systems that are in special need of serious attention;

c. Have national significance by developing products, services, and techniques that may be used in other States; and

d. Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in State and local judicial systems, or provide technical assistance to facilitate the adaptation of effective programs and procedures in other State and local jurisdictions.

A project will be identified as a Special Interest project if it meets the four criteria set forth above and (1) it falls within the scope of the Special Interest program areas designated below; or (2) information coming to the attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

Concept papers and applications which address a Special Interest category will be accorded a preference in the rating process. (See the selection criteria listed in sections VI.C.2. and VIII.B.)

2. Specific Categories

The Board has designated the areas set forth below as Special Interest program categories. The order of listing does not imply any ordering of priorities among the categories. For a complete list of projects supported in previous years in each of these categories, please visit the Institute's Internet homepage at http://www.statejustice.org/ and click on Grants by Category.

a. *Improving Public Confidence in the Courts.* This category includes demonstration, evaluation, research, and education projects designed to improve the responsiveness of courts to public concerns regarding the fairness, accessibility, timeliness, and comprehensibility of the court process, and test innovative methods for increasing the public's trust and confidence in the State courts.

The Institute is particularly interested in supporting innovative projects that:

- Develop national strategies to promote the progress of State court task forces and other court-sponsored programs to eliminate race and ethnic bias in the courts; implement task force recommendations at the State and local level; evaluate the impact of court strategies to address racial and ethnic bias in jurisdictions in which task force recommendations have been implemented; establish mentoring relationships with States that have successfully implemented recommendations to learn from their experiences; develop products that highlight effective model programs and promising practices; and educate judges and court personnel about relevant products developed in different States (e.g., model judicial education curricula, bench books, court conduct handbooks, codes of ethics, and relevant legislation);
- Test and evaluate approaches designed to enhance public access to the courts, including demonstrations of innovative collaborative efforts between courts and community institutions (e.g., bar associations, legal service agencies, schools and public libraries) to enhance access to the courts by people without lawyers, those who are not computer-literate, and people for whom it would be a hardship to travel to a courthouse (in this regard, however, Institute funds may not be used to directly or indirectly support legal representation of individuals in specific cases);
- Develop and test a range of strategies, methodologies, and outcome measures to evaluate the effectiveness of programs established to assist people without lawyers;
- Demonstrate and evaluate restorative justice approaches that involve the community, victim, and offender in restoring the relationship of the offender to the community while ensuring public safety;
- Explore the impact of private judging on public confidence in the courts, including an examination of whether it diverts certain types of cases from the courts, and a comparison of the time and costs to parties who choose private judging with those of parties who go through the traditional court process;
- Evaluate long-term court-based programs that actively involve citizen volunteers in a range of roles, and compile information on promising practices with respect to the effective use of volunteers in the court environment;
- Educate and clearly communicate information to litigants and the public about judicial decisions, the trial and appellate court process, alternative dispute resolution, court operations, and the standards courts maintain with respect to timeliness, access, and the elimination of bias;
- Assure that judges and court employees meet the highest ethical standards and that judicial disciplinary procedures are known, fair, and effective; and
- Compile and disseminate information about practices being used by courts around the country that show the promise of enhancing public trust and confidence in the justice system.

Applicants should be aware that the Institute will not support new surveys to determine the sources of the public's dissatisfaction with the courts.

*b. Education and Training for Judges and Other Key Court Personnel.* The Institute is interested in supporting an array of projects that will continue to strengthen and broaden the availability of court education programs at the State, regional, and national levels. This category is divided into four subsections: (1) Innovative Educational Programs; (2) Judicial Branch Education Technical Assistance Projects; (3) Scholarships; and (4) National Conferences.

(1) *Innovative Educational Programs.* This category includes support for the development and pilot-testing of innovative, high-quality educational programs for trial and appellate judges or court personnel that address key issues of concern to the nation's courts, or help local courts or State court systems develop or enhance their capacity to deliver quality continuing education.

Programs may be designed for presentation at the local, State, regional, or national level. Ordinarily, court education programs should be based on an assessment of the needs of the target audience; include clearly stated learning objectives that delineate the new knowledge or skills participants will acquire (as opposed to a description of what will be taught); incorporate adult education principles and multiple teaching/learning methods; and result in the development of a curriculum as defined in section III.G.

(a) The Institute is particularly interested in supporting the development of education programs that:

- Educate State court judges, law clerks, and staff counsel about capital case law, DNA evidence, and other legal and scientific issues related to the trial and appeal of capital cases;
- Educate State court judges and court personnel about special problems related to the adjudication of capital cases, including jury voir dire, jury sequestration, sentencing hearings, court security, and media management;
- Examine the concepts of restorative justice and their implications for the courts, including (but not limited to) the involvement of the community, victim, and offender in restoring the relationship of the offender to the community while ensuring public safety;

• Acquaint judges with the symptoms of mental illnesses (i.e., depression, manic depression, schizophrenia, anxiety disorders, and obsessive-compulsive disorder) that can lead to serious behavioral problems that repeatedly bring families or offenders to court, and explore meaningful sanctions and referrals to treatment that can prevent future crime and delinquency;

• Develop and test orientation programs for new judges that emphasize the leadership, team-building, and collaboration skills required to preside effectively in problem-solving courts;

• Promote the value of and develop the specific skills needed for intergovernmental team-building, collaboration, and planning among the judicial, executive, and legislative branches of government, or courts within a metropolitan area or multi-State region;

• Address adolescent and youth development, including the role and impact of youth culture (cults and gangs), and the impact that exposure to violence at home, in school, and in the community has on children, and that include materials for appellate, trial, and juvenile and family court judges;

• Assist local courts, State court systems, and court systems in a geographic region to develop or enhance a comprehensive program of continuing education, training, and career development for judges and court personnel as an integral part of court operations;

• Develop and test curricula and materials designed to familiarize judges and court managers with the need for and key elements of effective assistance programs for people without lawyers, and the resources required to sustain them;

• Develop and test curricula for judges on the full range of court-connected alternative dispute resolution approaches and the appropriate context for each of them;

• Test the effectiveness of including a variety of experiential instructional approaches in judicial branch education programs, such as field studies and interchanges with community programs, organizations, and institutions;

• Include innovative self-directed learning packages for use by appellate, trial, juvenile and family court judges and personnel, and distance-learning approaches for these audiences to assist those who do not have ready access to classroom-centered programs. These packages and approaches should include the appropriate use of various media and technologies such as Internet-based programming, interactive CD–ROM or computer disk-based programs, videos, or other audio and visual media, supported by written materials or manuals. They also should include a meaningful program evaluation and a self-evaluation process that assesses pre- and post-program knowledge and skills;

• Familiarize faculty with the effective use of innovative instructional technology, including methods for presenting information through web-based and other distance-learning approaches such as videos and satellite teleconferences;

• Develop and test innovative methods to evaluate the effectiveness of web-based and distance education programs; and

• Develop and test innovative short (one-half or one full day) educational programs on events or issues of critical importance to local courts or courts in a particular region.

(b) The Institute also continues to be very interested in supporting projects that would implement action plans and strategies developed by the State teams at the National Symposium on the Future of Judicial Branch Education held in St. Louis, Missouri, on October 7–9, 1999, as well as proposals from other applicants designed to assist in implementing and disseminating the findings and strategies discussed at the Conference.

(2) *Judicial Branch Education Technical Assistance Projects.* The Board is reserving up to $200,000 to support technical assistance and on-site consultation in planning, developing, and administering comprehensive and specialized State judicial branch education programs, as well as the adaptation of model curricula previously developed with SJI funds.

The goals of the Judicial Branch Education Technical Assistance Program (JBE TA) are to:

(a) Provide State and local courts with expert assistance in developing systematic or innovative judicial branch education programming as well as improved methods for assessing the need for and evaluating the impact of court education programs; and

(b) Enable courts to modify a model curriculum, course module, or conference program developed with SJI funds to meet a particular State's or local jurisdiction's educational needs; train instructors to present portions or all of the curriculum; and pilot-test it to determine its appropriateness, quality, and effectiveness. An illustrative but non-inclusive list of the curricula that may be appropriate for adaptation is contained in Appendix G.

Only State or local courts may apply for JBETA funding. Application procedures may be found in Section VII.E.

(3) *Scholarships for Judges and Court Personnel.* The Institute is reserving up to $200,000 to support a scholarship program for State judges and court managers. The purposes of the scholarship program are to:

• Enhance the skills, knowledge, and abilities of judges and court managers;

• Enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local, and personal budgets; and

• Provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an out-of-State educational program within the United States. Application procedures may be found in Section VII.F.

(4) *National Conferences.* The Institute is interested in supporting a National Symposium on the Role of the Judge in the 21st Century to examine how evolving demands, responsibilities, and expectations are changing the role of State judges and State courts in American society. The Board of Directors contemplates a multidisciplinary, interactive forum that would help better define public and political expectations of the judiciary, as well as judges' own expectations; identify the barriers to fulfillment of those expectations; and propose ways to overcome those barriers.

The Symposium should address the following issues, among others:

• The extent to which courts should be the source of social services to parties in litigation, the approaches by which those services can best be provided, and the criteria for determining when and which services should be provided;

• The potential evolution of the court into a service provider, problem solver, or source of dispute resolution services for the public generally, not just parties in litigation;

• The role of judges and the courts as leaders in cultivating and sustaining community and restorative approaches to justice;

• The participation of judges and court staff in intergovernmental, public-private, and court-community partnerships aimed at addressing issues such as family violence, drug abuse, and child abuse and neglect;

• The role of judges and court personnel in advocacy projects, including not only projects aimed at

improving the administration of justice, but projects seeking to improve society's response to other issues, outside the courts;

• The potential impact of increased involvement in the community on judicial neutrality;

• Ethical constraints that may affect judges and court personnel when they consider whether and how to meet their evolving demands, responsibilities, and expectations; and

• The extent to which the changing role of judges and courts may impinge on the authority of the executive and legislative branches of government.

c. *Dispute Resolution and the Courts.* This category includes research, evaluation, and demonstration projects to evaluate or enhance the effectiveness of court-connected dispute resolution programs. The Institute is interested in projects that facilitate comparison among research studies by using similar measures and definitions; address the nature and operation of ADR programs within the context of the court system as a whole; and compare dispute resolution processes to attorney settlement as well as trial. Specific topics of interest include:

• Examining the timing for referrals to dispute resolution services, and the effect of different referral methods on case outcomes and time to disposition;

• Evaluating innovative court-connected dispute resolution programs for resolving complex and multi-party litigation, environmental hazards, managed health care, minor criminal cases, probate proceedings, and land-use disputes;

• Evaluating innovative alternative dispute resolution processes, including on-line approaches that use the Internet and other computer-based technologies to facilitate dispute resolution;

• Developing methods to eliminate race, ethnic, or gender bias in court-connected dispute resolution programs, testing approaches for assuring that such programs are open to all members of the community served by the court, and assessing whether having a mediator pool that reflects the diversity of the community it serves has an impact on the use of mediation by minorities and its effectiveness; and

• Testing innovative approaches involving community partnerships, particularly in the context of restorative justice, examining the benefits such partnerships offer in ensuring the quality of dispute resolution programs, and compiling examples of promising practices.

Applicants should be aware that the Institute will not provide operational support for ongoing ADR programs or start-up costs of non-innovative ADR programs. Courts also should be advised that it is preferable for an applicant to use its own funds to support the operational costs of an innovative program and request Institute funds to support related technical assistance, training, and evaluation elements of the program.

*d. Application of Technology.* This category includes the testing of innovative applications of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels. The Institute seeks to support local experiments with promising but untested applications of technology in the courts that include an evaluation of the impact of the technology in terms of costs, benefits, and staff workload, and a training component to assure that staff is appropriately educated about the purpose and use of the new technology. In this context, ''untested'' includes novel applications of technology developed for the private sector that have not previously been applied to the courts.

The Institute is particularly interested in supporting efforts to test and evaluate technologies that, if successfully implemented, would significantly re-engineer the way that courts currently do business, including projects that would:

• Demonstrate and evaluate the delivery of technology to rural courts through an Internet-based ''application service provider'' approach;

• Test and evaluate the use of Geographic Information System (GIS) software as a means of examining and improving courts' outreach to particular segments of the communities they serve;

• Evaluate approaches for electronically filing pleadings, briefs, and other documents; approaches to integrate electronic filing and electronic document management; and the impact of electronic court record systems on case management and court procedures;

• Demonstrate and evaluate innovative applications of voice recognition technologies in the adjudication process;

• Demonstrate and evaluate the use of expert system technology to assist judicial decision-making;

• Demonstrate and evaluate the use of videoconferencing technology to present testimony by witnesses in remote locations, and appellate arguments (but see the limitations specified below);

• Test and evaluate the effectiveness of automated systems that would enable courts and other justice agencies to measure their performance with respect to internal processes and customer service against benchmarks and strategic goals; and

• Evaluate innovative applications of technology designed to prevent courthouse incidents that endanger the lives and property of judges, court personnel, and courtroom participants.

Ordinarily, the Institute will not provide support for the purchase of equipment or software to implement a technology that is commonly used by courts, such as videoconferencing between courts and jails, optical imaging for record-keeping, and automated management information systems. (See also section X.I.2.b. regarding other limits on the use of grant funds to purchase equipment and software.)

*e. Enhancing Court Management Through Collaboration.* The Institute is interested in supporting projects that test innovative and collaborative problem-solving approaches for securing, managing, and demonstrating the effective use of the resources required to meet the responsibilities of the judicial branch, including the institutionalization of long-range planning processes. In particular, the Institute is interested in demonstration, evaluation, education, research, and technical assistance projects to:

• Facilitate collaboration, communication, information-sharing, and coordination between the juvenile and criminal courts, between courts and criminal justice agencies, and between courts and court users;

• Identify and assess the effects of collaborative problem-solving approaches designed to assure quality services to court users;

• Strengthen judge and court manager skills in leadership, collaborative planning, case management, facilitation, and human resource development;

• Assess the effects of innovative management approaches designed to assure quality services to court users;

• Enhance the core competencies required of court managers and staff;

• Document and evaluate effective intergovernmental team-building, collaboration, and planning among the judicial, executive, and legislative branches of government, or courts within a metropolitan area or multi-State region;

• Facilitate, demonstrate, and assess the effective use of judge-staff teams for implementing change and encouraging excellence in court operations; and

• Compile examples of promising practices involving any of the management approaches described above.

*f. Substance Abuse.* This category includes education, technical assistance, research, and evaluation projects to assist courts in handling a large volume of substance abuse-related criminal, civil, juvenile, and domestic relations cases fairly and expeditiously. (It does not include providing support for planning, establishing, operating, or enhancing a local drug court. Applicants interested in obtaining grants to implement, operate, or enhance a drug court program should contact the Drug Court Program Office, Office of Justice Programs, U.S. Department of Justice.)

The Institute is particularly interested in projects that would:

- Identify and test innovative methods to provide appropriate case docketing, drug treatment, and services for juveniles transferred to adult criminal court so that they are dealt with as adolescents, document promising practices in this area, and evaluate the outcomes of such cases, including recidivism;
- Evaluate the effectiveness of ''family drug court'' programs (i.e., specialized calendars that provide intensely supervised, court-enforced substance abuse treatment and other services to families involved in child neglect, child abuse, domestic violence, or other family cases);
- Evaluate the effectiveness of court-mandated substance abuse treatment provided to all criminal defendants (not just those appearing in drug courts);
- Educate judges and court managers about the long-term cognitive effects of substance abuse (including alcohol) and their implications for compliance with court orders, probation conditions, release, visitation orders, etc.; and
- Evaluate the effectiveness of innovative procedures to manage persistent misdemeanants who are substance abusers, and procedures designed to monitor probationers who have chronic substance abuse problems.

*g. Children and Families in Court.* This category includes education, demonstration, evaluation, technical assistance, and research projects to identify and inform judges of innovative, effective approaches for handling cases involving children and families. The Institute is particularly interested in projects that would:

- Develop and test guidelines, curricula, and other materials for judges that address the implications of sentencing juveniles as adults, including the need for age-appropriate services like schooling, sentencing alternatives, and pre-trial services;
- Demonstrate and evaluate the effectiveness of a ''one social worker/one family'' or judge-social worker team approach to handling child abuse and neglect cases;
- Develop and test collaborative approaches involving community agencies and members of the public to improve services to families involved with the courts;
- Develop and test innovative protocols, procedures, educational programs, and other measures to address the service needs of children exposed to family violence and the methods for mitigating those effects when issuing protection, custody, visitation, or other orders;
- Develop guidelines and materials to assist judges and other court officers and personnel in critically analyzing psychological evaluations of children and the credibility of clinical experts, their reports, and methods of evaluating children;
- Compile and distribute information about innovative and successful approaches to sentencing and treatment alternatives for serious youthful offenders;
- Develop and test restorative justice approaches that include victims of offenses committed by youthful offenders in the juvenile court process (other than victim-offender mediation programs);
- Create and test educational programs, guidelines, and monitoring systems to assure that the juvenile justice system meets the needs of girls and children of color;
- Develop and test innovative techniques for enhancing collaboration, communication, information-sharing, and coordination of juvenile and criminal courts and divisions;
- Design or evaluate information systems that enable judges and court managers to manage their caseloads effectively, track placement and service delivery, and coordinate orders in different proceedings involving members of the same family; and
- Develop and test educational programs to assure that everyone coming into contact with courts serving children and families is treated with dignity, respect, and courtesy.

*h. Improving the Courts' Response to Gender-Related Violent Crime.* This category includes innovative education, demonstration, technical assistance, evaluation, and research projects to improve the fair and effective processing, consideration, and disposition of cases concerning gender-related violent crimes, including projects that would:

- Educate judges about the unique characteristics of juvenile sex offenders and the specialized array of age-appropriate services they require to control their abusive behavior;
- Evaluate the impact of court policies and procedures and collaborative community approaches designed to ensure that juvenile sex offenders have access to an appropriate array of services;
- Strengthen judges' skills in leadership, collaborative planning, and facilitation of community efforts to reduce and prevent domestic violence;
- Evaluate the implementation of the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act;
- Train custody evaluators, guardians ad litem, and other independent professionals appearing in custody and visitation cases about domestic violence and the impact witnessing such violence has on children;
- Educate judges about how to interpret and evaluate evidence presented by psychologists, psychiatrists, and other professionals appearing in child custody and visitation cases involving domestic violence between the parents;
- Develop and test guidelines to assist judges in identifying issues and risks to the child(ren) and the battered parent when considering whether to order supervised vs. unsupervised visitation in custody cases involving domestic violence between the parents;
- Coordinate juvenile, family, and criminal court management of domestic violence cases;
- Evaluate the effectiveness of domestic violence courts (i.e., specialized calendars or divisions for considering domestic violence cases and related matters), including their impact on victims, offenders, and court operations;
- Develop guidelines, curricula, or other materials that address the appropriate role of probation in monitoring domestic violence offenders;
- Assess the effectiveness of including jurisdiction over family violence in a unified family court;
- Demonstrate effective ways to encourage collaboration among courts, criminal justice agencies, and social services programs in responding to domestic violence and gender-related crimes of violence, and to assure that the courts are fully accessible to victims of domestic violence and other gender-related violent crimes;
- Develop and evaluate educational programs addressing a collaborative community approach to reducing and preventing domestic violence for a multidisciplinary audience that includes judges, prosecutors, defense

attorneys, victim advocates, doctors, and social services providers;

• Test the effectiveness of innovative sentencing and treatment approaches in cases involving domestic violence and other gender-related crimes, including sentences that incorporate regular or periodic judicial review or restorative justice measures;

• Implement recommendations or action plans addressing the co-occurrence of domestic violence and child maltreatment that stem from the conference on Domestic Violence and Child Maltreatment—co-sponsored by SJI, the Department of Health and Human Services, and the Ford Foundation—that was held September 29–30, 2000, in Jackson, Wyoming; and

• Compile and disseminate information about promising practices relating to any of the issues described in this section.

Institute funds may not be used to provide operational support to programs offering direct services or compensation to victims of crimes. (Applicants interested in obtaining such operational support should contact the Office for Victims of Crime [OVC], Office of Justice Programs, U.S. Department of Justice, or the agency in their State that awards OVC funds to State and local victim assistance and compensation programs.)

*i. The Relationship Between State and Federal Courts.* This category includes education, research, demonstration, and evaluation projects designed to facilitate appropriate and effective communication, cooperation, and coordination between State and Federal courts.

(1) The Institute is particularly interested in innovative projects that:

• Evaluate State and Federal courts' experiences with capital cases in order to identify the reasons for reversals of trial court convictions, barriers to timely disposition of capital cases, and steps that can be taken to minimize reversals and undue delay;

• Develop, disseminate, and educate judges about model jury instructions for capital cases;

• Hire law clerks and staff counsel with special expertise in capital case law; and

• Develop new mechanisms for addressing complaints about attorney competence and performance in capital cases.

(2) The Institute also is interested in projects to develop and test new approaches to:

• Coordinate and process mass tort cases fairly and efficiently at the trial and appellate levels;

• Share facilities, jury pools, alternative dispute resolution programs, information regarding persons on pretrial release or probation, and court services; and

• Disseminate information regarding effective methods being used at the trial court, State, and Circuit levels to coordinate cases and administrative activities, and share facilities.

*C. ''Think Pieces''*

This category addresses the development of essays of publishable quality directed to the court community. The essays should explore emerging issues that could result in significant changes in court process or judicial administration and their implications for the future for judges, court managers, policy-makers, and the public. Grants supporting such projects are limited to no more than $10,000. Applicants should follow the procedures for concept papers requesting an accelerated award of a grant of less than $40,000, which are explained in Section VI.A.3.(b) of this Guideline.

Possible topics include, but are not limited to:

• The impact of the ''digital divide'' on pro se litigants who do not have access to computers, particularly as it relates to increasing electronic access to court documents and placing court services and processes on-line;

• The implications of increasing commerce via the Internet for the State courts, including the new rules and procedures that may be needed to address them;

• The implications of voice recognition and other identification technologies on the courts;

• An exploration of issues related to privacy, data security, and public access to court records in our increasingly technological society;

• The potential for the creation of ''cybercourts'' through the use of the Internet—a ''courthouseless court'' instead of a paperless court—and how the courts would have to be re-engineered to accommodate such a development;

• An in-depth articulation of the concept of knowledge management and its implications for the courts;

• The burgeoning needs of small and rural courts and examples of emerging technological advances that could diminish their sense of isolation;

• The likelihood that the courts will experience a major shift in the make-up of judicial branch personnel and shortages of qualified individuals in the next decade as a result of changing demographics and significantly higher salaries available in the private sector, and suggestions for ways to prevent or respond to this occurrence;

• A preliminary exploration of the prevalence of sexual assault in domestic violence cases and the implications for judges with respect to the questions they should ask, the services that should be provided to victims, and the sanctions that should be imposed on offenders;

• The impact of fee-structuring proposals and ''attorney auctions'' on controlling litigation costs in class-action lawsuits and ensuring that plaintiffs receive adequate counsel;

• The likelihood of the emergence of court-connected alternative dispute resolution processes in problem-solving courts and what these specialized courts may need to do to prepare for this change;

• The implications of generalized vs. specialized social services on children and families in court; and

• The potential use of local court advisory councils rooted in the community as a method of promoting public trust and confidence in the court.

*D. Single Jurisdiction Projects*

The Board will set aside up to $300,000 to support projects proposed by State or local courts that address the needs of only the applicant State or local jurisdiction. A project under this section may address any of the topics included in the Special Interest Categories or Statutory Program Areas, but it need not be innovative. The Board is particularly interested in supporting projects to replicate programs, procedures, or strategies that have been developed, demonstrated, or evaluated through an SJI grant. An evaluation component is not required if a grant is awarded to replicate another successful SJI project; however, grants to support replications are subject to the same limits on amount and duration as other project grants. (See section V.) Ordinarily, the Institute will not provide support solely for the purchase of equipment or software.

Concept papers for single jurisdiction projects may be submitted by a State court system, an appellate court, or a limited or general jurisdiction trial court. All awards under this category are subject to the matching requirements set forth in sections III.O. and IX.A.8.a.

The application procedures for Single Jurisdiction grants are the same as the procedures for Project Grants (see section VII.A); however, in addition to the information presented in the program narrative, Single Jurisdiction grant applicants must also demonstrate that:

1. The proposed project is essential to meeting a critical need of the jurisdiction; and

2. The need cannot be met solely with State and local resources within the foreseeable future.

*E. Technical Assistance Grants*

The Board will set aside up to $400,000 to support the provision of technical assistance to State and local courts. The program is designed to provide State and local courts with sufficient support to obtain technical assistance to diagnose a problem, develop a response to that problem, and implement any needed changes. The Institute will reserve sufficient funds each quarter to assure the availability of technical assistance grants throughout the year.

Technical Assistance grants are limited to no more than $30,000 each, and may cover the cost of obtaining the services of expert consultants; travel by a team of officials from one court to examine a practice, program, or facility in another jurisdiction that the applicant court is interested in replicating; or both. Technical assistance grant funds ordinarily may not be used to support production of a videotape. Normally, the technical assistance must be completed within 12 months after the start date of the grant.

Only a State or local court may apply for a Technical Assistance grant. The application procedures may be found in section VII.D.

**III. Definitions**

The following definitions apply for the purposes of this Guideline:

*A. Accelerated Award*

A grant of up to $40,000 awarded on the basis of a concept paper (including a budget and budget narrative) when the need for and benefits of the proposed project are clear and an application would not be needed to provide additional information about the project's methodology and budget. See section VI.C.1. for more information about accelerated awards.

*B. Acknowledgment of SJI Support*

The prominent display of the SJI logo on the front cover of a written product or in the opening frames of a videotape developed with Institute support, and inclusion of a brief statement on the inside front cover or title page of the document or the opening frames of the videotape identifying the grant number. See section IX.A.11.a.(2) for the precise wording of the statement.

*C. Application*

A formal request for an Institute grant that is invited by the Board of Directors after approval of a concept paper. A complete application consists of: Form A—Application; Form B—Certificate of State Approval (for applications from local trial or appellate courts or agencies—see Appendix I); Form C—Project Budget/Tabular Format or Form C1—Project Budget/Spreadsheet Format; Form D—Assurances; Disclosure of Lobbying Activities; a detailed 25-page description of the need for the project and all related tasks, including the time frame for completion of each task, and staffing requirements; and a detailed budget narrative that provides the basis for all costs. See section VII. for a complete description of application submission requirements.

*D. Close-out*

The process by which the Institute determines that all applicable administrative and financial actions and all required grant work have been completed by both the grantee and the Institute.

*E. Concept Paper*

A proposal of no more than eight double-spaced pages that outlines the nature and scope of a project that would be supported with State Justice Institute funds, accompanied by a preliminary budget. See section VI. for a complete description of concept paper submission requirements.

*F. Continuation Grant*

A grant lasting no longer than 15 months to permit completion of activities initiated under an existing Institute grant or enhancement of the products or services produced during the prior grant period. See section VII.B. for a complete description of continuation application requirements.

*G. Curriculum*

The materials needed to replicate an education or training program developed with grant funds including, but not limited to: The learning objectives; the presentation methods; a sample agenda or schedule; an outline of presentations and relevant instructors' notes; copies of overhead transparencies or other visual aids; exercises, case studies, hypotheticals, quizzes, and other materials for involving the participants; background materials for participants; evaluation forms; and suggestions for replicating the program, including possible faculty or the preferred qualifications or experience of those selected as faculty.

*H. Curriculum Adaptation Grant*

A grant of up to $20,000 to support an adaptation and pilot test of an educational program previously developed with SJI funds. See section III.O. defining judicial education branch technical assistance grants. See also section VII.E. for a complete description of judicial branch education technical assistance grant application requirements.

*I. Designated Agency or Council*

The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for SJI grant funds and to receive, administer, and be accountable for those funds.

*J. Disclaimer*

A brief statement that must be included at the beginning of a document or in the opening frames of a videotape produced with State Justice Institute funding that specifies that the points of view expressed in the document or tape do not necessarily represent the official position or policies of the Institute. See section IX.A.11.a.(2) for the precise wording of this statement.

*K. Grant Adjustment*

A change in the design or scope of a project from that described in the approved application, acknowledged in writing by the Institute. See section XI.A for a list of the types of changes requiring a formal grant adjustment. Ordinarily, changes requiring a Grant Adjustment (including budget reallocations between direct cost categories that individually or cumulatively exceed five percent of the approved original budget) should be requested at least 30 days in advance of the implementation of the requested change.

*L. Grantee*

The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, grantee refers to the State Supreme Court or its designee.

*M. Human Subjects*

Individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions, and/or experiences through an interview, questionnaire, or other data collection technique.

*N. Institute*

The State Justice Institute.

*O. Judicial Branch Education Technical Assistance Grant*

A grant of up to $20,000 awarded to a State or local court to support expert assistance in designing or delivering judicial branch education programming, and/or the adaptation of an education program based on an SJI-supported curriculum that was previously developed and evaluated under an SJI project grant.

*P. Match*

The portion of project costs not borne by the Institute. Courts or other units of State or local government (not including publicly supported institutions of higher education) must provide a match from private or public sources of not less than 50% of the total amount of the Institute's award. 42 U.S.C. 10705(d). Match includes both in-kind and cash contributions. Cash match is the direct outlay of funds by the grantee to support the project. In-kind match consists of contributions of time, services, space, supplies, etc., made to the project by the grantee or others (e.g., advisory board members) working directly on the project. Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Board of Directors' approval of an award. Match does not include project-related income such as tuition or revenue from the sale of grant products, or the time of participants attending an education program. Amounts contributed as cash or in-kind match may not be recovered through the sale of grant products during or following the grant period.

*Q. Ongoing Support Grant*

A grant lasting 36 months to support a project that is national in scope and that provides the State courts with services, programs or products for which there is a continuing important need. See section VII.C. for a complete description of ongoing support application requirements.

*R. Products*

Tangible materials resulting from funded projects including, but not limited to: Curricula; monographs; reports; books; articles; manuals; handbooks; benchbooks; guidelines; videotapes; audiotapes; computer software; and CD–ROM disks.

*S. Project Grant*

An initial grant lasting up to 15 months to support an innovative education, research, demonstration, or technical assistance project that can improve the administration of justice in State courts nationwide. Ordinarily, a project grant may not exceed $200,000 a year; however, a grant in excess of $150,000 is likely to be rare and awarded only to support highly promising projects that will have a significant national impact. See section VII.A. for a complete description of project grant application requirements.

*T. Project-Related Income*

Interest, royalties, registration and tuition fees, proceeds from the sale of products, and other earnings generated as a result of a State Justice Institute grant. Project-related income may not be counted as match. For a more complete description of different types of project-related income, see section X.G.

*U. Scholarship*

A grant of up to $1,500 awarded to a judge or court employee to cover the cost of tuition for and transportation to and from an out-of-State educational program within the United States. See section VII.F. for a complete description of scholarship application requirements.

*V. Single Jurisdiction Project Grant*

A grant that addresses a critical but not necessarily innovative need of a single State or local jurisdiction that cannot be met solely with State and/or local resources within the foreseeable future. See section II.D. for a description of single jurisdiction projects and sections VI. and VII.A. for a complete description of single jurisdiction project application requirements.

*W. Special Condition*

A requirement attached to a grant award that is unique to a particular project.

*X. State Supreme Court*

The highest appellate court in a State, or, for the purposes of the Institute program, a constitutionally or legislatively established judicial council that acts in place of that court. In States having more than one court with final appellate authority, State Supreme Court means that court which also has administrative responsibility for the State's judicial system. State Supreme Court also includes the office of the court or council, if any, it designates to perform the functions described in this Guideline.

*Y. Subgrantee*

A State or local court which receives Institute funds through the State Supreme Court.

*Z. Technical Assistance Grant*

A grant, lasting up to 12 months, of up to $30,000 to a State or local court to support outside expert assistance in diagnosing a problem and developing and implementing a response to that problem. See section VII.D. for a complete description of technical assistance grant application requirements.

**IV. Eligibility for Award**

The Institute is authorized by Congress to award grants, cooperative agreements, and contracts to the following entities and types of organizations:

*A. State and Local Courts and Their Agencies (42 U.S.C.10705(b)(1)(A))*

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section X.C.2. of this Guideline. A list of persons to contact in each State regarding approval of applications from State and local courts and administration of Institute grants to those courts is contained in Appendix C.

*B. National Nonprofit Organizations Controlled By, Operating in Conjunction with, and Serving the Judicial Branches of State Governments (42 U.S.C. 10705 (b)(1)(B))*

*C. National Nonprofit Organizations For the Education and Training of Judges and Support Personnel of the Judicial Branch of State Governments (42 U.S.C. 10705(b)(1)(C))*

An applicant is considered a national education and training applicant under section 10705(b)(1)(C) if:

1. the principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and

2. the applicant demonstrates a record of substantial experience in the field of judicial education and training.

*D. Other Eligible Grant Recipients (42 U.S.C.10705(b)(2)(A)–(D))*

1. Provided that the objectives of the project can be served better, the Institute is also authorized to make awards to:

a. Nonprofit organizations with expertise in judicial administration;

b. Institutions of higher education;

c. Individuals, partnerships, firms, corporations (for-profit organizations must waive their fees); and

d. Private agencies with expertise in judicial administration.

2. The Institute may also make awards to Federal, State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements (42 U.S.C. 10705(b)(3)).

*E. Inter-agency Agreements*

The Institute may enter into inter-agency agreements with Federal agencies (42 U.S.C. 10705(b)(4)) and private funders to support projects consistent with the purposes of the State Justice Institute Act.

**V. Types of Projects and Grants; Size of Awards**

*A. Types of Projects*

The Institute supports the following general types of projects:

1. Education and training;
2. Research and evaluation;
3. Demonstration; and
4. Technical assistance.

*B. Types of Grants*

The Institute supports the following types of grants:

1. Project Grants.

See sections II.B., C., and D.; VI.; and VII.A. The Institute places no annual limitations on the overall number of project grant awards or the number of awards in each special interest category.

2. Continuation Grants.

See sections III.F. and VII.B. In FY 2002, the Institute is allocating no more than 25% of available grant funds for continuation and ongoing support grants.

3. Ongoing Support Grants.

See sections III.Q. and VII.C. See Continuation Grants above for limitations on funding availability in FY 2002.

4. Technical Assistance Grants

See section II.E. In FY 2002, the Institute is reserving up to $400,000 for these grants.

5. Judicial Branch Education Technical Assistance Grants.

See sections II.B.2.b.(2), III.H., III.O., and VII.E. In FY 2002, the Institute is reserving up to $200,000 for judicial branch education technical assistance grants, which includes adaptations of curricula previously developed with SJI funding.

6. Scholarships.

See section II.B.2.b.(3), III.U., and VII.F. In FY 2002, the Institute is reserving up to $200,000 for scholarships for judges and court employees. The Institute will reserve sufficient funds each quarter to assure the availability of scholarships throughout the year.

*C. Maximum Size of Awards*

1. Except as specified below, applicants for new project grants and continuation grants may request funding in amounts up to $200,000 for 15 months, although new and continuation awards in excess of $150,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally.

2. Applicants for ongoing support grants may request funding in amounts up to $600,000 over three years, although awards in excess of $450,000 are likely to be rare. The Institute will ordinarily release funds for the second and third years of ongoing support grants on the following conditions: (1) The project is performing satisfactorily; (2) appropriations are available to support the project that fiscal year; and (3) the Board of Directors determines that the project continues to fall within the Institute's priorities.

3. Applicants for technical assistance grants may request funding in amounts up to $30,000.

4. Applicants for judicial branch education technical assistance grants may request funding in amounts up to $20,000.

5. Applicants for scholarships may request funding in amounts up to $1,500.

*D. Length of Grant Periods*

1. Grant periods for all new and continuation projects ordinarily may not exceed 15 months.

2. Grant periods for ongoing support grants ordinarily may not exceed 36 months.

3. Grant periods for technical assistance grants and curriculum adaptation grants ordinarily may not exceed 12 months.

**VI. Concept Papers**

Concept papers are an extremely important part of the application process because they enable the Institute to learn the program areas of primary interest to the courts and to explore innovative ideas, without imposing heavy burdens on prospective applicants. The use of concept papers also permits the Institute to better project the nature and amount of grant awards. The concept paper requirement and the submission deadlines for concept papers and applications may be waived by the Executive Director for good cause (e.g., the proposed project could provide a significant benefit to the State courts or the opportunity to conduct the project did not arise until after the deadline). The On-Line Tutorials available on the Institute's web site (www.statejustice.org) walk potential applicants through the concept paper and application requirements for project grants.

*A. Format and Content*

All concept papers must include a cover sheet, a program narrative, and a preliminary budget.

1. The Cover Sheet

The cover sheet for all concept papers must contain:

a. A title that clearly describes the proposed project;

b. The name and address of the court, organization, or individual submitting the paper;

c. The name, title, address (if different from that in b.), and telephone number of a contact person who can provide further information about the paper;

d. The number of the statutory Program Area (see section II.A.) and the letter of the Special Interest Category (see section II.B.2.) that the proposed project addresses most directly; and

e. The estimated length of the proposed project.

Applicants requesting the Board to waive the application requirement and approve a grant of less than $40,000 based on the concept paper should add APPLICATION WAIVER REQUESTED to the information on the cover page.

2. The Program Narrative

The program narrative of a concept paper should be no longer than necessary, but must not exceed 8 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch and type size must be at least 12 point and 12 cpi. The pages should be numbered. The narrative should describe:

a. Why is this project needed and how would it benefit State courts? If the project is to be conducted in a specific location(s), applicants should discuss the particular needs of the project site(s) to be addressed by the project, why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources, and the benefits that would be realized by the proposed site(s).

If the project is not site-specific, applicants should discuss the problems that the proposed project would address; why existing materials, programs, procedures, services, or other resources cannot adequately resolve those problems; and the benefits that would be realized from the project by State courts generally.

b. What would be done if a grant is awarded? Applicants should include a summary description of the project to be

conducted and the approach to be taken, including the anticipated length of the grant period. Applicants requesting a waiver of the application requirement for a grant of less than $40,000 should explain the proposed methods for conducting the project as fully as space allows, and include a detailed task schedule as an attachment to the concept paper.

c. How would the effects and quality of the project be determined? Applicants should include a summary description of how the project would be evaluated, including the criteria that would be used to measure its success or impact.

d. How would others find out about the project and be able to use the results? Applicants should describe the products that would result, the degree to which they would be applicable to courts across the nation, and to whom the products and results of the project would be disseminated in addition to the SJI-designated libraries (e.g., State chief justices, specified groups of trial judges, State court administrators, specified groups of trial court administrators, State judicial educators, or other audiences). Applicants proposing to develop web-based products should provide for sending a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or electronic product (i.e., a written report with a reference to the web site).

3. The Budget

*a. Preliminary Budget.* A preliminary budget must be attached to the narrative that includes the information specified on Form E included in Appendix H of this Guideline. Applicants should be aware that prior written Institute approval is required for any consultant rate in excess of $300 per day and that Institute funds may not be used to pay a consultant in excess of $900 per day.

*b. Concept Papers Requesting Accelerated Award of a Grant of Less than $40,000.* Applicants requesting a waiver of the application requirement and approval of a grant based on a concept paper under C. in this section must attach to Form E (see Appendix H) a budget narrative that explains the basis for each of the items listed and indicates whether the costs would be paid from grant funds, through a matching contribution, or from other sources. Courts requesting an accelerated award must also attach a Certificate of State Approval—Form B (see Appendix I) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee.

4. Letters of Cooperation or Support

The Institute encourages concept paper applicants to attach letters of cooperation and support from the courts and related agencies that would be involved in or directly affected by the proposed project. Letters of support may be sent under separate cover; however, to ensure sufficient time to bring them to the Board's attention, support letters sent under separate cover must be received no later than January 4, 2002.

5. Page Limits

*a.* The Institute will not accept concept papers with program narratives exceeding eight double-spaced pages (see A.2. of this section). This page limit does not include the cover page, budget form, letters of cooperation or support, or, for papers requesting accelerated awards, the budget narrative and task schedule. Additional material should not be attached unless it is essential to impart a clear understanding of the project.

*b.* Applicants submitting more than one concept paper may include material that would be identical in each concept paper in a cover letter. This material will be incorporated by reference into each paper and counted against the eight-page limit for each. A copy of the cover letter should be attached to each copy of each concept paper.

6. Sample Concept Papers

Sample concept papers from previous funding cycles are available from the Institute upon request.

*B. Submission Requirements*

An original and three copies of all concept papers submitted for consideration in Fiscal Year 2002 must be sent by first class or overnight mail or by courier (but not by fax or e-mail) no later than November 21, 2001.

A postmark or courier receipt will constitute evidence of the submission date. All envelopes containing concept papers should be marked CONCEPT PAPER and sent to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314.

The Institute will acknowledge receipt of each concept paper in writing. Extensions of the deadline for submission of concept papers will not be granted without good cause.

*C. Institute Review*

1. Review Process

Concept papers will be reviewed competitively by the Institute's Board of Directors. Institute staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion for those concept papers which fall within the scope of the Institute's funding program and merit serious consideration by the Board. Staff will also prepare a list of those papers that, in the judgment of the Executive Director, propose projects that lie outside the scope of the Institute's program or are not likely to merit serious consideration by the Board. The narrative summaries, rating sheets, and list of non-reviewed papers will be presented to the Board for its review. Committees of the Board will review concept paper summaries within assigned program areas and prepare recommendations for the full Board. The full Board of Directors will then decide which concept paper applicants will be invited to submit formal applications for funding. The decision to invite an application is solely that of the Board of Directors.

The Board may waive the application requirement and approve a grant based on a concept paper for a project requiring less than $40,000 when the need for and benefits of the project are clear and the methodology and budget require little additional explanation. Applicants considering whether to request consideration for an accelerated award should make certain that the proposed budget is sufficient to accomplish the project objectives in a quality manner. Because the Institute's experience has been that projects to conduct empirical research or a program evaluation ordinarily require a more thorough explanation of the methodology to be used than can be provided within the space limitations of a concept paper, the Board is unlikely to waive the application requirement for such projects.

2. Selection Criteria

a. All concept papers will be evaluated on the basis of the following criteria:

(1) The demonstration of need for the project;

(2) The soundness and innovativeness of the approach described;

(3) The benefits to be derived from the project;

(4) The reasonableness of the proposed budget;

(5) The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B; and

(6) The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

Single jurisdiction concept papers will be rated on the proposed project's relation to one of the ''Special Interest''

categories set forth in section II.B. and the special requirements listed in sections II.D. and VII.A.

b. In determining which concept papers will be approved for award or selected for development into full applications, the Institute will also consider the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's anticipated match; whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or another type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(b)), as amended, and section IV of this Grant Guideline); the extent to which the proposed project would also benefit the Federal courts or help the State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

3. Notification to Applicants

The Institute will send written notice to all persons submitting concept papers, informing them of the Board's decisions regarding their papers and of the key issues and questions that arose during the review process. A decision by the Board not to invite an application may not be appealed, but applicants may resubmit the concept paper or a revision thereof in a subsequent funding cycle. The Institute will also notify the relevant State contact (see Appendix C) when the Board invites applications submitted by courts within that State or that specify a participating site within that State.

## VII. Applications

For a summary of the application process, visit the Institute's web site (www.statejustice.org) and click on On-Line Tutorials, then Project Grant.

### *A. Project Grants*

An application for a Project Grant must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and certain certifications and assurances. The Institute will send the required application forms to applicants invited to submit a full application.

1. Forms

*a. Application Form (FORM A).* The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete; that submission of the application has been authorized by the applicant; and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

*b. Certificate of State Approval (FORM B).* An application from a State or local court must include a copy of FORM B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that if funding for the project is approved by the Institute, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

*c. Budget Forms (FORM C or C1).* Applicants may submit the proposed project budget either in the tabular format of FORM C or in the spreadsheet format of FORM C1. Applicants requesting $100,000 or more are strongly encouraged to use the spreadsheet format. If the proposed project period is for more than a year, a separate form should be submitted for each year or portion of a year for which grant support is requested, as well as for the total length of the project.

In addition to FORM C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the estimates in each budget category. (See section VII.A.4. below.)

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

*d. Assurances (FORM D).* This form lists the statutory, regulatory, and policy requirements with which recipients of Institute funds must comply.

*e. Disclosure of Lobbying Activities.* Applicants other than units of State or local government are required to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. (See section IX.A.7.)

2. Project Abstract

The abstract should highlight the purposes, goals, methods, and anticipated benefits of the proposed project. It should not exceed 1 single-spaced page on 8½ by 11 inch paper.

3. Program Narrative

The program narrative for an application may not exceed 25 double-spaced pages on 8½ by 11 inch paper. Margins must be at least 1 inch, and type size must be at least 12-point and 12 cpi. The pages should be numbered. This page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to impart a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

*a. Project Objectives.* The applicant should include a clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (e.g., to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (e.g., provide training for 32 judges and court managers, or review data from 300 cases).

*b. Program Areas to be Covered.* The applicant should note the Special Interest Category or Categories that are addressed by the proposed project (see section II.B.). If the proposed project does not fall within one of the Institute's Special Interest Categories, the applicant should list the Statutory Program Area or Areas that are addressed by the proposed project. (See section II.A.)

*c. Need for the Project.* If the project is to be conducted in a specific location(s), the applicant should discuss the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services, or other resources.

If the project is not site-specific, the applicant should discuss the problems that the proposed project would address, and why existing materials, programs, procedures, services, or other resources cannot adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

*d. Tasks, Methods and Evaluation.* (1) *Tasks and Methods.* The applicant should delineate the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

(a) For research and evaluation projects, the applicant should include the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to the human subjects, a discussion should be included that explains the value of the proposed research and the methods to be used to minimize or eliminate such risk.

(b) For education and training projects, the applicant should include the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty would be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars, or workshops to be conducted and the estimated number of persons who would attend them; the materials to be provided and how they would be developed; and the cost to participants.

(c) For demonstration projects, the applicant should include the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they would be identified and their cooperation obtained; and how the program or procedures would be implemented and monitored.

(d) For technical assistance projects, the applicant should explain the types of assistance that would be provided; the particular issues and problems for which assistance would be provided; how requests would be obtained and the type of assistance determined; how suitable providers would be selected and briefed; how reports would be reviewed; and the cost to recipients.

(2) *Evaluation.* Every project design must include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology, or services tested; or the validity and applicability of the research conducted. In addition, where appropriate, the evaluation process should be designed to provide ongoing or periodic feedback on the effectiveness or utility of the project in order to promote its continuing improvement. The plan should present the qualifications of the evaluator(s); describe the criteria that would be used to evaluate the project's effectiveness in meeting its objectives; explain how the evaluation would be conducted, including the specific data collection and analysis techniques to be used; discuss why this approach would be appropriate; and present a schedule for completion of the evaluation within the proposed project period.

The evaluation plan should be appropriate to the type of project proposed. For example:

(a) Research. An evaluation approach suited to many research projects is a review by an advisory panel of the research methodology, data collection instruments, preliminary analyses, and products as they are drafted. The panel should be comprised of independent researchers and practitioners representing the perspectives affected by the proposed project.

(b) Education and Training. The most valuable approaches to evaluating educational or training programs reinforce the participants' learning experience while providing useful feedback on the impact of the program and possible areas for improvement. One appropriate evaluation approach is to assess the acquisition of new knowledge, skills, attitudes, or understanding through participant feedback on the seminar or training event. Such feedback might include a self-assessment of what was learned along with the participant's response to the quality and effectiveness of faculty presentations, the format of sessions, the value or usefulness of the material presented, and other relevant factors. Another appropriate approach would be to use an independent observer who might request both verbal and written responses from participants in the program. When an education project involves the development of curricular materials, an advisory panel of relevant experts can be coupled with a test of the curriculum to obtain the reactions of participants and faculty as indicated above.

(c) Demonstration. The evaluation plan for a demonstration project should encompass an assessment of program effectiveness (e.g., how well did it work?); user satisfaction, if appropriate; the cost-effectiveness of the program; a process analysis of the program (e.g., was the program implemented as designed, and/or did it provide the services intended to the targeted population?); the impact of the program (e.g., what effect did the program have on the court, and/or what benefits resulted from the program?); and the replicability of the program or components of the program.

(d) Technical Assistance. For technical assistance projects, applicants should explain how the quality, timeliness, and impact of the assistance provided would be determined, and develop a mechanism for feedback from both the users and providers of the technical assistance.

Evaluation plans involving human subjects should include a discussion of the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of evaluation but would be affected by it. Other than the provision of confidentiality to respondents, human subject protection issues ordinarily are not applicable to participants evaluating an education program.

*e. Project Management.* The applicant should present a detailed management plan, including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that would ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination, would occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (i.e., no later than January 30, April 30, July 30, and October 30).

Applicants should be aware that the Institute is unlikely to approve more than one limited extension of the grant period. Therefore, the management plan should be as realistic as possible and fully reflect the time commitments of the proposed project staff and consultants.

*f. Products.* The program narrative in the application should contain a description of the products to be developed (e.g., training curricula and materials, videotapes, articles, manuals, or handbooks), including when they would be submitted to the Institute. The budget should include the cost of producing and disseminating the product to each in-State SJI library, State chief justice, State court administrator, and other appropriate judges or court personnel.

(1) *Dissemination Plan.* The application must explain how and to whom the products would be disseminated; describe how they would benefit the State courts, including how they could be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant would be offered to the courts community and the public at large (i.e., whether products would be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product) (see section IX.A.11.b.). Ordinarily, applicants should schedule all product preparation and distribution activities within the project period.

A copy of each product must be sent to the library established in each State to collect the materials developed with Institute support. (A list of these libraries is contained in Appendix D.) Applicants proposing to develop web-based products should provide for sending a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or electronic product (i.e., a written report with a reference to the web site).

Seventeen (17) copies of all project products must be submitted to the Institute, along with an electronic version in .html format. A master copy of each videotape, in addition to 17 copies of each videotape product, must also be provided to the Institute.

(2) *Types of Products and Press Releases.* The type of product to be prepared depends on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that would be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they would make their data available for secondary analysis after the grant period. (See section IX.A.14.a.).

The curricula and other products developed through education and training projects should be designed for use outside the classroom so that they may be used again by the original participants and others in the course of their duties.

In addition, recipients of project grants must prepare a press release describing the project and announcing the results, and distribute the release to a list of national and State judicial branch organizations. SJI will provide press release guidelines and a list of recipients to grantees at least 30 days before the end of the grant period.

(3) *Institute Review.* Applicants must submit a final draft of all written grant products to the Institute for review and approval at least 30 days before the products are submitted for publication or reproduction. For products in a videotape or CD–ROM format, applicants must provide for incremental Institute review of the product at the treatment, script, rough-cut, and final stages of development, or their equivalents. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute. (See section IX.A.11.e.)

(4) *Acknowledgment, Disclaimer, and Logo.* Applicants must also include in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section IX.A.11.a.(2) of the Guideline. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video, unless the Institute approves another placement.

*g. Applicant Status.* An applicant that is not a State or local court and has not received a grant from the Institute within the past two years should state whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments, or a national non-profit organization for the education and training of State court judges and support personnel. See section IV. If the applicant is a nonjudicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

*h. Staff Capability.* The applicant should include a summary of the training and experience of the key staff members and consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that would be used to select persons for these positions should be included. The applicant also should identify the person who would be responsible for managing and reporting on the finances of the proposed project.

*i. Organizational Capacity.* Applicants that have not received a grant from the Institute within the past two years should include a statement describing their capacity to administer grant funds, including the financial systems used to monitor project expenditures (and income, if any), and a summary of their past experience in administering grants, as well as any resources or capabilities that they have that would particularly assist in the successful completion of the project.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past two years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

If the applicant is a non-profit organization (other than a university), it must also provide documentation of its 501(c) tax-exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For purposes of this requirement, ''current'' means no earlier than two years prior to the present calendar year.

If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire, which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

*j. Statement of Lobbying Activities.* Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form, which documents whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts.

*k. Letters of Cooperation or Support.* If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, the applicant should attach written assurances of cooperation and availability to the application, or send them under

separate cover. To ensure sufficient time to bring them to the Board's attention, letters of support sent under separate cover must be received by June 7, 2002.

4. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. When the proposed project would be partially supported by grants from other funding sources, applicants should make clear what costs would be covered by those other grants. Additional background or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should cover the costs of all components of the project and clearly identify costs attributable to the project evaluation. Under OMB grant guidelines incorporated by reference in this Guideline, grant funds may not be used to purchase alcoholic beverages.

*a. Justification of Personnel Compensation.* The applicant should set forth the percentages of time to be devoted by the individuals who would staff the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rates of those individuals. The applicant should explain any deviations from current rates or established written organizational policies. If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42 U.S.C. 10706 (d)(1). An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds would support only the portion of the employee's time that would be dedicated to new or additional duties related to the project.

*b. Fringe Benefit Computation.* The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented, as well as a description of the elements included in the determination of the percentage rate.

*c. Consultant/Contractual Services and Honoraria.* The applicant should describe the tasks each consultant would perform, the estimated total amount to be paid to each consultant, the basis for compensation rates (e.g., the number of days multiplied by the daily consultant rates), and the method for selection. Rates for consultant services must be set in accordance with section X.I.2.c. Honorarium payments must be justified in the same manner as other consultant payments. Prior written Institute approval is required for any consultant rate in excess of $300 per day; Institute funds may not be used to pay a consultant more than $900 per day.

*d. Travel.* Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose of the travel should also be included in the narrative.

*e. Equipment.* Grant funds may be used to purchase only the equipment necessary to demonstrate a new technological application in a court or that is otherwise essential to accomplishing the objectives of the project. Equipment purchases to support basic court operations ordinarily will not be approved. The applicant should describe the equipment to be purchased or leased and explain why the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described. Purchases for automated data processing equipment must comply with section X.I.2.b.

*f. Supplies.* The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

*g. Construction.* Construction expenses are prohibited except for the limited purposes set forth in section IX.A.16.b. Any allowable construction or renovation expense should be described in detail in the budget narrative.

*h. Telephone.* Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used to calculate the monthly and long distance estimates.

*i. Postage.* Anticipated postage costs for project-related mailings, including distribution of the final product(s), should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the budget narrative.

*j. Printing/Photocopying.* Anticipated costs for printing or photocopying project documents, reports, and publications should be included in the budget narrative, along with the bases used to calculate these estimates.

*k. Indirect Costs.* Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (e.g., a percentage of the time of senior managers to supervise project activities), the applicant should specify that these costs are not included within its approved indirect cost rate. These rates must be established in accordance with section X.I.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement should be attached to the application.

*l. Match.* The applicant should describe the source of any matching contribution and the nature of the match provided. Any additional contributions to the project should be described in this section of the budget narrative as well. If in-kind match is to be provided, the applicant should describe how the amount and value of the time, services, or materials actually contributed would be documented for audit purposes. Applicants should be aware that the time spent by participants in education courses does not qualify as in-kind match.

Applicants that do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions would be made. (See sections III.O., IX.A.8., and X.E.1.)

5. Submission Requirements

a. Every applicant must submit an original and four copies of the application package consisting of FORM A; FORM B, if the application is from a State or local court, or a Disclosure of Lobbying Form, if the applicant is not a unit of State or local government; the Budget Forms (either FORM C or C–1);

the Application Abstract; the Program Narrative; the Budget Narrative; and any necessary appendices.

All applications invited by the Institute's Board of Directors must be sent by first class or overnight mail or by courier no later than May 8, 2002. A postmark or courier receipt will constitute evidence of the submission date. Please mark APPLICATION on the application package envelope and send it to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

Receipt of each application will be acknowledged in writing. Extensions of the deadline for submission of applications will not be granted without good cause.

b. Applicants submitting more than one application may include material that would be identical in each application in a cover letter. This material will be incorporated by reference into each application and counted against the 25-page limit for the program narrative. A copy of the cover letter should be attached to each copy of each application.

*B. Continuation Grant Applications*

1. Purpose and Scope

Continuation grants are intended to support projects with a limited duration that involve the same type of activities as the previous project. They are intended to enhance the specific program or service produced or established during the prior grant period. They may be used, for example, when a project is divided into two or more sequential phases, for secondary analysis of data obtained in an Institute-supported research project, or for more extensive testing of an innovative technology, procedure, or program developed with SJI grant support. Continuation grants should be distinguished from ongoing support grants, which are awarded to support critically needed long-term national scope projects. See section VII.C. below.

The award of an initial grant to support a project does not constitute a commitment by the Institute to continue funding. For a project to be considered for continuation funding, the grantee must have completed all project tasks and met all grant requirements and conditions in a timely manner, absent extenuating circumstances or prior Institute approval of changes to the project design. Continuation grants are not intended to provide support for a project for which the grantee has underestimated the amount of time or funds needed to accomplish the project tasks.

2. Letters of Intent

In lieu of a concept paper, a grantee seeking a continuation grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for continued funding becomes apparent but no less than 120 days before the end of the current grant period.

a. A letter of intent must be no more than 3 single-spaced pages on 81/2 by 11 inch paper and contain a concise but thorough explanation of the need for continuation; an estimate of the funds to be requested; and a brief description of anticipated changes in the scope, focus, or audience of the project.

b. Within 30 days after receiving a letter of intent, Institute staff will review the proposed activities for the next project period and inform the grantee of specific issues to be addressed in the continuation application and the date by which the application must be submitted.

3. Application Format

An application for a continuation grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in A.2. of this section, a program narrative, a budget narrative, a Certificate of State Approval—FORM B (Appendix I) if the applicant is a State or local court, a Disclosure of Lobbying Activities form (from applicants other than units of State or local government), and any necessary appendices.

The program narrative should conform to the length and format requirements set forth in section VII.A.3. However, rather than the topics listed there, the program narrative of a continuation application should include:

*a. Project Objectives.* The applicant should clearly and concisely state what the continuation project is intended to accomplish.

*b. Need for Continuation.* The applicant should explain why continuation of the project is necessary to achieve the goals of the project, and how the continuation would benefit the participating courts or the courts community generally, by explaining, for example, how the original goals and objectives of the project would be unfulfilled if it were not continued; or how the value of the project would be enhanced by its continuation.

*c. Report of Current Project Activities.* The applicant should discuss the status of all activities conducted during the previous project period. Applicants should identify any activities that were not completed, and explain why.

*d. Evaluation Findings.* The applicant should present the key findings, impact, or recommendations resulting from the evaluation of the project, if available, and how they would be addressed during the proposed continuation. If the findings are not yet available, the applicant should provide the date by which they would be submitted to the Institute. Ordinarily, the Board will not consider an application for continuation funding until the Institute has received the evaluator's report.

*e. Tasks, Methods, Staff, and Grantee Capability.* The applicant should fully describe any changes in the tasks to be performed, the methods to be used, the products of the project, and how and to whom those products would be disseminated, as well as any changes in the assigned staff or the grantee's organizational capacity. Applicants should include, in addition, the criteria and methods by which the proposed continuation project would be evaluated.

*f. Task Schedule.* The applicant should present a detailed task schedule and timeline for the next project period.

*g. Other Sources of Support.* The applicant should indicate why other sources of support would be inadequate, inappropriate, or unavailable.

4. Budget and Budget Narrative

The applicant should provide a complete budget and budget narrative conforming to the requirements set forth in VII.A.4. above. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. In addition, the applicant should estimate the amount of grant funds that would remain unobligated at the end of the current grant period.

5. References to Previously Submitted Material

A continuation application should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements

The submission requirements set forth in section VII.A.5., other than the mailing deadline, apply to continuation applications.

*C. Ongoing Support Grants*

1. Purpose and Scope

Ongoing support grants are intended to support projects that are national in scope and provide the State courts with services, programs or products for

which there is a continuing critical need. An ongoing support grant may also be used to fund longitudinal research that directly benefits the State courts. Ongoing support grants are subject to the limits on size and duration set forth in V.C.2. and V.D.2. The Board will consider awarding an ongoing support grant for a period of up to 36 months. The total amount of the grant will be fixed at the time of the initial award. Funds ordinarily will be made available in annual increments as specified in section V.C.2.

The award of an initial grant to support a project does not constitute a commitment by the Institute to provide ongoing support at the end of the original project period. A project is eligible for consideration for an ongoing support grant if:

a. The project is supported by and has been evaluated under a grant from the Institute;

b. The project is national in scope and provides a significant benefit to the State courts;

c. There is a continuing critical need for the services, programs or products provided by the project, indicated by the level of use and support by members of the court community;

d. The project is accomplishing its objectives in an effective and efficient manner; and

e. It is likely that the service or program provided by the project would be curtailed or significantly reduced without Institute support.

Each ongoing support application must include an evaluation component assessing its effectiveness and operation throughout the grant period. The evaluation should be independent but may be designed collaboratively by the evaluator and the grantee. The design should call for regular feedback from the evaluator to the grantee throughout the project period concerning recommendations for mid-course corrections or improvement of the project, as well as periodic reports to the Institute at relevant points in the project.

An interim evaluation report must be submitted 18 months into the 3-year grant period. The decision to release Institute funds to support the third year of the project will be based on the interim evaluation findings and the applicant's response to any deficiencies noted in the report, as well as the availability of appropriations and the project's consistency with the Institute's priorities.

A final evaluation assessing the effectiveness, operation of, and continuing need for the project must be submitted 90 days before the end of the 3-year project period. In addition, a detailed annual task schedule must be submitted not later than 45 days before the end of the first and second years of the grant period, along with an explanation of any necessary revisions in the projected costs for the remainder of the project period.

2. Letters of Intent

In lieu of a concept paper, an applicant seeking an ongoing support grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for continuing funding becomes apparent but no less than 120 days before the end of the current grant period. The letter of intent should be in the same format as that prescribed for continuation grants in B.2. of this section.

3. Format

An application for an ongoing support grant must include an application form; budget forms (with appropriate documentation); a Certificate of State Approval—FORM B (Appendix I) if the applicant is a State or local court; a Disclosure of Lobbying Activities form (from applicants other than units of State or local government); a project abstract conforming to the format set forth in A.2. of this section; a program narrative; a budget narrative; and any necessary appendices.

The program narrative should conform to the length and format requirements set forth in A.3. of this section; however, rather than the topics listed there, the program narrative of applications for ongoing support grants should address:

*a. Description of Need for and Benefits of the Project.* The applicant should provide a detailed discussion of the benefits provided by the project to State courts around the country, including the degree to which State courts, State court judges, or State court managers and personnel are using the services or programs provided by the project.

*b. Demonstration of Court Support.* The applicant should demonstrate support for the continuation of the project from the courts community.

*c. Report on Current Project Activities.* The applicant should discuss the extent to which the project has met its goals and objectives, identify any activities that have not been completed, and explain why they have not been completed.

*d. Evaluation Findings.* The applicant should attach a copy of the final evaluation report regarding the effectiveness, impact, and operation of the project, specify the key findings or recommendations resulting from the evaluation, and explain how they would be addressed during the next three years. Ordinarily, the Board will not consider an application for ongoing support until the Institute has received the evaluator's report.

*e. Objectives, Tasks, Methods, Staff, and Grantee Capability.* The applicant should describe fully any changes in the objectives; tasks to be performed; the methods to be used; the products of the project; how and to whom those products would be disseminated; the assigned staff; and the grantee's organizational capacity. The grantee also should describe the steps it would take to obtain support from other sources for the continued operation of the project.

*f. Task Schedule.* The applicant should present a general schedule for the full proposed project period and a detailed task schedule for the first year of the proposed new project period.

*g. Other Sources of Support.* The applicant should describe what efforts it has taken to secure support for the project from other sources.

4. Budget and Budget Narrative

The applicant should provide a complete three-year budget and budget narrative conforming to the requirements set forth in A.4. of this section, and estimate the amount of grant funds that would remain unobligated at the end of the current grant period. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. A complete budget narrative should be provided for the full project as well as for each year, or portion of a year, for which grant support is requested. The budget should provide for realistic cost-of-living and staff salary increases over the course of the requested project period. Applicants should be aware that the Institute is unlikely to approve a supplemental budget increase for an ongoing support grant in the absence of well-documented, unanticipated factors that would clearly justify the requested increase.

5. References to Previously Submitted Material

An application for an ongoing support grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements

The submission requirements set forth in section VII.A.5., other than the mailing deadline, apply to applications for ongoing support grants.

*D. Technical Assistance Grants*

1. Purpose and Scope

Technical assistance grants are awarded to State and local courts to obtain the assistance of outside experts in diagnosing, developing, and implementing a response to a particular problem in a jurisdiction.

2. Application Procedures

For a summary of the application procedures for Technical Assistance grants, visit the Institute's web site (www.statejustice.org) and click On-Line Tutorials, then Technical Assistance Grant.

In lieu of formal applications, applicants for Technical Assistance grants may submit, at any time, an original and three copies of a detailed letter describing the proposed project. Letters from an individual trial or appellate court must be signed by the presiding judge or manager of that court. Letters from the State court system must be signed by the Chief Justice or State Court Administrator.

3. Application Format

Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information:

*a. Need for Funding.* What is the critical need facing the court? How would the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

*b. Project Description.* What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.) What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task? What is the time frame for completion of the entire project? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

*c. Likelihood of Implementation.* What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

*d. Support for the Project from the State Supreme Court or its Designated Agency or Council.* Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix I) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

4. Budget and Matching State Contribution

A completed Form E, Preliminary Budget (see Appendix H) and budget narrative must be included with the letter requesting technical assistance. The estimated cost of the technical assistance services should be broken down into the categories listed on the budget form rather than aggregated under the Consultant/Contractual category.

The budget narrative should provide the basis for all project-related costs, including the basis for determining the estimated consultant costs, if compensation of the consultant is required (e.g., the number of days per task times the requested daily consultant rate). Applicants should be aware that consultant rates above $300 per day must be approved in advance by the Institute, and that no consultant will be paid more than $900 per day from Institute funds. In addition, the budget should provide for submission of two copies of the consultant's final report to the Institute.

Recipients of Technical Assistance grants do not have to submit an audit but must maintain appropriate documentation to support expenditures. (See section IX.A.3.)

5. Submission Requirements

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters between:

June 11 and September 28, 2001 will be notified of the Board's decision by December 14, 2001;

October 1, 2001 and January 11, 2002 will be notified by March 29, 2002;

January 14, 2002 and March 8, 2002 will be notified by May 31, 2002;

March 11, 2002 and June 7, 2002 will be notified by August 23, 2002; and

June 10 and September 27, 2002 will be notified of the Board's decision by December 6, 2002.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation should accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Board's Technical Assistance Committee, letters sent under separate cover must be received not less than three weeks prior to the Board meeting at which the technical assistance requests will be considered (i.e., by October 26, 2001, and February 8, April 19, July 5, and October 18, 2002).

*E. Judicial Branch Education Technical Assistance Grants*

1. Purpose and Scope

Judicial Branch Education Technical Assistance (JBE TA) grants are awarded to State and local courts to support: (1) Expert assistance in planning, developing, and administering State judicial branch education programs; and/or (2) replication or modification of a model training program originally developed with Institute funds. Ordinarily, the Institute will support the

adaptation of a curriculum once (i.e., with one grant) in a given State.

JBE TA grants may support consultant assistance in developing systematic or innovative judicial branch educational programming. The assistance might include development of improved methods for assessing the need for, and evaluating the quality and impact of, court education programs and their administration by State or local courts; faculty development; and/or topical program presentations. Such assistance may be tailored to address the needs of a particular State or local court or specific categories of court employees throughout a State and, in certain cases, in a region, if sponsored by a court.

2. Application Procedures

For a summary of the application procedures for Judicial Branch Education Technical Assistance grants, visit the Institute's web site (www.statejustice.org) and click on On-Line Tutorials, then Judicial Branch Education Technical Assistance Grant.

In lieu of concept papers and formal applications, applicants should submit an original and three photocopies of a detailed letter.

3. Application Format

Although there is no prescribed format for the letter, or a minimum or maximum page limit, letters of application should include the following information:

a. For on-site consultant assistance:

*(1) Need for Funding.* What is the critical judicial branch educational need facing the court? How would the proposed technical assistance help the court meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

*(2) Project Description.* What tasks would the consultant be expected to perform, and how would they be accomplished? Which organization or individual would be hired to provide the assistance, and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdictions' normal procedures for procuring consultant services.) What specific tasks would the consultant(s) and court staff undertake? What is the schedule for completion of each required task? What is the time frame for completion of the entire project? How would the court oversee the project and provide guidance to the consultant, and who at the court would be responsible for coordinating all project tasks and submitting quarterly progress and financial status reports?

If the consultant has been identified, the applicant should provide a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time frame and for the proposed cost. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

*(3) Likelihood of Implementation.* What steps have been or would be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of specific court officials or committees, other agencies, funding bodies, organizations, or a court other than the applicant would be needed to adopt the changes recommended by the consultant and approved by the court, how would they be involved in the review of the recommendations and development of the implementation plan?

*(4) Support for the Project from the State Supreme Court or its Designated Agency or Council.* Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix I) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

b. For adaptation of a curriculum:

*(1) Project Description.* What is the title of the model curriculum to be adapted and who originally developed it with Institute funding? Why is this education program needed at the present time? What are the project's goals? What are the learning objectives of the adapted curriculum? What program components would be implemented, and what types of modifications, if any, are anticipated in length, format, learning objectives, teaching methods, or content? Who would be responsible for adapting the model curriculum? Who would the participants be, how many would there be, how would they be recruited, and from where would they come (e.g., from across the State, from a single local jurisdiction, from a multi-State region)?

*(2) Need for Funding.* Why are sufficient State or local resources unavailable to fully support the modification and presentation of the model curriculum? What is the potential for replicating or integrating the adapted curriculum in the future using State or local funds, once it has been successfully adapted and tested?

*(3) Likelihood of Implementation.* What is the proposed timeline, including the project start and end dates? On what date(s) would the judicial branch education program be presented? What process would be used to modify and present the program? Who would serve as faculty, and how were they selected? What measures would be taken to facilitate subsequent presentations of the program? (Ordinarily, an independent evaluation of a curriculum adaptation project is not required; however, the results of any evaluation should be included in the final report.)

*(4) Expressions of Interest by Judges and/or Court Personnel.* Does the proposed program have the support of the court system leadership, and of judges, court managers, and judicial branch education personnel who are expected to attend? (This may be demonstrated by attaching letters of support.)

*(5) Chief Justice's Concurrence.* Local courts should attach a concurrence form signed by the Chief Justice of the State or his or her designee. (See Form B, Appendix I.)

4. Budget and Matching State Contribution

Applicants should attach a copy of budget Form E (see Appendix H) and a budget narrative (see A.4. in this section) that describes the basis for the computation of all project-related costs and the source of the match offered. As with other awards to State or local courts, cash or in-kind match must be provided in an amount equal to at least 50 percent of the grant amount requested.

5. Submission Requirements

Letters of application may be submitted at any time. However, applicants should allow at least 90 days between the date of submission of a curriculum adaptation request and the date of the proposed program to allow sufficient time for needed planning.

*F. Scholarships*

1. Purpose and Scope

The purposes of the Institute scholarship program are to enhance the

skills, knowledge, and abilities of judges and court managers; enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local, and personal budgets; and provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending an educational program in another State. An applicant may apply for a scholarship for only one educational program during any one application cycle.

Scholarship funds may be used only to cover the costs of tuition and transportation expenses. Transportation expenses may include round-trip coach airfare or train fare. Scholarship recipients are strongly encouraged to take advantage of excursion or other special airfares (e.g., reductions offered when a ticket is purchased 21 days in advance of the travel date or because the traveler is staying over a Saturday night) when making their travel arrangements. Recipients who drive to a program site may receive $.345/mile up to the amount of the advanced-purchase round-trip airfare between their homes and the program sites. Funds to pay tuition and transportation expenses in excess of $1,500 and other costs of attending the program—such as lodging, meals, materials, transportation to and from airports, and local transportation (including rental cars)—at the program site must be obtained from other sources or borne by the scholarship recipient. Scholarship applicants are encouraged to check other sources of financial assistance and to combine aid from various sources whenever possible.

*A scholarship is not transferable to another individual.* It may be used only for the course specified in the application unless attendance at a different course that meets the eligibility requirements is approved in writing by the Institute. Decisions on such requests will be made within 30 days after the receipt of the request letter.

2. Eligibility Requirements

For a summary of the Scholarship award process, visit the Institute's web site at www.statejustice.org and click on On-Line Tutorials, then Scholarship.

*a. Recipients.* Scholarships can be awarded only to full-time judges of State or local trial and appellate courts; full-time professional, State, or local court personnel with management responsibilities; and supervisory and management probation personnel in judicial branch probation offices. Senior judges, part-time judges, quasi-judicial hearing officers including referees and commissioners, State administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers, and other executive branch personnel are not eligible to receive a scholarship.

*b. Courses.* A Scholarship can be awarded only for a course presented in a State other than the one in which the applicant resides or works that is designed to enhance the skills of new or experienced judges and court managers; addresses any of the topics listed in the Institute's Special Interest categories; or is offered by a recognized graduate program for judges or court managers. The annual or mid-year meeting of a State or national organization of which the applicant is a member does not qualify as an out-of-State educational program for scholarship purposes, even though it may include workshops or other training sessions.

Applicants are encouraged not to wait for the decision on a scholarship to register for an educational program they wish to attend.

3. Forms

*a. Scholarship Application—FORM S–1* (Appendix G). The Scholarship Application requests basic information about the applicant and the educational program the applicant would like to attend. It also addresses the applicant's commitment to share the skills and knowledge gained with local court colleagues and to submit an evaluation of the program the applicant attends. The Scholarship Application must bear the original signature of the applicant. Faxed or photocopied signatures will not be accepted.

*b. Scholarship Application Concurrence—FORM S–2* (Appendix G). Judges and court managers applying for Scholarships must submit the written concurrence of the Chief Justice of the State's Supreme Court (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence form (see Appendix G). The signature of the presiding judge of the applicant's court cannot be substituted for that of the Chief Justice or the Chief Justice's designee. Court managers, other than elected clerks of court, also must submit a letter of support from their immediate supervisors.

4. Submission Requirements

Scholarship applications must be submitted during the periods specified below:

October 1 and December 3, 2001, for programs beginning between January 1 and March 31, 2002;

January 4 and March 4, 2002, for programs beginning between April 1 and June 30, 2002;

April 1 and June 3, 2002, for programs beginning between July 1 and September 30, 2002;

July 5 and August 30, 2002, for programs beginning between October 1 and December 31, 2002, and

October 1 and December 2, 2002, for programs beginning between January 1 and March 31, 2003.

No exceptions or extensions will be granted. Applications sent prior to the beginning of an application period will be treated as having been sent one week after the beginning of that application period. All the required items must be received for an application to be considered. If the Concurrence form or letter of support is sent separately from the application, the postmark date of the last item to be sent will be used in applying the above criteria.

All applications should be sent by mail or courier (not fax or e-mail) to: Scholarship Program Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria, VA 22314.

## VIII. Application Review Procedures

*A. Preliminary Inquiries*

The Institute staff will answer inquiries concerning application procedures. The staff contact will be named in the Institute's letter acknowledging receipt of the application.

*B. Selection Criteria*

1. Project, Continuation, and Ongoing Support Grant Applications

a. All applications will be rated on the basis of the criteria set forth below. The Institute will accord the greatest weight to the following criteria:

(1) The soundness of the methodology;

(2) The demonstration of need for the project;

(3) The appropriateness of the proposed evaluation design;

(4) The applicant's management plan and organizational capabilities;

(5) The qualifications of the project's staff;

(6) The products and benefits resulting from the project, including the extent to which the project will have long-term benefits for State courts across the nation;

(7) The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions;

(8) The reasonableness of the proposed budget;

(9) The demonstration of cooperation and support of other agencies that may be affected by the project; and

(10) The proposed project's relationship to one of the ''Special Interest'' categories set forth in section II.B.

b. For continuation and ongoing support grant applications, the key findings and recommendations of evaluations and the proposed responses to those findings and recommendations also will be considered.

c. In determining which projects to support, the Institute will also consider whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(6) (as amended) and Section IV. above); the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's match; the extent to which the proposed project would also benefit the Federal courts or help State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

2. Technical Assistance Grant Applications

Technical Assistance grant applications will be rated on the basis of the following criteria:

a. Whether the assistance would address a critical need of the court;

b. The soundness of the technical assistance approach to the problem;

c. The qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s);

d. The court's commitment to act on the consultant's recommendations; and

e. The reasonableness of the proposed budget.

The Institute also will consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, the level of appropriations available to the Institute in the current year, and the amount expected to be available in succeeding fiscal years.

3. Judicial Branch Education Technical Assistance Grant Applications

Judicial Branch Education Technical Assistance grant applications will be rated on the basis of the following criteria:

a. For on-site consultant assistance:

(1) Whether the assistance would address a critical need of the court;

(2) The soundness of the technical assistance approach to the problem;

(3) The qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s);

(4) The court's commitment to act on the consultant's recommendations; and

(5) The reasonableness of the proposed budget.

b. For curriculum adaptation projects:

(1) The goals and objectives of the proposed project;

(2) The need for outside funding to support the program;

(3) The appropriateness of the approach in achieving the project's educational objectives;

(4) The likelihood of effective implementation and integration of the modified curriculum into the State's or local jurisdiction's ongoing educational programming; and

(5) Expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project.

The Institute will also consider factors such as the reasonableness of the amount requested, compliance with match requirements, diversity of subject matter, geographic diversity, the level of appropriations available in the current year, and the amount expected to be available in succeeding fiscal years.

4. Scholarships

Scholarships will be awarded on the basis of:

a. The date on which the application and concurrence (and support letter, if required) were received;

b. The unavailability of State or local funds to cover the costs of attending the program or scholarship funds from another source;

c. The absence of educational programs in the applicant's State addressing the topic(s) covered by the educational program for which the scholarship is being sought;

d. Geographic balance among the recipients;

e. The balance of scholarships among educational programs;

f. The balance of scholarships among the types of courts represented; and

g. The level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

The postmark or courier receipt will be used to determine the date on which the application form and other required items were sent.

*C. Review and Approval Process*

1. Project, Continuation, and Ongoing Support Grant Applications

Applications will be reviewed competitively by the Board of Directors. The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. When necessary, applications may also be reviewed by outside experts. Committees of the Board will review applications within assigned program categories and prepare recommendations to the full Board. The full Board of Directors will then decide which applications to approve for grants. The decision to award a grant is solely that of the Board of Directors.

Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute.

2. Technical Assistance and Judicial Branch Education Technical Assistance Grant Applications

The Institute staff will prepare a narrative summary of each application and a rating sheet assigning points for each relevant selection criterion. Applications will be reviewed competitively by a committee of the Board of Directors. The Board of Directors has delegated its authority to approve Technical Assistance and Judicial Branch Education Technical Assistance grants to the committee established for each program.

Approved awards will be signed by the Chairman of the Board on behalf of the Institute.

3. Scholarships

Scholarship applications are reviewed quarterly by a committee of the Inistitute's Board of Directors. The Board of Directors has delegated its authority to approve Scholarships to the committee established for the program.

Approved awards will be signed by the Chairman of the Board on behalf of the Institute.

*D. Return Policy*

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

*E. Notification of Board Decision*

1. The Institute will send written notice to applicants concerning all Board decisions to approve, defer, or deny their respective applications. For all applications (except Scholarships), the Institute also will convey the key

issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but it does not prohibit resubmission of a proposal based on that application in a subsequent funding cycle. With respect to awards other than Scholarships, the Institute will also notify the designated State contact listed in Appendix C when grants are approved by the Board to support projects that will be conducted by or involve courts in that State.

2. The Board anticipates acting upon Judicial Branch Education Technical Assistance grant applications requesting adaptations of curricula within 45 days after receipt. Grant funds will be available only after Board approval and negotiation of the final terms of the grant.

3. The Institute intends to notify each Scholarship applicant of the Board committee's decision within 30 days after the close of the relevant application period.

*F. Response to Notification of Approval*

With the exception of those approved for Scholarships, applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) have not been submitted to the Institute within 30 days after notification, the approval may be automatically rescinded and the application presented to the Board for reconsideration.

**IX. Compliance Requirements**

The State Justice Institute Act contains limitations and conditions on grants, contracts, and cooperative agreements awarded by the Institute. The Board of Directors has approved additional policies governing the use of Institute grant funds. These statutory and policy requirements are set forth below.

*A. Recipients of Project Grants*

1. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

2. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, the recipient must submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

3. Audit

Recipients of project grants must provide for an annual fiscal audit which includes an opinion on whether the financial statements of the grantee present fairly its financial position and its financial operations are in accordance with generally accepted accounting principles. (See section X.K. of the Guideline for the requirements of such audits.) Recipients of scholarships or judicial branch education technical assistance or technical assistance grants are not required to submit an audit, but must maintain appropriate documentation to support all expenditures.

4. Budget Revisions

Budget revisions among direct cost categories that individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget require prior Institute approval.

5. Conflict of Interest

Personnel and other officials connected with Institute-funded programs must adhere to the following requirements:

a. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where, to his or her knowledge, he or she or his or her immediate family, partners, organization other than a public agency in which he or she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he or she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

b. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

(1) Using an official position for private gain; or

(2) Affecting adversely the confidence of the public in the integrity of the Institute program.

c. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work, and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

6. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with ''Government Patent Policy'' (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

7. Lobbying

a. Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive Orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

b. It is the policy of the Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

8. Matching Requirements

a. All awards to courts or other units of State or local government (not including publicly supported institutions of higher education) require a match from private or public sources of not less than 50% of the total amount

of the Institute's award. For example, if the total cost of a project is anticipated to be $150,000, a State court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match. Cash match, non-cash match, or both may be provided, but the Institute will give preference to those applicants that provide a cash match to the Institute's award. (For a further definition of match, see section III.P.)

b. The requirement to provide match may be waived in exceptionally rare circumstances upon the request of the Chief Justice of the highest court in the State and approval by the Board of Directors. 42 U.S.C. 10705(d).

c. Other eligible recipients of Institute funds are not required to provide match, but are encouraged to contribute to meeting the costs of the project. In instances where match is proposed, the grantee is responsible for ensuring that the total amount proposed is actually contributed. If a proposed contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (see section X.E).

9. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

10. Political Activities

No recipient may contribute or make available Institute funds, program personnel, or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

11. Products

*a. Acknowledgment, Logo, and Disclaimer.* (1) Recipients of Institute funds must acknowledge prominently on all products developed with grant funds that support was received from the Institute. The ''SJI'' logo must appear on the front cover of a written product, or in the opening frames of a video product, unless another placement is approved in writing by the Institute. This includes final products printed or otherwise reproduced during the grant period, as well as reprintings or reproductions of those materials following the end of the grant period. A camera-ready logo sheet is available from the Institute upon request.

(2) Recipients also must display the following disclaimer on all grant products: ''This (document, film, videotape, etc.) was developed under (grant/cooperative agreement) number SJI–(insert number) from the State Justice Institute. The points of view expressed are those of the (author(s), filmmaker(s), etc.) and do not necessarily represent the official position or policies of the State Justice Institute.''

*b. Charges for Grant-Related Products/Recovery of Costs.* (1) When Institute funds fully cover the cost of developing, producing, and disseminating a product (e.g., a report, curriculum, videotape, or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may, with the Institute's prior written approval, recover its costs for developing, producing, and disseminating the material to those requesting it, to the extent that those costs were not covered by Institute funds or grantee matching contributions.

(2) Applicants should disclose their intent to sell grant-related products in both the concept paper and the application. Grantees must obtain the written prior approval of the Institute of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. If the product is to be sold for more than $25, the written request also should include a detailed itemization of costs that will be recovered and a certification that the costs were not supported by either Institute grant funds or grantee matching contributions.

(3) In the event that the sale of grant products results in revenues that exceed the costs to develop, produce, and disseminate the product, the revenue must continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act that have been approved by the Institute. See sections III.T. and X.G. for requirements regarding project-related income realized during the project period.

*c. Copyrights.* Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

*d. Distribution.* In addition to the distribution specified in the grant application, grantees shall send:

(1) Seventeen (17) copies of each final product developed with grant funds to the Institute, unless the product was developed under either a Technical Assistance or a Judicial Branch Education Technical Assistance grant, in which case submission of 2 copies is required;

(2) An electronic version of the product in .html format to the Institute;

(3) A master copy of each videotape produced with grant funds to the Institute; and

(4) One copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. (A list of the libraries is contained in Appendix D. Labels for these libraries are available on the Institute's web site, www.statejustice.org.) Grantees that develop web-based electronic products must send a hard-copy document to the SJI-designated libraries and other appropriate audiences to alert them to the availability of the web site or electronic product. Recipients of judicial branch education technical assistance and technical assistance grants are not required to submit final products to State libraries.

(5) A press release describing the project and announcing the results to a list of national and State judicial branch organizations provided by the Institute.

*e. Institute Approval.* No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the

written approval of the Institute. Grantees shall submit a final draft of each written product to the Institute for review and approval. These drafts shall be submitted at least 30 days before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes agreed upon by the grantee and the Institute. Grantees shall provide for timely reviews by the Institute of videotape or CD–ROM products at the treatment, script, rough cut, and final stages of development or their equivalents, prior to initiating the next stage of product development.

*f. Original Material.* All products prepared as the result of Institute-supported projects must be originally-developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

12. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

13. Reporting Requirements

a. Recipients of Institute funds other than Scholarships must submit Quarterly Progress and Financial Status Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). Two copies of each report must be sent. The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

b. The quarterly Financial Status Report must be submitted in accordance with section X.H.2. of this Guideline. A final project Progress Report and Financial Status Report shall be submitted within 90 days after the end of the grant period in accordance with section X.L.1. of this Guideline.

14. Research

*a. Availability of Research Data for Secondary Analysis.* Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

*b. Confidentiality of Information.* Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

*c. Human Subject Protection.* All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

15. State and Local Court Applications

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The Supreme Court or its designee shall receive, administer, and be accountable for all funds awarded on the basis of such an application. 42 U.S.C. 10705(b)(4). Appendix C to this Guideline lists the person to contact in each State regarding the administration of Institute grants to State and local courts.

16. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

a. To supplant State or local funds supporting a program or activity (such as paying the salary of court employees who would be performing their normal duties as part of the project, or paying rent for space which is part of the court's normal operations);

b. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

c. Solely to purchase equipment.

17. Suspension of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, the Guideline, or the terms and conditions of the award. 42 U.S.C. 10708(a).

18. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to and approved by the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

*B. Recipients of Judicial Branch Education Technical Assistance and Technical Assistance Grants*

In addition to the compliance requirements in section IX.A., recipients of Judicial Branch Education Technical Assistance and Technical Assistance grants must comply with the following requirements.

1. Judicial Branch Education Technical Assistance Grantees

Recipients of Judicial Branch Education Technical Assistance grants must:

a. Submit one copy of the manuals, handbooks, conference packets, or consultant's report developed under the grant at the conclusion of the grant period, along with a final report that

includes any evaluation results and explains how the grantee intends to present the educational program in the future and/or implement the consultant's recommendations, as well as two copies of the consultant's report; and

b. Complete a Technical Assistance Evaluation Form at the conclusion of the grant period, if appropriate.

2. Technical Assistance Grantees

Recipients of Technical Assistance grants must:

a. Submit to the Institute one copy of a final report that explains how it intends to act on the consultant's recommendations, as well as two copies of the consultant's written report; and

b. Complete a Technical Assistance Evaluation Form at the conclusion of the grant period.

*C. Scholarship Recipients*

1. Scholarship recipients are responsible for disseminating the information received from the course to their court colleagues locally and, if possible, throughout the State (e.g., by developing a formal seminar, circulating the written material, or discussing the information at a meeting or conference).

Recipients also must submit to the Institute a certificate of attendance at the program, an evaluation of the educational program they attended, and a copy of the notice of any scholarship funds received from other sources. A copy of the evaluation must be sent to the Chief Justice of the Scholarship recipient's State. A State or local jurisdiction may impose additional requirements on scholarship recipients.

2. To receive the funds authorized by a scholarship award, recipients must submit a Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, and a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program).

Scholarship Payment Vouchers should be submitted within 90 days after the end of the course which the recipient attended.

3. Scholarship recipients are encouraged to check with their tax advisors to determine whether the scholarship constitutes taxable income under Federal and State law.

**X. Financial Requirements**

*A. Purpose*

The purpose of this section is to establish accounting system requirements and offer guidance on procedures to assist all grantees, subgrantees, contractors, and other organizations in:

1. Complying with the statutory requirements for the award, disbursement, and accounting of funds;

2. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

3. Generating financial data to be used in planning, managing, and controlling projects; and

4. Facilitating an effective audit of funded programs and projects.

*B. References*

Except where inconsistent with specific provisions of this Guideline, the following circulars are applicable to Institute grants and cooperative agreements under the same terms and conditions that apply to Federal grantees. The circulars supplement the requirements of this section for accounting systems and financial record-keeping and provide additional guidance on how these requirements may be satisfied. (Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB website at www.whitehouse.gov/OMB.)

1. Office of Management and Budget (OMB) Circular A–21, Cost Principles for Educational Institutions.

2. Office of Management and Budget (OMB) Circular A–87, Cost Principles for State and Local Governments.

3. Office of Management and Budget (OMB) Circular A–88 (revised), Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions.

4. Office of Management and Budget (OMB) Circular A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

5. Office of Management and Budget (OMB) Circular A–110, Grants and Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations.

6. Office of Management and Budget (OMB) Circular A–122, Cost Principles for Non-profit Organizations.

7. Office of Management and Budget (OMB) Circular A–128, Audits of State and Local Governments.

8. Office of Management and Budget (OMB) Circular A–133, Audits of Institutions of Higher Education and Other Non-profit Institutions.

*C. Supervision and Monitoring Responsibilities*

1. Grantee Responsibilities

All grantees receiving awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records, and refunding expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

a. Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. (See section III.I.)

b. The State Supreme Court or its designee shall receive all Institute funds awarded to such courts; be responsible for assuring proper administration of Institute funds; and be responsible for all aspects of the project, including proper accounting and financial record-keeping by the subgrantee. These responsibilities include:

(1) *Reviewing Financial Operations.* The State Supreme Court or its designee should be familiar with, and periodically monitor, its subgrantees' financial operations, records system, and procedures. Particular attention should be directed to the maintenance of current financial data.

(2) *Recording Financial Activities.* The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court or its designee in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court or evidenced by report forms duly filed by the subgrantee. Non-Institute contributions applied to projects by subgrantees should likewise be recorded, as should any project income resulting from program operations.

(3) *Budgeting and Budget Review.* The State Supreme Court or its designee should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The detail of each project budget should be maintained on file by the State Supreme Court.

(4) *Accounting for Non-Institute Contributions.* The State Supreme Court or its designee will ensure, in those instances where subgrantees are required to furnish non-Institute matching funds, that the requirements and limitations of the SJI Grant Guideline are applied to such funds.

(5) *Audit Requirement.* The State Supreme Court or its designee is required to ensure that subgrantees have met the necessary audit requirements set forth by the Institute (see sections K. below and IX.A.3.)

(6) *Reporting Irregularities.* The State Supreme Court, its designees, and its

subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

*D. Accounting System*

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);
2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;
3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;
4. Provides cost and property controls to assure optimal use of grant funds;
5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;
6. Meets the prescribed requirements for periodic financial reporting of operations; and
7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

*E. Total Cost Budgeting and Accounting*

Accounting for all funds awarded by the Institute must be structured and executed on a total project cost basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget serve as the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the obligation of Institute funds. Ordinarily, the full matching share must be obligated during the award period; however, with the prior written permission of the Institute, contributions made following approval of the grant by the Institute's Board of Directors but before the beginning of the grant may be counted as match. Grantees that do not contemplate making matching contributions continuously throughout the course of a project, or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. If a proposed cash match is not fully met, the Institute may reduce the award amount accordingly to maintain the ratio of grant funds to matching funds stated in the award agreement.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See section X.C.2. above.)

*F. Maintenance and Retention of Records*

All financial records, supporting documents, statistical records, and all other records pertinent to grants, subgrants, cooperative agreements, or contracts under grants must be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this section.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, canceled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of submission of the annual expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

*G. Project-Related Income*

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income and must be reported to the Institute. (See section X.H.2. below.) The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State, including institutions of higher education and hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are grantees must refund any interest earned. Grantees shall ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the grant provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees shall be used to pay project-related costs not

covered by the grant, or to reduce the amount of grant funds needed to support the project. Registration and tuition fees may be used for other purposes only with the prior written approval of the Institute. Estimates of registration and tuition fees, and any expenses to be offset by the fees, should be included in the application budget forms and narrative.

4. Income From the Sale of Grant Products

a. When grant funds fully cover the cost of producing and disseminating a limited number of copies of a product, the grantee may, with the written prior approval of the Institute, sell additional copies reproduced at its expense at a reasonable market price, as long as the income is applied to court improvement projects consistent with the State Justice Institute Act.

When grant funds only partially cover the costs of developing, producing, and disseminating a product, the grantee may, with the written prior approval of the Institute, recover costs for developing, reproducing, and disseminating the material to the extent that those costs were not covered by Institute grant funds or grantee matching contributions. If the grantee recovers its costs in this manner, then amounts expended by the grantee to develop, produce, and disseminate the material may not be considered match.

b. If the sale of products occurs during the project period, the costs and income generated by the sales must be reported on the Quarterly Financial Status Reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the concept paper and application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product development, reproduction, and dissemination costs as specified in section IX.A.11.b.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the grant's terms and conditions.

*H. Payments and Financial Reporting Requirements*

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

*a. Request for Advance or Reimbursement of Funds.* Grantees will receive funds on a ''check-issued'' basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

*b. Continuation and Ongoing Support Awards.* For purposes of submitting Requests for Advance or Reimbursement, recipients of continuation and ongoing support grants should treat each grant as a new project and number the requests accordingly (i.e., on a grant rather than a project basis). For example, the first request for payment from a continuation grant or each year of an ongoing support grant would be number 1, the second number 2, etc. (See Appendix B, Questions Frequently Asked by Grantees, for further guidance.)

*c. Termination of Advance and Reimbursement Funding.* When a grantee organization receiving cash advances from the Institute:

(1) Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

(2) Engages in the improper award and administration of subgrants or contracts; or

(3) Is unable to submit reliable and/or timely reports; the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by check to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute may suspend reimbursement payments until the deficiencies are corrected.

d. *Principle of Minimum Cash on Hand.* Grantees should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days. Idle funds in the hands of subgrantees impair the goals of good cash management.

2. Financial Reporting

*a. General Requirements.* To obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees submit timely reports for review.

b. Two copies of the Financial Status Report are required from all grantees, other than scholarship recipients, for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, project income, and any other sources of funds for the project, as well as information on obligations and outlays. A copy of the Financial Status Report, along with instructions for its preparation, is included in each official Institute Award package. If a grantee requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, to support the Request for Advance or Reimbursement.

*c. Additional Requirements for Continuation and Ongoing Support Grants.* Grantees receiving continuation or ongoing support grants should number their quarterly Financial Status Reports on a grant rather than a project basis. For example, the first quarterly report for a continuation grant or each year of an ongoing support award should be number 1, the second number 2, etc.

3. Consequences of Non-Compliance With Submission Requirement

Failure of the grantee to submit required financial and progress reports may result in suspension or termination of grant payments.

*I. Allowability of Costs*

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability is determined in accordance with the principles set forth in OMB Circular A–21, Cost Principles Applicable to Grants and Contracts with Educational Institutions; A–87, Cost Principles for State and Local Governments; and A–122, Cost Principles for Non-profit Organizations. No costs may be recovered to liquidate obligations incurred after the approved grant period. Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB website at www.whitehouse.gov/OMB.

2. Costs Requiring Prior Approval

*a. Pre-agreement Costs.* The written prior approval of the Institute is required for costs considered necessary to the project but which occur prior to the award date of the grant.

b. *Equipment.* Grant funds may be used to purchase or lease only that equipment essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or software to be purchased exceeds $3,000.

*c. Consultants.* The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $300 a day. Institute funds may not be used to pay a consultant more than $900 per day.

*d. Budget Revisions.* Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget require prior Institute approval. See section XI.A.1.

3. Travel Costs

Transportation and per diem rates must comply with the policies of the grantee. If the grantee does not have an established written travel policy, then travel rates must be consistent with those established by the Institute or the Federal Government. Institute funds may not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting of that organization.

4. Indirect Costs

These are costs of an organization that are not readily assignable to a particular project but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. The Institute's policy requires all costs to be budgeted directly; however, if a grantee has an indirect cost rate approved by a Federal agency as set forth below, the Institute will accept that rate.

*a. Approved Plan Available.* (1) The Institute will accept an indirect cost rate or allocation plan approved for a grantee during the preceding two years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars. A copy of the approved rate agreement must be submitted to the Institute.

(2) Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs.

(3) When utilizing total direct costs as the base, organizations with approved indirect cost rates usually exclude contracts under grants from any overhead recovery. The negotiated agreement will stipulate that contracts are excluded from the base for overhead recovery.

*b. Establishment of Indirect Cost Rates.* To be reimbursed for indirect costs, a grantee must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute within three months after the start of the grant period to assure recovery of the full amount of allowable indirect costs. The rate must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved as specified in the applicable OMB Circular.

*c. No Approved Plan.* If an indirect cost proposal for recovery of actual indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received.

*J. Procurement and Property Management Standards*

1. Procurement Standards

For State and local governments, the Institute has adopted the standards set forth in Attachment O of OMB Circular A–102. Institutions of higher education, hospitals, and other non-profit organizations will be governed by the standards set forth in Attachment O of OMB Circular A–110.

2. Property Management Standards

The property management standards as prescribed in Attachment N of OMB Circulars A–102 and A–110 apply to all Institute grantees and subgrantees except as provided in section IX.A.18. All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

*K. Audit Requirements*

1. Implementation

Each recipient of a grant from the Institute other than a scholarship, technical assistance grant, or judicial branch education technical assistance grant, must provide for an annual fiscal audit. This requirement also applies to a State or local court receiving a subgrant from the State Supreme Court. The audit may be of the entire grantee or subgrantee organization or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 and OMB Circular A–128, or OMB Circular A–133, will satisfy the requirement for an annual fiscal audit. The audit must be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies. Grantees must send two copies of the audit report to the Institute. Grantees that receive funds from a Federal agency and satisfy audit requirements of the cognizant Federal agency must submit two copies of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grantee must have policies and procedures for acting on audit recommendations by designating officials responsible for: follow-up; maintaining a record of the actions taken on recommendations and time schedules; responding to and acting on audit recommendations; and submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

Ordinarily, the Institute will not make a new grant award to an applicant that has an unresolved audit report involving Institute awards.

Failure of the grantee to resolve audit questions may also result in the suspension or termination of payments for active Institute grants to that organization.

*L. Close-Out of Grants*

1. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (see section X.L.2. below), the following documents must be submitted to the Institute by grantees (other than scholarship recipients):

*a. Financial Status Report.* The final report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds as soon as it is determined that the funds are not required. In no case should any unused funds remain with the grantee beyond the submission date of the final Financial Status Report.

*b. Final Progress Report.* This report should describe the project activities during the final calendar quarter of the project and the close-out period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment have been met and, if any of the objectives have not been met, explain why not; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

These reporting requirements apply at the conclusion of any non-scholarship grant, even when the project will continue under a continuation or ongoing support grant.

2. Extension of Close-Out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period.

**XI. Grant Adjustments**

All requests for programmatic or budgetary adjustments requiring Institute approval must be submitted in a timely manner (ordinarily 30 days prior to the implementation of the adjustment being requested) by the project director. All requests for changes from the approved application will be carefully reviewed for both consistency with this Guideline and the enhancement of grant goals and objectives.

*A. Grant Adjustments Requiring Prior Written Approval*

There are several types of grant adjustments that require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories that (i) transfer grant funds to an unbudgeted cost category or (ii) individually or cumulatively exceed five percent of the approved original budget or the most recently approved revised budget. See section X.I.2.d.

For continuation and ongoing support grants, funds from the original award may be used during the new grant period and funds awarded through a continuation or ongoing support grant may be used to cover project-related expenditures incurred during the original award period, with the prior written approval of the Institute.

2. A change in the scope of work to be performed or the objectives of the project (see D. below in this section).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (see E. below).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (see F. and G. below).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (see section IX.A.2.).

8. A change in or temporary absence of the person responsible for managing and reporting on the grant's finances.

9. A change in the name of the grantee organization.

10. A transfer or contracting out of grant-supported activities (see H. below).

11. A transfer of the grant to another recipient.

12. Preagreement costs (see section X.I.2.a.).

13. The purchase of automated data processing equipment and software (see section X.I.2.b.).

14. Consultant rates (see section X.I.2.c.).

15. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

*B. Requests for Grant Adjustments*

All grantees must promptly notify their SJI program managers, in writing, of events or proposed changes that may require adjustments to the approved project design. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the program manager determines would help the Institute's review.

*C. Notification of Approval/Disapproval*

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director or his designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

*D. Changes in the Scope of the Grant*

Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute. A grantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager.

*E. Date Changes*

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany a request for a no-cost extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (see section X.L.2.).

*F. Temporary Absence of the Project Director*

Whenever an absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

*G. Withdrawal of/Change in Project Director*

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon

notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

*H. Transferring or Contracting Out of Grant-Supported Activities*

No principal activity of a grant-supported project may be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements must be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval of the Institute at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, will be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

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**David I. Tevelin,**
*Executive Director.*

## Appendix A—Recommendations to Grant Writers

Over the past 15 years, the Institute staff has reviewed approximately 4,000 concept papers and 1,750 applications. On the basis of those reviews, inquiries from applicants, and the views of the Board, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals that can meet the funding criteria set forth in this Guideline.

The Institute suggests that applicants make certain that they address the questions and issues set forth below when preparing a concept paper or application. Concept papers and applications should, however, be presented in the formats specified in sections VI. and VII. of the Guideline, respectively.

**1. What Is The Subject Or Problem You Wish To Address?**

Describe the subject or problem and how it affects the courts and the public. Discuss how your approach will improve the situation or advance the state of the art or knowledge, and explain why it is the most appropriate approach to take. When statistics or research findings are cited to support a statement or position, the source of the citation should be referenced in a footnote or a reference list.

**2. What Do You Want To Do?**

Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project (e.g., to enable judges to sentence drug-abusing offenders more effectively, or to dispose of civil cases within 24 months), rather than the tasks or activities to be conducted (e.g., hold 3 training sessions, or install a new computer system).

To the greatest extent possible, an applicant should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance a paper, nor does a clever but uninformative title.

**3. How Will You Do It?**

Describe the methodology carefully so that what you propose to do and how you would do it are clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks, and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project.

**4. How Will You Know It Works?**

Include an evaluation component that will determine whether the proposed training, procedure, service, or technology accomplished the objectives it was designed to meet. Concept papers and applications should present the criteria that will be used to evaluate the project's effectiveness; identify program elements that will require further modification; and describe how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

The Institute has also prepared a more thorough list of recommendations to grant writers regarding the development of project evaluation plans. Those recommendations are available from the Institute upon request.

**5. How Will Others Find Out About It?**

Include a plan to disseminate the results of the training, research, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods which will be used to inform the field about the project, such as the publication of law review or journal articles, or the distribution of key materials. A statement that a report or research findings ''will be made available to'' the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items.

**6. What Are the Specific Costs Involved?**

The budget in both concept papers and applications should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of ''Other'' or ''Miscellaneous'' items should be specified in the application budget narrative, and should not include set-asides for undefined contingencies.

**7. What, if Any, Match Is Being Offered?**

Courts and other units of State and local government (not including publicly-supported institutions of higher education) are required by the State Justice Institute Act to contribute a match (cash, non-cash, or both) of at least 50 percent of the grant funds requested from the Institute. All other applicants also are encouraged to provide a matching contribution to assist in meeting the costs of a project.

The match requirement works as follows: If, for example, the total cost of a project is anticipated to be $150,000, a State or local court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match.

Cash match includes funds directly contributed to the project by the applicant, or by other public or private sources. It does not include income generated from tuition fees or

the sale of project products. Non-cash match refers to in-kind contributions by the applicant, or other public or private sources. This includes, for example, the monetary value of time contributed by existing personnel or members of an advisory committee (but not the time spent by participants in an educational program attending program sessions). When match is offered, the nature of the match (cash or in-kind) should be explained and, at the application stage, the tasks and line items for which costs will be covered wholly or in part by match should be specified.

**8. Which of the Two Budget Forms Should Be Used?**

Section VII.A.1.c. of the SJI Grant Guideline encourages use of the spreadsheet format of Form C1 if the application requests $100,000 or more. Form C1 also works well for projects with discrete tasks, regardless of the dollar value of the project. Form C, the tabular format, is preferred for projects lacking a number of discrete tasks, or for projects requiring less than $100,000 of Institute funding. Generally, use the form that best lends itself to representing most accurately the budget estimates for the project.

**9. How Much Detail Should Be Included in the Budget Narrative?**

The budget narrative of an application should provide the basis for computing all project-related costs, as indicated in section VII.A.4. of the Guideline. To avoid common shortcomings of application budget narratives, applicants should include the following information:

*Personnel estimates* that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50% for one year, annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work-year should be shown.

*Estimates for supplies and expenses* supported by a complete description of the supplies to be used, the nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports x 75 pages each x .05/page = $375.00). Supply and expense estimates offered simply as ''based on experience'' are not sufficient.

In order to expedite Institute review of the budget, make a final comparison of the amounts listed in the budget narrative with those listed on the budget form. In the rush to complete all parts of the application on time, there may be many last-minute changes; unfortunately, when there are discrepancies between the budget narrative and the budget form or the amount listed on the application cover sheet, it is not possible for the Institute to verify the amount of the request. A final check of the numbers on the form against those in the narrative will preclude such confusion.

**10. What Travel Regulations Apply to the Budget Estimates?**

Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Institute or the Federal Government (a copy of the Institute's travel policy is available upon request). The budget narrative should state which policies apply to the project.

The budget narrative also should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed and explained separately. It is preferable for the budget to be based on the actual costs of traveling to and from the project or meeting sites. If the points of origin or destination are not known at the time the budget is prepared, an average airfare may be used to estimate the travel costs. For example, if it is anticipated that a project advisory committee will include members from around the country, a reasonable airfare from a central point to the meeting site, or the average of airfares from each coast to the meeting site, may be used. Applicants should arrange travel so as to be able to take advantage of advanced-purchase price discounts whenever possible.

**11. May Grant Funds Be Used to Purchase Equipment?**

Generally, grant funds may be used to purchase only the equipment that is necessary to demonstrate a new technological application in a court, or that is otherwise essential to accomplishing the objectives of the project. The budget narrative must list the equipment to be purchased and explain why the equipment is necessary to the success of the project. The Institute's written prior approval is required when the amount of computer hardware to be purchased or leased exceeds $10,000, or the software to be purchased exceeds $3,000.

**12. To What Extent May Indirect Costs Be Included in the Budget Estimates?**

If an indirect cost rate has been approved by a Federal agency within the last two years, an indirect cost recovery estimate may be included in the budget. A copy of the approved rate agreement should be submitted as an appendix to the application.

If an applicant does not have an approved rate agreement and cannot budget directly for all costs, an indirect cost rate proposal should be prepared in accordance with section X.I.4. of the Guideline, based on the applicant's audited financial statements for the prior fiscal year. (Applicants lacking an audit should budget all project costs directly.)

**13. What Meeting Costs May Be Covered With Grant Funds?**

SJI grant funds may cover the reasonable cost of meeting rooms, necessary audio-visual equipment, meeting supplies, and working meals.

**14. Does the Budget Truly Reflect All Costs Required To Complete the Project?**

After preparing the program narrative portion of the application, applicants may find it helpful to list all the major tasks or activities required by the proposed project, including the preparation of products, and note the individual expenses, including personnel time, related to each. This will help to ensure that, for all tasks described in the application (e.g., development of a videotape, research site visits, distribution of a final report), the related costs appear in the budget and are explained correctly in the budget narrative.

## Appendix B—Questions Frequently Asked by Grantees

The Institute's staff works with grantees to help assure the smooth operation of the project and compliance with the Guideline. On the basis of monitoring more than 1,500 grants, the Institute staff offers the following suggestions to aid grantees in meeting the administrative and substantive requirements of their grants.

**1. After the Grant Has Been Awarded, When Are the First Quarterly Reports Due?**

Quarterly Progress Reports and Financial Status Reports must be submitted within 30 days after the end of every calendar quarter—i.e., no later than January 30, April 30, July 30, and October 30—regardless of the project's start date. The reporting periods covered by each quarterly report end 30 days before the respective deadline for the report. When an award period begins December 1, for example, the first quarterly progress report describing project activities between December 1 and December 31 will be due on January 30. A Financial Status Report should be submitted even if funds have not been obligated or expended.

By documenting what has happened over the past three months, quarterly progress reports provide an opportunity for project staff and Institute staff to resolve any questions before they become problems, and make any necessary changes in the project time schedule, budget allocations, etc. The quarterly progress report should describe project activities, their relationship to the approved timeline, and any problems encountered and how they were resolved, and outline the tasks scheduled for the coming quarter. It is helpful to attach copies of relevant memos, draft products, or other requested information. An original and one copy of a quarterly progress report and attachments should be submitted to the Institute.

Additional quarterly progress report or Financial Status Report forms may be obtained from the grantee's Program Manager at SJI, or photocopies may be made from the supply received with the award.

**2. Do Reporting Requirements Differ for Continuation and Ongoing Support Grants?**

Recipients of continuation or ongoing support grants are required to submit quarterly progress and Financial Status Reports on the same schedule and with the same information as recipients of grants for single new projects.

A continuation grant and each yearly grant under an ongoing support award should be considered as a separate phase of the project. The reports should be numbered on a grant rather than project basis. Thus, the first quarterly report filed under a continuation grant or a yearly increment of an ongoing support award should be designated as number one, the second as number two, and so on, through the final progress and Financial Status Reports due within 90 days after the end of the grant period.

**3. What Information About Project Activities Should Be Communicated to SJI?**

In general, grantees should provide prior notice of critical project events such as advisory board meetings or training sessions so that the Institute Program Manager can attend, if possible. If methodological, schedule, staff, budget allocations, or other significant changes become necessary, the grantee should contact the Program Manager prior to implementing any of these changes, so that possible questions may be addressed in advance. Questions concerning the financial requirements, quarterly financial reporting, or payment requests should be addressed to the Institute's Grants Financial Manager listed in the award letter.

It is helpful to include the grant number assigned to the award on all correspondence to the Institute.

**4. Why Are Special Conditions Attached to the Award Document?**

Special conditions may be imposed to establish a schedule for reporting certain key information, assure that the Institute has an opportunity to offer suggestions at critical stages of the project, and provide reminders of some (but not necessarily all) of the requirements contained in the Grant Guideline. Accordingly, it is important for grantees to check the special conditions carefully and discuss with their Program Managers any questions or problems they may have with the conditions. Most concerns about timing, response time, and the level of detail required can be resolved in advance through a telephone conversation. The Institute's primary concern is to work with grantees to assure that their projects accomplish their objectives, not to enforce rigid bureaucratic requirements. However, if a grantee fails to comply with a special condition or with other grant requirements, the Institute may, after proper notice, suspend payment of grant funds or terminate the grant.

Sections IX., X., and XI. of the Grant Guideline contain the Institute's administrative and financial requirements. Institute Finance Division staff are always available to answer questions and provide assistance regarding these provisions.

**5. What Is a Grant Adjustment?**

A Grant Adjustment is the Institute's form for acknowledging the satisfaction of special conditions, or approving changes in grant activities, schedule, staffing, sites, or budget allocations requested by the project director. It also may be used to correct errors in grant documents or deobligate funds from the grant.

**6. What Schedule Should Be Followed in Submitting Requests for Reimbursements or Advance Payments?**

Requests for reimbursements or advance payments may be made at any time after the project start date and before the end of the 90-day close-out period. However, the Institute follows the U.S. Treasury's policy limiting advances to the minimum amount required to meet immediate cash needs. Given normal processing time, grantees should not seek to draw down funds for periods greater than 30 days from the date of the request.

**7. Do Procedures for Submitting Requests for Reimbursement or Advance Payment Differ for Continuation or Ongoing Support Grants?**

The basic procedures are the same for any grant. A continuation grant or the yearly grant under an ongoing support award should be considered as a separate phase of the project. Payment requests should be numbered on a grant rather than a project basis. The first request for funds from a continuation grant or a yearly increment under an ongoing support award should be designated as number one, the second as number two, and so on through the final payment request for that grant.

**8. If Things Change During the Grant Period, Can Funds Be Reallocated From One Budget Category to Another?**

The Institute recognizes that some flexibility is required in implementing a project design and budget. Thus, grantees may shift funds among direct cost budget categories. When any one reallocation or the cumulative total of reallocations is expected to exceed five percent of the approved project budget, a grantee must specify the proposed changes, explain the reasons for the changes, and request prior Institute approval.

The same standard applies to continuation and ongoing support grants. In addition, prior written Institute approval is required to shift leftover funds from the original award to cover activities to be conducted under the renewal award, or to use renewal grant monies to cover costs incurred during the original grant period.

**9. What Is the 90-Day Close-Out Period?**

Following the last day of the grant, a 90-day period is provided to allow for all grant-related bills to be received and posted, and grant funds drawn down to cover these expenses. No obligations of grant funds may be incurred during this period. The last day on which an expenditure of grant funds can be obligated is the end date of the grant period. Similarly, the 90-day period is not intended as an opportunity to finish and disseminate grant products. This should occur before the end of the grant period.

During the 90 days following the end of the award period, all monies that have been obligated should be expended. All payment requests must be received by the end of the 90-day ''close-out-period.'' Any unexpended monies held by the grantee that remain after the 90-day follow-up period must be returned to the Institute. Any funds remaining in the grant that have not been drawn down by the grantee will be deobligated.

**10. Are Funds Granted by SJI ''Federal'' Funds?**

The State Justice Institute Act provides that, except for purposes unrelated to this question, ''the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.'' 42 U.S.C.10704(c)(1). Because SJI receives appropriations from Congress, some grantee auditors have reported SJI grant funds as ''Other Federal Assistance.'' This classification is acceptable to SJI but is not required.

**11. If SJI Is Not a Federal Agency, do OMB Circulars Apply With Respect to Audits?**

Unless they are inconsistent with the express provisions of the SJI Grant Guideline, Office of Management and Budget (OMB) Circulars A–110, A–21, A–87, A–88, A–102, A–122, A–128, and A–133 are incorporated into the Grant Guideline by reference. Because the Institute's enabling legislation specifically requires the Institute to ''conduct, or require each recipient to provide for, an annual fiscal audit'' (see 42 U.S.C. 10711(c)(1)), the Grant Guideline sets forth options for grantees to comply with this statutory requirement. (See Section X.K.)

SJI will accept audits conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133 to satisfy the annual fiscal audit requirement. Grantees that are required to undertake these audits in conjunction with Federal grants may include SJI funds as part of the audit even if the receipt of SJI funds would not require such audits. This approach gives grantees an option to fold SJI funds into the governmental audit rather than to undertake a separate audit to satisfy SJI's Guideline requirements.

In sum, educational and nonprofit organizations that receive payments from the Institute that are sufficient to meet the applicability thresholds of OMB Circular A–133 must have their annual audit conducted in accordance with Government Auditing Standards issued by the Comptroller General of the United States rather than with generally accepted auditing standards. Grantees in this category that receive amounts below the minimum threshold referenced in Circular A–133 must also submit an annual audit to SJI, but they would have the option to conduct an audit of the entire grantee organization in accordance with generally accepted auditing standards; include SJI funds in an audit of Federal funds conducted in accordance with the Single Audit Act of 1984 and OMB Circulars A–128 or A–133; or conduct an audit of only the SJI funds in accordance with generally accepted auditing standards. (See Guideline section X.K.) Circulars may be obtained from OMB by calling 202–395–3080 or visiting the OMB website at www.whitehouse.gov/OMB.

**12. Does SJI Have a CFDA Number?**

Auditors often request that a grantee provide the Institute's Catalog of Federal Domestic Assistance (CFDA) number for guidance in conducting an audit in accordance with Government Accounting Standards.

Because SJI is not a Federal agency, it has not been issued such a number, and there are

no additional compliance tests to satisfy under the Institute's audit requirements beyond those of a standard governmental audit.

Moreover, because SJI is not a Federal agency, SJI funds should not be aggregated with Federal funds to determine if the applicability threshold of Circular A–133 has been reached. For example, if in fiscal year 1999 grantee ''X'' received $10,000 in Federal funds from a Department of Justice (DOJ) grant program and $20,000 in grant funds from SJI, the minimum A–133 threshold would not be met. The same distinction would preclude an auditor from considering the additional SJI funds in determining what Federal requirements apply to the DOJ funds.

Grantees who are required to satisfy either the Single Audit Act or OMB Circulars A–128 or A–133, and who include SJI grant funds in those audits, need to remember that because of its status as a private non-profit corporation, SJI is not on routing lists of cognizant Federal agencies. Therefore, the grantee needs to submit a copy of the audit report prepared for such a cognizant Federal agency directly to SJI. The Institute's audit requirements may be found in section X.K. of the Grant Guideline.

## Appendix C—List of State Contacts Regarding Administration of Institute Grants to State and Local Courts

Mr. Rich Hobson, Administrative Director of the Courts, Administrative Office of the Courts, 300 Dexter Avenue, Montgomery, AL 36104, (334) 242–0825

Ms. Stephanie J. Cole, Administrative Director of the Courts, Alaska Court System, 303 K Street, Anchorage, AK 99501, (907) 264–0547

Mr. Eliu F. Paopao, Court Administrator, High Court of American Samoa, P.O. Box 309, Pago Pago, AS 96799, 011 (684) 633–1150

Mr. David K. Byers, Administrative Director of the Courts, Supreme Court of Arizona, 1501 West Washington Street, Suite 411, Phoenix, AZ 85007, (602) 542–9301

Mr. James D. Gingerich, Director, Administrative Office of the Courts, Supreme Court of Arkansas, Justice Building, Little Rock, AR 72201, (501) 682–9400

Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, CA 94102, (415) 865–4235

Honorable Gerald (Jerry) A. Marroney, State Court Administrator, Office of the State Court Administrator, Colorado Judicial Department, 1301 Pennsylvania Street, Suite 300, Denver, CO 80203, (303) 837–3668

Honorable Joseph H. Pellegrino, Chief Court Administrator, Supreme Court of Connecticut, 231 Capitol Avenue, Hartford, CT 06106, (860) 757–2100

Dennis B. Jones, State Court Administrator, Administrative Office of the Courts, 820 N. French Street, 11th Floor, Wilmington, DE 19801, (302) 577–8271

Ms. Anne B. Wicks, Executive Officer, District of Columbia Courts, 500 Indiana Avenue, N.W., Suite 1500, Washington, D.C. 20001, (202) 879–1700,

State Courts Administrator, Florida Supreme Court Building, 500 South Duval Street, Tallahassee, FL 32399–1900, (850) 922–5081

Mr. David L. Ratley, Director, Administrative Office of the Courts, 244 Washington Street, S.W., Suite 300, Atlanta, GA 30334, (404) 656–5171

Mr. Daniel J. Tydingco, Executive Officer, Supreme Court of Guam, Guam Judicial Center, 120 West O'Brien Drive, Hagatna, Guam 96910–5174, 011 (671) 475–3278

Mr. Michael F. Broderick, Administrative Director of the Courts, The Judiciary, State of Hawaii, 417 S. King Street, Room 206, Honolulu, HI 96813, (808) 539–4900

Ms. Patricia Tobias, Administrative Director of the Courts, Supreme Court Building, 451 West State Street (Zip Code 83702), Post Office Box 83720, Boise, ID 83720–0101, (208) 334–2246,

Mr. Joseph A. Schillaci, Director, Administrative Office of the Illinois Courts, 222 N. LaSalle Street, 13th Floor, Chicago, IL 60601, (312) 793–3250

Ms. Lilia G. Judson, Executive Director, Division of State Court Administration, Indiana Supreme Court, 115 W. Washington, Suite 1080, Indianapolis, IN 46204–3417, (317) 232–2542

Mr. William J. O'Brien, State Court Administrator, Supreme Court of Iowa, State House, Des Moines, IA 50319, (515) 281–5241

Dr. Howard P. Schwartz, Judicial Administrator, Kansas Judicial Center, 301 S.W. Tenth Street, Topeka, KS 66612, (785) 296–4873

Ms. Cicely Jaracz Lambert, Director, Administrative Office of the Courts, 100 Millcreek Park, Frankfort, KY 40601, (502) 573–2350

Dr. Hugh M. Collins, Judicial Administrator, Supreme Court of Louisiana, 1555 Poydras Street, Suite 1540, New Orleans, LA 70112–3701, (504) 568–5747

Mr. James T. Glessner, State Court Administrator, Administrative Office of the Courts, P.O. Box 4820, 62 Elm Street, Portland, ME 04112–4820, (207) 822–0792

Mr. Frank Broccolina, State Court Administrator, Administrative Office of the Courts, Maryland Judicial Center, 580 Taylor Avenue, Annapolis, MD 21401, (410) 260–1290

Honorable Barbara A. Dortch-Okara, Chief Justice for Administration and Management, Administrative Office of the Trial Courts, Two Center Plaza, Fifth Floor, Room 540, Boston, MA 02108, (617) 742–8575

Mr. John D. Ferry, Jr., State Court Administrator, State Court Administrative Office, 309 N. Washington Square, P.O. Box 30048, Lansing, MI 48909, (517) 373–2222

Ms. Sue K. Dosal, State Court Administrator, Supreme Court of Minnesota, 135 Minnesota Judicial Center, 25 Constitution Avenue, St. Paul, MN 55155, (651) 296–2474

Mr. Stephen J. Kirchmayr, Director, Administrative Office of the Courts, 450 High Street, 4th Floor, Gartin Building (Zip Code 39201), P.O. Box 117, Jackson, MS 39205–0117, (601) 359–3697

Mr. Michael L. Buenger, State Court Administrator, Supreme Court of Missouri, P.O. Box 104480, Jefferson City, MO 65110, (573) 751–4377

Ms. Lisa D. Smith, Acting Supreme Court Administrator, Supreme Court of Montana, 215 North Sanders, Room 315, Post Office Box 203002, Helena, MT 59620, (406) 444–2621

Mr. Joseph C. Steele, State Court Administrator, Administrative Office of the Courts/Probation, State Capitol Building, Room 1220, Post Office Box 98910, Lincoln, NE 68509–8910, (404) 471–3730

Ms. Karen Kavanau, State Court Administrator, Administrative Office of the Courts, Supreme Court Building, 201 South Carson Street, Suite 250, Carson City, NV 89701–4702, (775) 684–1717

Mr. Donald Goodnow, Director, Administrative Office of the Courts, Two Noble Drive, Concord, NH 03301, (603) 271–2521

Honorable Richard J. Williams, Administrative Director, Administrative Office of the Courts, Post Office Box 037 RJH Justice Complex, 25 Market Street, Trenton, NJ 08625, (609) 292–1747

Mr. Michael Hall, Interim Director, Administrative Office of the Courts, 237 Don Gaspar, Room 25, Sante Fe, NM 87501–2178, (505) 827–4800

Honorable Jonathan Lippman, Chief Administrative Judge, New York State Unified Court System, Office of Court Administration, 25 Beaver Street, New York, NY 10004, (212) 428–2100

Honorable Robert Hobgood, Director, North Carolina Administrative Office of the Courts, 2 East Morgan Street (Zip Code 27601), Post Office Box 2448, Raleigh, NC 27602, (919) 733–7107,

Mr. Keithe E. Nelson, State Court Administrator, Supreme Court of North Dakota, State Capitol Building, 600 East Boulevard Avenue, Dept. 180, Bismarck, ND 58505–0530, (701) 328–4216,

Ms. Margarita M. Palacios, Director of Courts, Supreme Court of the Commonwealth of the Northern Mariana Islands, Guma Hustisia, First Floor, Susupe, Saipan, MP 96950, P.O. Box 502165, Saipan, MP 96950, (670) 236–9807

Mr. Steven C. Hollon, Administrative Director, Supreme Court of Ohio, State Office Tower, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2653

Mr. Howard W. Conyers, Administrative Director of the Courts, 1925 N. Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450

Ms. Kingsley W. Click, State Court Administrator, Office of the State Court Administrator, Supreme Court Building, Salem, OR 97301–2563, (503) 986–5500

Mr. Zygmont A. Pines, Court Administrator, Administrative Office of Pennsylvania Courts, Supreme Court of Pennsylvania, 1515 Market Street, Suite 1414, Philadelphia, PA 19102, (215) 560–6337

Ms. Mercedes M. Bauermeister, Administrative Director of the Courts, General Court of Justice, Office of Court Administration, 6 Vela Street, Hato Rey, Post Office Box 190917, San Juan, PR 00919–0917, (787) 641–6623

John Barrette, State Court Administrator, Supreme Court of Rhode Island, 250 Benefit Street, Providence, RI 02903, (401) 222–3263

Ms. Rosalyn Woodson Frierson, Director, South Carolina Court Administration, 1015 Sumter Street, Suite 200, Columbia, SC 29201, (803) 734–1800

Mr. D. J. Hanson, State Court Administrator, Unified Judicial System, 500 East Capitol Avenue, Pierre, SD 57501–5070, (605) 773–3474

Ms. Cornelia A. Clark, Director, Administrative Office of the Courts, Tennessee Supreme Court, 511 Union Street, Suite 600, Nashville, TN 37219, (615) 741–2687

Mr. Jerry L. Benedict, Director, Office of Court Administration, Tom C. Clark State Courts Building, Post Office Box 12066 (Zip Code 78711–2066), 205 West 14th Street, Suite 600, Austin, TX 78701, (512) 463–1625

Mr. Daniel Becker, State Court Administrator, 450 South State, Post Office Box 140241, Salt Lake City, UT 84114–0241, (801) 578–3806

Mr. Lee Suskin, Court Administrator, Supreme Court of Vermont, 109 State Street, Montpelier, VT 05609–0701, (802) 828–3278

Ms. Glenda L. Lake, Territorial Court of the Virgin Islands, Alexander A. Farrelly Justice Center, P.O. Box 70, Charlotte Amalie, St. Thomas, VI 00804, (340) 774–6680

Mr. Robert N. Baldwin, State Court Administrator, Supreme Court of Virginia, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

Ms. Mary Campbell McQueen, State Court Administrator, Supreme Court of Washington, Temple of Justice, P.O. Box 41174, Olympia, WA 98504–1174, (360) 357–2120

Ms. Barbara H. Allen, Administrative Director, West Virginia Supreme Court of Appeals, Building 1, Room E–100, State Capitol, 1900 Kanawha Boulevard East, Charleston, WV 25305, (304) 558–0145

Mr. J. Denis Moran, Director of State Courts, 119 Martin Luther King Jr. Blvd., Room LL2 (Zip Code 53703), P.O. Box 1688, Madison, WI 53701–1688b, (608) 266–6828

Ms. Holly A. Hansen, State Court Administrator, Supreme Court of Wyoming, Supreme Court Building, 2301 Capital Avenue, Cheyenne, WY 82002, (307) 777–7480

## Appendix D—SJI Libraries: Designated Sites and Contacts

*Alabama*

Supreme Court Library

Mr. Timothy A. Lewis, State Law Librarian, Alabama Supreme Court Bldg., 300 Dexter Avenue, Montgomery, AL 36104, (334) 242–4347

*Alaska*

Anchorage Law Library

Ms. Cynthia S. Fellows, State Law Librarian, Alaska Court Libraries, 820 W. Fourth Ave., Anchorage, AK 99501, (907) 264–0583

*Arizona*

State Law Library

Ms. Gladys Ann Wells, Collection Development, Research Division, Arizona Dept. of Library, Archives and Public Records, State Law Library, 1501 W. Washington, Phoenix, AZ 85007, (602) 542–4035

*Arkansas*

Administrative Office of the Courts

Mr. James D. Gingerich, Director, Administrative Office of the Courts, Supreme Court of Arkansas, Justice Building, Little Rock, AR 72201, (501) 682–9400

*California*

Administrative Office of the Courts

Mr. William C. Vickrey, Administrative Director of the Courts, Administrative Office of the Courts, 455 Golden Gate Avenue, San Francisco, CA 94107, (415) 865–4200

*Colorado*

Supreme Court Library

Ms. Lois Calvert, Supreme Court Law Librarian, Colorado State Judicial Building, 2 East 14th Avenue, Denver, CO 80203, (303) 837–3720

*Connecticut*

State Library

Ms. Denise D. Jernigan, State Librarian, Connecticut State Library, 231 Capital Avenue, Hartford, CT 06106, (860) 566–2516

*Delaware*

Administrative Office of the Courts

Mr. Michael E. McLaughlin, Deputy Director, Administrative Office of the Courts, Carvel State Office Building, 820 North French Street, 11th Floor, P.O. Box 8911, Wilmington, DE 19801, (302) 577–8481

*District of Columbia*

Executive Office, District of Columbia Courts

Ms. Anne B. Wicks, Executive Officer, District of Columbia Courts, 500 Indiana Avenue, N.W., Suite 1500, Washington, D.C. 20001, (202) 879–1700

*Florida*

Administrative Office of the Courts

Dee Beranek, Deputy State Courts Administrator, Florida Supreme Court Building, 500 South Duval Street, Tallahassee, FL 32399–1900, (850) 922–5081

*Georgia*

Administrative Office of the Courts

Ms. Terry Cobb, Administrative Assistant to the Director, Administrative Office of the Courts, 47 Trinity Avenue, Suite 414, Atlanta, GA 30334, (404) 656–5171

*Hawaii*

Supreme Court Library

Ms. Ann Koto, State Law Librarian, The Supreme Court Law Library, 417 South King St., Room 119, Honolulu, HI 96813, (808) 539–4965

*Idaho*

AOC Judicial Education Library/State Law Library

Ms. Beth Peterson, State Law Librarian, Idaho State Law Library, Supreme Court Building, 451 West State St., Boise, ID 83720, (208) 334–3316

*Illinois*

Supreme Court Library

Ms. Brenda Larison, Supreme Court of Illinois Library, 200 East Capitol Avenue, Springfield, IL 62701–1791, (217) 782–2425

*Indiana*

Supreme Court Library

Mr. Dennis Lager, Supreme Court Librarian, Supreme Court Library, State House, Room 316, Indianapolis, IN 46204, (317) 232–2557

*Iowa*

Administrative Office of the Court

Dr. Jerry K. Beatty, Executive Director, Judicial Education & Planning, Office of the State Court Administrator, State Capital Building, Des Moines, IA 50319–0001, (515) 281–8279

*Kansas*

Supreme Court Library

Mr. Fred Knecht, Law Librarian, Kansas Supreme Court Library, 301 West 10th Street, Topeka, KS 66612, (913) 296–3257

*Kentucky*

State Law Library

Ms. Marge Jones, State Law Librarian, State Law Library, State Capital, Room 200–A, Frankfort, KY 40601, (502) 564–4848

*Louisiana*

State Law Library

Ms. Carol Billings, Director, Louisiana Law Library, 301 Loyola Avenue, New Orleans, LA 70112, (504) 568–5705

*Maine*

State Law and Legislative Reference Library

Ms. Lynn E. Randall, State Law Librarian, 43 State House Station, Augusta, ME 04333, (207) 287–1600

*Maryland*

State Law Library

Mr. Michael S. Miller, Director, Maryland State Law Library, Court of Appeal Building, 361 Rowe Boulevard, Annapolis, MD 21401, (410) 260–1430

*Massachusetts*

Middlesex Law Library

Ms. Sandra Lindheimer, Librarian, Middlesex Law Library, Superior Court House, 40 Thorndike Street, Cambridge, MA 02141, (617) 494–4148

*Michigan*

Michigan Judicial Institute

Mr. Kevin Bowling, Director, Michigan Judicial Institute, 222 Washington Square North, P.O. Box 30205, Lansing, MI 48909, (517) 334–7805

*Minnesota*

State Law Library (Minnesota Judicial Center)

Mr. Marvin R. Anderson, State Law Librarian, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, MN 55155, (612) 297–2084

*Mississippi*

Mississippi Judicial College

Mr. Leslie Johnson, Director, University of Mississippi, P.O. Box 8850, University, MS 38677, (601) 232–5955

*Montana*

State Law Library

Ms. Judith Meadows, State Law Librarian, State Law Library of Montana, 215 North Sanders, Helena, MT 59620, (406) 444–3660

*Nebraska*

Administrative Office of the Courts

Mr. Joseph C. Steele, State Court Administrator, Administrative Office of the Courts/Probation, State Capitol Building, Room 1220, Post Office Box 98910, Lincoln, NE 68509–8910, (402) 471–3730

*Nevada*

National Judicial College

Mr. Randy Snyder, Law Librarian, National Judicial College, Judicial College Building, University of Nevada, Reno, NV 89550, (775) 784–6747

*New Jersey*

New Jersey State Library

Ms. Marjorie Garwig, Supervising Law Librarian, New Jersey State Law Library, 185 West State Street, P.O. Box 520, Trenton, NJ 08625–0250, (609) 292–6230

*New Mexico*

Supreme Court Library

Mr. Thaddeus Bejnar, Librarian, Supreme Court Library, Post Office Drawer L, Santa Fe, NM 87504, (505) 827–4850

*New York*

Supreme Court Library

Ms. Colleen Stella, Principal Law Librarian, New York State Supreme Court Law Library, Onondaga County Court House, 401 Montgomery Street, Syracuse, NY 13202, (315) 435–2063

*North Carolina*

Supreme Court Library

Ms. Louise Stafford, Librarian, North Carolina Supreme Court Library, P.O. Box 28006, 2 East Morgan Street, Raleigh, NC 27601, (919) 733–3425

*North Dakota*

Supreme Court Library

Ms. Marcella Kramer, Assistant Law Librarian, Supreme Court Law Library, 600 East Boulevard Avenue, Dept. 182, 2nd Floor, Judicial Wing, Bismarck, ND 58505–0540, (701) 328–2229

*Northern Mariana Islands*

Supreme Court of the Northern Mariana Islands

Honorable Miguel Sablan Demapan, Chief Justice, Supreme Court of the Commonwealth of the Northern Mariana Islands, P.O. Box 2165 CK, Saipan, MP 96950, (670) 236–9700

*Ohio*

Supreme Court Library

Mr. Paul S. Fu, Law Librarian, Supreme Court Law Library, Supreme Court of Ohio, 30 East Broad Street, Columbus, OH 43266–0419, (614) 466–2044

*Oklahoma*

Administrative Office of the Courts

Mr. Howard W. Conyers, Administrative Director of the Courts, 1915 North Stiles, Suite 305, Oklahoma City, OK 73105, (405) 521–2450

*Oregon*

Administrative Office of the Courts

Ms. Kingsley W. Click, State Court Administrator, Office of the State Court Administrator, Supreme Court Building, Salem, OR 97310, (503) 986–5900

*Pennsylvania*

State Library of Pennsylvania

Ms. Kathy Hale, State Justice Depository, State Library of Pennsylvania, Collection Management, Room G–48 Forum Building, P.O. Box 1601, Harrisburg, PA 17105–1601, (717) 787–5718

*Puerto Rico*

Office of Court Administration

Alfredo Rivera-Mendoza, Esq., Director, Area of Planning and Management, Office of Court Administration, P.O. Box 917, Hato Rey, PR 00919

*Rhode Island*

Roger Williams Law School Library

Mr. Kendall Svengalis, Law Librarian, Licht Judicial Complex, 250 Benefit Street, Providence, RI, (401) 254–4546

*South Carolina*

Coleman Karesh Law Library (University of South Carolina School of Law)

Mr. Steve Hinckley, Library Director, Coleman Karesh Law Library, U. S. C. Law Center, University of South Carolina, Columbia, SC 29208, (803) 777–5944

*South Dakota*

State Law Library

Librarian, 500 East Capitol, Pierre, South Dakota 57501, (605) 773–4898

*Tennessee*

Tennessee State Law Library

Honorable Cornelia A. Clark, Director, Administrative Office of the Courts, Tennessee Supreme Court, 511 Union, Nashville, TN 37243–0607, (615) 741–2687

*Texas*

State Law Library

Ms. Kay Schleuter, Director, State Law Library, P.O. Box 12367, Austin, TX 78711, (512) 463–1722

*U.S. Virgin Islands*

Library of the Territorial Court of the Virgin Islands (St. Thomas)

Librarian, The Library, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00804

*Utah*

Utah State Judicial Administration Library

Ms. Debbie Christiansen, Utah State Judicial Administration Library, Administrative Office of the Courts, 450 South State, P.O. Box 140241, Salt Lake City, UT 84114–0241, (801) 533–6371

*Vermont*

Supreme Court of Vermont

Mr. Lee Suskin, Court Administrator, Supreme Court of Vermont, 109 State Street, Montpelier, VT 05609–0701, (802) 828–3278

*Virginia*

Administrative Office of the Courts

Mr. Robert N. Baldwin, State Court Administrator, Supreme Court of Virginia, 100 North Ninth Street, 3rd Floor, Richmond, VA 23219, (804) 786–6455

*Washington*

Washington State Law Library

Ms. Deborah Norwood, State Law Librarian, Washington State Law Library, Temple of Justice, P.O. Box 40751, Olympia, WA 98504–0751, (360) 357–2136

*West Virginia*

Administrative Office of the Courts

Ms. Kathleen Gross, Deputy Director of Judicial Education, West Virginia Supreme Court of Appeals, State Capitol, 1900 Kanawha Boulevard East, Building 1, Room E–100, Charleston, WV 25305, (304) 558–0145

*Wisconsin*

State Law Library

Ms. Jane Colwin, Director of Public Services, State Law Library, 310 E. State Capitol, P.O. Box 7881, Madison, WI 53707, (608) 261–2340

*Wyoming*

Wyoming State Law Library

Ms. Kathleen B. Carlson, Law Librarian, Wyoming State Law Library, Supreme Court Building, 2301 Capitol Avenue, Cheyenne, WY 82002, (307) 777–7509

*National*

American Judicature Society

Ms. Clara Wells, Assistant for Information and Library Services, 180 North Michigan Avenue, #600, Chicago, IL 60601, (312) 558–6900

*National Center for State Courts*

Ms. Peggy Rogers, Acquisitions/Serials Librarian, 300 Newport Avenue, Williamsburg, VA 23187–8798, (757) 259–1857

JERITT

Dr. Maureen E. Conner, Executive Director, The JERITT Project, 1407 S. Harrison, Suite 330 Nisbet, East Lansing, MI 48823–5239, (517) 353–8603, (517) 432–3965 (fax), e-mail: *connerm@msu.edu*, website: *http://jeritt.msu.edu*

## Appendix E—Illustrative List of Technical Assistance Grants

The following list presents examples of the types of technical assistance for which State and local courts can request Institute funding. Please check with the JERITT project (517/353–8603 or *jeritt@msu.edu* for information about other SJI-supported technical assistance projects.

*Application of Technology*

Technology Plan (Office of the South Dakota State Court Administrator: SJI–99–066)

*Children and Families in Court*

Expanded Unified Family Court (Ventura County, CA, Superior Court: SJI–01–122)

Trial Court Performance Standards for the Unified Family Court of Delaware (Family Court of Delaware: SJI–98–205)

*Court Planning, Management, and Financing*

Job Classification and Pay Study of the New Hampshire Courts (New Hampshire Administrative Office of the Courts: SJI–98–011)

A Model for Building and Institutionalizing Judicial Branch Strategic Planning (12th Judicial Circuit, Sarasota, FL: SJI–98–266)

Strategic Planning (Fourth Judicial District Court, Hennepin County, MN: SJI–99–221)

Differentiated Case Management for the Improvement of Civil Case Processing in the Trial Courts of Texas (Texas Office of Court Administration: SJI–99–222)

*Dispute Resolution and the Courts*

Evaluating the New Mexico Court of Appeals Mediation Program (New Mexico Supreme Court: SJI–00–122)

*Improving Public Confidence in the Courts*

Mississippi Task Force on Gender Fairness in the Courts (Mississippi Administrative Office of the Courts: SJI–00–108)

Analysis of the Juror Debriefing Project (King County, WA, Superior Court: SJI–00–049)

*Improving the Court's Response to Family Violence*

New Hampshire Fatality Reviews (New Hampshire Administrative Office of the Courts: SJI–99–142)

*Education and Training for Judges and Other Court Personnel*

Iowa Supreme Court Advisory Committee on Judicial Branch Education (Iowa State Court Administrator's Office: SJI–01–200)

## Appendix F—Illustrative List of Model Curricula

The following list includes examples of model SJI-supported curricula that State judicial educators may wish to adapt for presentation in education programs for judges and other court personnel with the assistance of a Judicial Branch Education Technical Assistance Grant. *Please refer to section VII.E. for information on submitting a letter application for a Judicial Branch Education Technical Assistance Grant.* A list of all SJI-supported education projects is available on the SJI web site (http://www.statejustice.org). Please also check with the JERITT project (517/353–8603 or http://jeritt.msu.edu) and your State SJI-designated library (see Appendix D) for information on other SJI-supported curricula that may be appropriate for in-State adaptation.

*Alternative Dispute Resolution*

Judicial Settlement Manual (National Judicial College: SJI–89–089)

Improving the Quality of Dispute Resolution (Ohio State University College of Law: SJI–93–277)

Comprehensive ADR Curriculum for Judges (American Bar Association: SJI–95–002)

Domestic Violence and Custody Mediation (American Bar Association: SJI–96–038)

*Court Coordination*

Bankruptcy Issues for State Trial Court Judges (American Bankruptcy Institute: SJI–91–027)

Intermediate Sanctions Handbook: Experiences and Tools for Policymakers (Center for Effective Public Policy: IAA–88–NIC–001)

Regional Conference Cookbook: A Practical Guide to Planning and Presenting a Regional Conference on State-Federal Judicial Relationships (U.S. Court of Appeals for the 9th Circuit: SJI–92–087)

Bankruptcy Issues and Domestic Relations Cases (American Bankruptcy Institute: SJI–96–175)

*Court Management*

Managing Trials Effectively: A Program for State Trial Judges (National Center for State Courts/National Judicial College: SJI–87–066/067, SJI–89–054/055, SJI–91–025/026)

Caseflow Management Principles and Practices (Institute for Court Management/National Center for State Courts: SJI–87–056)

A Manual for Workshops on Processing Felony Dispositions in Limited Jurisdiction Courts (National Center for State Courts: SJI–90–052)

Managerial Budgeting in the Courts; Performance Appraisal in the Courts; Managing Change in the Courts; Court Automation Design; Case Management for Trial Judges; Trial Court Performance Standards (Institute for Court Management/National Center for State Courts: SJI–91–043)

Strengthening Rural Courts of Limited Jurisdiction and Team Training for Judges and Clerks (Rural Justice Center: SJI–90–014, SJI–91–082)

Interbranch Relations Workshop (Ohio Judicial Conference: SJI–92–079)

Integrating Trial Management and Caseflow Management (Justice Management Institute: SJI–93–214)

Leading Organizational Change (California Administrative Office of the Courts: SJI–94–068)

Privacy Issues in Computerized Court Record Keeping: An Instructional Guide for Judges and Judicial Educators (National Judicial College: SJI–94–015)

Managing Mass Tort Cases (National Judicial College: SJI–94–141)

Employment Responsibilities of State Court Judges (National Judicial College: SJI–95–025)

Caseflow Management; Resources, Budget, and Finance; Visioning and Strategic Planning; Leadership; Purposes and Responsibilities of Courts; Information Management Technology; Human Resources Management; Education, Training, and Development; Public Information and the Media from ''NACM Core Competency Curriculum Guidelines'' (National Association for Court Management: SJI–96–148)

Dealing with the Common Law Courts: A Model Curriculum for Judges and Court Staff (Institute for Court Management/National Center for State Courts: SJI–96–159)

Caseflow Management from ''Innovative Educational Programs for Judges and Court Managers'' (Justice Management Institute: SJI–98–041)

*Courts and Communities*

Reporting on the Courts and the Law (American Judicature Society: SJI–88–014)

Victim Rights and the Judiciary: A Training and Implementation Project (National Organization for Victim Assistance: SJI–89–083)

National Guardianship Monitoring Project: Trainer and Trainee's Manual (American Association of Retired Persons: SJI–91–013)

Access to Justice: The Impartial Jury and the Justice System and When Implementing the Court-Related Needs of Older People and Persons with Disabilities: An Instructional Guide (National Judicial College: SJI–91–054)

You Are the Court System: A Focus on Customer Service (Alaska Court System: SJI–94–048)

Serving the Public: A Curriculum for Court Employees (American Judicature Society: SJI–96–040)

Courts and Their Communities: Local Planning and the Renewal of Public Trust and Confidence: A California Statewide Conference (California Administrative Office of the Courts: SJI–98–008)

Charting the Course of Public Trust and Confidence in Our Courts (Mid-Atlantic Association for Court Management: SJI–98–208)

Trial Court Judicial Leadership Program: Judges and Court Administrators Serving the Courts and Community (National Center for State Courts: SJI–98–268)

Public Trust and Confidence (Arizona Courts

Association: SJI–99–063)

*Criminal Process*

Search Warrants: A Curriculum Guide for Magistrates (American Bar Association Criminal Justice Section: SJI–88–035)

*Diversity, Values, and Attitudes*

Troubled Families, Troubled Judges (Brandeis University: SJI–89–071)
The Crucial Nature of Attitudes and Values in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–90–058)
Enhancing Diversity in the Court and Community (Institute for Court Management/National Center for State Courts: SJI–91–043)
Cultural Diversity Awareness in Nebraska Courts from Native American Alternatives to Incarceration Project (Nebraska Urban Indian Health Coalition: SJI–93–028)
Race Fairness and Cultural Awareness Faculty Development Workshop (National Judicial College: SJI–93–063)
A Videotape Training Program in Ethics and Professional Conduct for Nonjudicial Court Personnel and The Ethics Fieldbook: Tool For Trainers (American Judicature Society: SJI–93–068)
Court Interpreter Training Course for Spanish Interpreters (International Institute of Buffalo: SJI–93–075)
Doing Justice: Improving Equality Before the Law Through Literature-Based Seminars for Judges and Court Personnel (Brandeis University: SJI–94–019)
Multi-Cultural Training for Judges and Court Personnel (St. Petersburg Junior College: SJI–95–006)
Ethical Standards for Judicial Settlement: Developing a Judicial Education Module (American Judicature Society: SJI–95–082)
Code of Ethics for the Court Employees of California (California Administrative Office of the Courts: SJI–95–245)
Workplace Sexual Harassment Awareness and Prevention (California Administrative Office of the Courts: SJI–96–089)
Just Us On Justice: A Dialogue on Diversity Issues Facing Virginia Courts (Virginia Supreme Court: SJI–96–150)
When Bias Compounds: Insuring Equal Treatment for Women of Color in the Courts (National Judicial Education Program: SJI–96–161)
When Judges Speak Up: Ethics, the Public, and the Media (American Judicature Society: SJI–96–152)

*Family Violence and Gender-Related Violent Crime*

National Judicial Response to Domestic Violence: Civil and Criminal Curricula (Family Violence Prevention Fund: SJI–87–061, SJI–89–070, SJI–91–055)
Domestic Violence: A Curriculum for Rural Courts (Rural Justice Center: SJI–88–081)
Judicial Training Materials on Spousal Support; Judicial Training Materials on Child Custody and Visitation (Women Judges' Fund for Justice: SJI–89–062)
Understanding Sexual Violence: The Judicial Response to Stranger and Nonstranger Rape and Sexual Assault (National Judicial Education Program: SJI–92–003, SJI–98–133 [video curriculum])
Domestic Violence & Children: Resolving Custody and Visitation Disputes (Family Violence Prevention Fund: SJI–93–255)
Adjudicating Allegations of Child Sexual Abuse When Custody Is In Dispute (National Judicial Education Program: SJI–95–019)
Handling Cases of Elder Abuse: Interdisciplinary Curricula for Judges and Court Staff (American Bar Association: SJI–93–274)

*Health and Science*

Environmental Law Resource Handbook (University of New Mexico Institute for Public Law: SJI–92–162)
A Judge's Deskbook on the Basic Philosophies and Methods of Science: Model Curriculum (University of Nevada, Reno: SJI–97–030)

*Judicial Education for Appellate Court Judges*

Career Writing Program for Appellate Judges (American Academy of Judicial Education: SJI–88–086)
Civil and Criminal Procedural Innovations for Appellate Courts (National Center for State Courts: SJI–94–002)

*Judicial Branch Education: Faculty and Program Development*

The Leadership Institute in Judicial Education and The Advanced Leadership Institute in Judicial Education (University of Memphis: SJI–91–021)
''Faculty Development Instructional Program'' from Curriculum Review (National Judicial College: SJI–91–039)
Resource Manual and Training for Judicial Education Mentors (National Association of State Judicial Educators: SJI–95–233)
Institute for Faculty Excellence in Judicial Education (National Council of Juvenile and Family Court Judges: SJI–96–042; University of Memphis: SJI–01–202)

*Orientation, Mentoring, and Continuing Professional Education of Judges and Court Personnel*

Legal Institute for Special and Limited Jurisdiction Judges (National Judicial College: SJI–89–043, SJI–91–040)
Pre-Bench Training for New Judges (American Judicature Society: SJI–90–028)
A Unified Orientation and Mentoring Program for New Judges of All Arizona Trial Courts (Arizona Supreme Court: SJI–90–078)
Court Organization and Structure (Institute for Court Management/National Center for State Courts: SJI–91–043)
Judicial Review of Administrative Agency Decisions (National Judicial College: SJI–91–080)
New Employee Orientation Facilitators Guide (Minnesota Supreme Court: SJI–92–155)
Magistrates Correspondence Course (Alaska Court System: SJI–92–156)
Computer-Assisted Instruction for Court Employees (Utah Administrative Office of the Courts: SJI–94–012)
Bench Trial Skills and Demeanor: An Interactive Manual (National Judicial College: SJI 94–058)
Ethical Issues in the Election of Judges (National Judicial College: SJI–94–142)
Caseflow Management; Resources, Budget, and Finance; Visioning and Strategic Planning; Leadership; Purposes and Responsibilities of Courts; Information Management Technology; Human Resources Management; Education, Training, and Development; Public Information and the Media from ''NACM Core Competency Curriculum Guidelines'' (National Association for Court Management: SJI–96–148)
Innovative Approaches to Improving Competencies of General Jurisdiction Judges (National Judicial College: SJI–98–001)
Caseflow Management from ''Innovative Educational Programs for Judges and Court Managers'' (Justice Management Institute: SJI–98–041

*Juveniles and Families in Court*

Fundamental Skills Training Curriculum for Juvenile Probation Officers (National Council of Juvenile and Family Court Judges: SJI–90–017)
Child Support Across State Lines: The Uniform Interstate Family Support Act from Uniform Interstate Family Support Act: Development and Delivery of a Judicial Training Curriculum (ABA Center on Children and the Law: SJI 94–321)
Juvenile Justice at the Crossroads: Literature-Based Seminars for Judges, Court Personnel, and Community Leaders (Brandeis University: SJI–99–150)

*Strategic and Futures Planning*

Minding the Courts into the Twentieth Century (Michigan Judicial Institute: SJI–89–029)
An Approach to Long-Range Strategic Planning in the Courts (Center for Public Policy Studies: SJI–91–045)

*Substance Abuse*

Effective Treatment for Drug-Involved Offenders: A Review & Synthesis for Judges and Court Personnel (Education Development Center, Inc.: SJI–90–051)
Good Times, Bad Times: Drugs, Youth, and the Judiciary (Professional Development and Training Center, Inc.: SJI–91–095)
Gaining Momentum: A Model Curriculum for Drug Courts (Florida Office of the State Courts Administrator: SJI–94–291)
Judicial Response to Substance Abuse: Children, Adolescents, and Families (National Council of Juvenile and Family Court Judges: SJI–95–030)

BILLING CODE–6820–SC–P

## Appendix G

# SJI Scholarship Application

*This application does not serve as a registration for the course. Please contact the education provider.*

## APPLICANT INFORMATION:

1. Applicant Name: _____
(Last) (First) (MI)

2. Position: _____

3. Name of Court: _____

4. Address: _____
Street/P.O. Box

_____
City State Zip Code

5. Telephone No. _____

6. Congressional District: _____

## PROGRAM INFORMATION:

7. Course Name: _____

8. Course Dates: _____

9. Course Provider: _____

10. Location Offered: _____

## ESTIMATED EXPENSES:

*(Please note: Scholarships are limited to tuition and transportation expenses to and from the site of the course up to a maximum of $1,500.)*

Tuition: $ _____ Transportation: $ _____
*(Airfare, train fare, or if you plan to drive, an amount equal to the approximate distance and mileage rate.)*

Amount Requested: $_____

Are you seeking/have you received a scholarship for this course from another source?

❑ Yes ❑ No. If so, please specify the source(s) and amounts(s) _____

_____.

Form S1 (9/99)

# SJI SCHOLARSHIP APPLICATION

PAGE 2

## ADDITIONAL INFORMATION:

*Please attach a current resume or professional summary, and provide the information requested below. (You may attach additional pages if necessary.)*

1. Please describe your need to acquire the skills and knowledge taught in this course.

2. Please describe how this course will benefit you, your court, and the State's courts generally.

3. Is there an educational program currently available through your State on this topic?

4. Are State or local funds available to support your attendance at the proposed course? If so, what amount(s) will be provided?

5. How long have you served as a judge or court manager? _____

6. How long do you anticipate serving as a judge or court manager, assuming reelection or reappointment?

   ❑ 0-1 year ❑ 2-4 years ❑ 5-7 years ❑ 8-10 years ❑ 11+ years

7. What continuing professional education programs have you attended in the past year? Please indicate which were mandatory (M) and which were non-mandatory (V).

## STATEMENT OF APPLICANT'S COMMITMENT

**If a scholarship is awarded, I will share the skills and knowledge I have gained with my court colleagues locally, and if possible, Statewide, and I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.**

_____ Signature

_____ Date

*Please return this form and Form S-2 to:*

Scholarship Coordinator, State Justice Institute, 1650 King Street, Suite 600, Alexandria Virginia 22314

# SJI Scholarship Application

## Concurrence

I, _____,
**Name of Chief Justice (or Chief Justice's Designee)**

have reviewed the application for a scholarship to attend the program entitled

_____,

prepared by _____
**Name of Applicant**

and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State; the applicant's absence to attend the program would not present an undue hardship to the court; public funds are not available to enable the applicant to attend this course; and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial branch education.

_____
**Signature**

_____
**Name**

_____
**Title**

_____
**Date**

Form S2 (9/99)

# Appendix H

(Form E)

**STATE JUSTICE INSTITUTE**

**LINE-ITEM BUDGET FORM**

For Concept Papers, Curriculum Adaptation & Technical Assistance Grant Requests

| Category | SJI Funds | Cash Match | In-Kind Match |
|---|---|---|---|
| Personnel | $_____ | $_____ | $_____ |
| Fringe Benefits | $_____ | $_____ | $_____ |
| Consultant/Contractual | $_____ | $_____ | $_____ |
| Travel | $_____ | $_____ | $_____ |
| Equipment | $_____ | $_____ | $_____ |
| Supplies | $_____ | $_____ | $_____ |
| Telephone | $_____ | $_____ | $_____ |
| Postage | $_____ | $_____ | $_____ |
| Printing/Photocopying | $_____ | $_____ | $_____ |
| Audit | $_____ | $_____ | $_____ |
| Other | $_____ | $_____ | $_____ |
| Indirect Costs (%) | $_____ | $_____ | $_____ |
| TOTAL | $_____ | $_____ | $_____ |

**PROJECT TOTAL** $_____

Financial assistance has been or will be sought for this project from the following other sources:

_____

_____

* Concept papers requesting an accelerated award, Curriculum Adaptation grant requests, and Technical Assistance grant requests should be accompanied by a budget narrative explaining the basis for each line-item listed in the proposed budget.

# Appendix I

(Form B)

## STATE JUSTICE INSTITUTE

## Certificate of State Approval

The _____
Name of State Supreme Court or Designated Agency or Council

has reviewed the application entitled _____

prepared by _____
Name of Applicant

approves its submission to the State Justice Institute, and

[ ] agrees to receive and administer and be accountable for all funds awarded by the Institute pursuant to the application.

[ ] designates _____
Name of Trial or Appellate Court or Agency

as the entity to receive, administer, and be accountable for all funds awarded by the Institute pursuant to the application.

_____ _____
*Signature* *Date*

_____
*Name*

_____
*Title*

## INSTRUCTIONS

The State Justice Act requires that:

Each application for funding by a State or local court shall be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts. 42 U.S.C. 10705(b)(4).

FORM B should be signed by the Chief Judge or Chief Justice of the State Supreme Court, or by the director of the designated agency or chair of the designated council. If the designated agency or council differs from the designee listed in Appendix I to the State Justice Institute grant Guideline, evidence of the new or additional designation should be attached.

The term "State Supreme Court' refers to the court of last resort of a State. "Designated agency or council" refers to the office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer and be accountable for those funds.

[FR Doc. 01–21174 Filed 8–22–01; 8:45 am]
BILLING CODE 6820–SC–C

Federal Register

Thursday,
August 23, 2001

# Part III

# Commodity Futures Trading Commission

# Securities and Exchange Commission

**17 CFR Parts 41 and 240**

**Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index; Joint Final Rule**

**COMMODITY FUTURES TRADING COMMISSION**

**17 CFR Part 41**

**RIN 3038–AB77**

**SECURITIES AND EXCHANGE COMMISSION**

**17 CFR Part 240**

**[Release No. 34–44724; File No. S7–11–01]**

**RIN 3235–AI13**

## Method for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume; Application of the Definition of Narrow-Based Security Index; Joint Final Rule

**AGENCIES:** Commodity Futures Trading Commission and Securities and Exchange Commission.

**ACTION:** Joint Final Rules.

**SUMMARY:** The Commodity Futures Trading Commission (''CFTC'') and Securities and Exchange Commission (''SEC'') (collectively, ''Commissions'') are adopting joint final rules to implement new statutory provisions enacted by the Commodity Futures Modernization Act of 2000 (''CFMA''). Specifically, the CFMA directs the Commissions to jointly specify by rule or regulation the method to be used to determine ''market capitalization'' and ''dollar value of average daily trading volume'' for purposes of the new definition of ''narrow-based security index,'' including exclusions from that definition, in the Commodity Exchange Act (''CEA'') and the Securities Exchange Act of 1934 (''Exchange Act''). The CFMA also directs the Commissions to jointly adopt rules or regulations that set forth the requirements for an index underlying a contract of sale for future delivery traded on or subject to the rules of a foreign board of trade to be excluded from the definition of ''narrow-based security index.''

**EFFECTIVE DATE:** August 21, 2001.

**FOR FURTHER INFORMATION CONTACT:**

CFTC: Elizabeth L.R. Fox, Acting Deputy General Counsel; Richard A. Shilts, Acting Director; or Thomas M. Leahy, Jr., Financial Instruments Unit Chief, Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581. Telephone: (202) 418–5000. E-mail: EFox@cftc.gov, RShilts@cftc.gov, or TLeahy@cftc.gov.

SEC: Nancy J. Sanow, Assistant Director, at (202) 942–0771; Ira L. Brandriss, Special Counsel, at (202) 942–0148; or Sapna C. Patel, Attorney, at (202) 942–0166, Office of Market Supervision, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–1001.

**SUPPLEMENTARY INFORMATION:** The CFTC is adopting Subparts A and B of Part 41 (Rules 41.1 and 41.2, and Rules 41.11 through 41.14) under the CEA,[1] 17 CFR 41.[2] The SEC is adopting Rules 3a55–1 through 3a55–3 under the Exchange Act,[3] 17 CFR 240.3a55–1 through 3a55–3.

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## I. Background and Overview of New Rules

A. Statutory Provisions

The CFMA,[4] which became law on December 21, 2000, establishes a framework for the joint regulation by the CFTC and SEC of the trading of futures on single securities and on narrow-based security indexes (collectively, ''security futures'').[5] Previously, these products were statutorily prohibited from trading in the United States. Under the CFMA, designated contract markets and registered derivatives transaction execution facilities (''DTEFs'') may trade security futures if they register with the

[1] All references to the CEA are to 7 U.S.C. 1 *et seq.*

[2] Subpart A of Part 41 under the CEA consists of general provisions for purposes of the rules included in this Part, including definitions (Rule 41.1) and recordkeeping requirements (Rule 41.2). Subpart B of Rule 41, ''Narrow-Based Security Indexes,'' begins with Rule 41.11 on purpose and scope. Rules 41.11, 41.12, and 41.13 of Subpart V correspond to Rules 3a55–1, 3a55–2, and 3a55–3 under the Exchange Act, respectively. Rule 41.14 of Subpart B parallels provisions incorporated in the CEA and the Exchange Act by the CFMA.

[3] All references to the Exchange Act are to 15 U.S.C. 78a *et seq.*

[4] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[5] No person may execute or trade a security futures product until the later of December 21, 2001, or such date that a futures association registered under Section 17 of the CEA meets the requirements in Section 15A(k)(2) of the Exchange Act, except that on the later of August 21, 2001, or such date that a futures association registered under Sectionn 17 of the CEA meets the requirements in Section 15A(k)(2) of the Exchange Act, eligible contract participants may enter into transactions with each other on a principal-to-principal basis. Section 2(a)(1)(D)(iii)(II) of the CEA and Section 6(h)(6) of the Exchange Act provide that options on security futures may not be traded for at least three years after the enactment of the CFMA.

SEC and comply with certain other requirements of the Exchange Act. Likewise, national securities exchanges and national securities associations may trade security futures if they register with the CFTC and comply with certain requirements of the CEA.

To distinguish between security futures on narrow-based security indexes, which are jointly regulated by the Commissions, and futures on broad-based security indexes, which are under the exclusive jurisdiction of the CFTC,[6] the CFMA also amended the CEA and the Exchange Act by adding an objective definition of ''narrow-based security index.''

1. Definition of Narrow-Based Security Index

Under the CEA and Exchange Act, an index is a ''narrow-based security index'' if it has any one of the following four characteristics: (1) It has nine or fewer component securities; (2) any one of its component securities comprises more than 30% of its weighting; (3) the five highest weighted component securities together comprise more than 60% of its weighting; or (4) the lowest weighted component securities comprising, in the aggregate, 25% of the index's weighting (''lowest weighted 25%'') have an aggregate dollar value of average daily trading volume (''ADTV'') of less than $50 million (or in the case of an index with 15 or more component securities, $30 million).[7]

Any security index that does not have any of the four characteristics set forth above is, in effect, a broad-based security index. Accordingly, any future on such an index would not be a security future and thus would be subject to the sole jurisdiction of the CFTC.[8]

2. Indexes Excluded from Definition of Narrow-Based Security Index

The definition of narrow-based security index in the CEA and Exchange Act also excludes from its scope certain security indexes that satisfy specified criteria. A future on an index that meets the criteria of any of the six categories of indexes that are so excluded from the definition is not a security future under the securities laws, and thus is subject solely to the jurisdiction of the CFTC.

The first and most fundamental exclusion applies to indexes comprised wholly of U.S.-registered securities that have high market capitalization and dollar value of ADTV, and meet certain other criteria. Specifically, a security index is not a narrow-based security index under this exclusion if it has all of the following characteristics: (1) It has at least nine component securities; (2) no component security comprises more than 30% of the index's weighting; (3) each of its component securities is registered under Section 12 of the Exchange Act; and (4) each component security is one of 750 securities with the largest market capitalization (''Top 750'') and one of 675 securities with the largest dollar value of ADTV (''Top 675'').[9]

The second exclusion provides that a security index is not a narrow-based security index if a board of trade was designated by the CFTC as a contract market in a future on the index before the CFMA was enacted.[10]

The third exclusion provides that if a future was trading on an index that was not a narrow-based security index for at least 30 days, the index is excluded from the definition of a ''narrow-based security index'' as long as it does not assume the characteristics of narrow-based security index for more than 45 business days over three calendar months.[11] This exclusion, in effect, creates a tolerance period that permits a broad-based security index to retain its broad-based status if it becomes narrow-based for 45 or fewer business days in the three-month period.[12]

The fourth exclusion provides that a security index is not a narrow-based security index if it is traded on or subject to the rules of a foreign board of trade and meets such requirements as are jointly established by rule or regulation by the CFTC and SEC.[13]

The fifth exclusion is essentially a temporary ''grandfather'' provision that permits the offer and sale in the United States of security index futures traded on or subject to the rules of foreign boards of trade that were authorized by the CFTC before the CFMA was enacted.[14] Specifically, the exclusion provides that, until June 21, 2002, a security index is not a narrow-based security index if: (1) A future on the index is traded on or subject to the rules of a foreign board of trade; (2) the offer and sale of such future in the United States was authorized before the date of enactment of the CFMA; and (3) the conditions of such authorization continue to apply.[15]

The sixth exclusion provides that an index is not a narrow-based security index if a future on the index is traded on or subject to the rules of a board of trade and meets such requirements as are established by rule, regulation, or order jointly by the two Commissions.[16] This exclusion grants the Commissions authority to jointly establish further exclusions from the definition of narrow-based security index.

*B. Proposing Release*

On May 17, 2001, the CFTC and SEC published for comment three proposed rules under the CEA and Exchange Act relating to this statutory definition of narrow-based security index and the exclusions from that definition.[17] The proposed rules contained methods for determining ''market capitalization'' and ''dollar value of average daily trading volume,'' in fulfillment of the directive of the CFMA that the Commissions, by rule or regulation, jointly specify the methods to be used to determine these values.[18]

The proposed rules also set forth an additional exclusion from the definition of narrow-based security index with respect to the trading of a future on a

[6] Prior to the enactment of the CFMA, futures on broad-based indexes were subject to the sole jurisdiction of the CFTCC, with the SEC having a limited right of review, to ensure compliance with the provisions of the Shad-Johnson Accord as implemented in former Section 2(a)(1)(B) of the CEA. This 1982 jurisdictional accord (signed into law in 1983) permitted futures exchanges to trade futures on security indexes if they were cash-settled and were not readily susceptible to manipulation and if the indexes traded measured and reflected a market segment. *See* Futures Trading Act of 1982 Section 101, Pub. L. No. 97–444, 96 Stat. 2294 [codified at 7 U.S.C. Section 2(a)]. *repealed* by the Commodity Futures Modernization Act of 2000, Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[7] Section 1a(25)(A)(i)–(iv) of the CEA and Section 3(a)(55)(B)(i)–(iv) of the Exchange Act.

[8] *See* Section 2(a)(1)(C)(ii) of the CEA. A future on a security index that is not a narrow-based security index under this definition may include component securities that are not registered under Section 12 of the Exchange Act.

[9] Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act.

[10] Section 1a(25)(B)(ii) of the CEA and Section 3(a)(55)(C)(ii) of the Exchange Act.

[11] Section 1a(25)(B)(iii) of the CEA and Section 3(a)(55)(C)(ii) of the Exchange Act.

[12] If the index becomes narrow-based for *more* than 45 days over three consecutive calendar months, the statute then provides an additional grace period of three months during which the index is excluded from the definition of narrow-based security index. *See* Section 1a(25)(D) of the CEA and Section 2(a)(55)(E) of the Exchange Act.

[13] Section 1a(25)(B)(iv) of the CEA and Section 3(a)(55)(C)(iv) of the Exchange Act.

[14] Certain of these futures are currently offered to U.S. customers pursuant to no-action letters issued by the CFTC staff, to which the SEC has not objected.

[15] Section 1a(25)(B)(v) of the CEA and Section 3(a)(55)(C)(v) of the Exchange Act.

[16] Section 1a(25)(B)(vi) of the CEA and Section 3(a)(55)(C)(vi) of the Exchange Act.

[17] Securities Exchange Act Release No. 44288 (May 9, 2001), 66 FR 27560 (''Proposing Release''). See also Securities Exchange Act Release No. 44475 (June 26, 2001), 66 FR 34864 (July 2, 2001), which extended the comment period on the proposed rules.

[18] *See* Section 1a(25)(E)(ii) of the CEA and Section 3(a)(55)(F)(ii) of the Exchange Act.

broad-based index during the first 30 days of trading, and added a provision concerning security indexes traded on or subject to the rules of a foreign board of trade. The CFTC also published for comment an additional, related rule under the CEA to accommodate the trading of security futures on a narrow-based security index that became a broad-based index.

The Commissions received 16 comment letters on the proposals, which are discussed more fully below.[19] In large part, commenters favored the proposed rules, but offered various recommendations to refine the proposals or add new rules.

*C. Final Rules—An Overview*

The Commissions have considered the commenters' views and have modified the proposed rules in some respects to reflect these comments. A summary of the final rules follows.

• *Rule 41.11 under the CEA and Rule 3a55–1 under the Exchange Act*

Rules 41.11 under the CEA and 3a55–1 under the Exchange Act establish a method for determining the dollar value of ADTV of a security for purposes of the definition of narrow-based security index under the CEA and Exchange Act. This method requires the inclusion of reported transactions outside the United States in calculating dollar value of ADTV for purposes of Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act.[20] It also requires aggregating the value of trading volume in a depositary share [21] that represents a security with trading volume in its underlying security.

In response to comments, the Commissions have incorporated into their rules a provision that allows for the designation by the Commissions of a list of the Top 750 securities and Top 675 securities for purposes of the first exclusion from the definition of narrow-based security index.[22] If, however, the Commissions do not designate a list of such securities, the final rules also establish how national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade themselves are to calculate the market capitalization and dollar value of ADTV of securities for purposes of determining whether a security is one of the Top 750 securities or Top 675 securities. Recognizing concerns about the accessibility of foreign trading volume data and to assure uniformity among markets, the final rules establish that only reported transactions in the United States are to be included in a market's calculations to determine whether a security is one of the Top 675 securities. The final rules also provide that the requirement that each component security of an index be registered under Section 12 of the Exchange Act for purposes of the first exclusion from the definition of narrow-based security index will be satisfied with respect to any security that is a depositary share, if the deposited securities underlying the depositary share are registered under Section 12, and the depositary shares are registered under the Securities Act of 1933 on Form F–6.

Finally, the rules define certain terms to add clarity to the definition of narrow-based security index.

• *Rule 41.12 under the CEA and Rule 3a55–2 under the Exchange Act*

Rules 41.12 under the CEA and 3a55–2 under the Exchange Act address the circumstance when a broad-based security index underlying a future becomes narrow-based during the first 30 days of trading. In such case, the future does not meet the requirement of having traded for at least 30 days to qualify for the tolerance period granted by Section 1a(25)(B)(iii) of the CEA and Section 3(a)(55)(C)(iii) of the Exchange Act. The new rules provide that the index will nevertheless be excluded from the definition of narrow-based security index throughout that first 30 days if the index would not have been a narrow-based security index had it been in existence for an uninterrupted period of six months prior to the first day of trading. In response to comments, the rules as adopted provide additional criteria by which an index will be excluded from the definition of a narrow-based security index during the first 30 days that a future on such index is trading.

• *Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act*

Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act clarify when a security index underlying a future that is traded on or subject to the rules of a foreign board of trade will be considered a broad-based security index. Specifically, these rules provide that when a future on a security index is traded on or subject to the rules of a foreign board of trade, it will not be considered a narrow-based security index if it would not be a narrow-based security index if a future on that same index were traded on a designated contract market or registered DTEF.

• *Rule 41.14 under the CEA*

Rule 41.14 under the CEA, which is adopted solely by the CFTC, addresses the circumstance where a future on a narrow-based security index was trading on a national securities exchange as a security future and the index subsequently became broad-based by the terms of the statutory definition—a circumstance not addressed by the statute. The rule provides that if the index becomes broad-based for no more than 45 business days over three consecutive calendar months, it will still be considered a narrow-based security index.

In addition to this 45-day tolerance provision, new Rule 41.14 under the CEA provides that if the index became broad-based for more than 45 days subsequent to the beginning of trading as a narrow-based security index, a transition period of three consecutive calendar months will be granted in which the index will continue to be a narrow-based security index. After the transition period is over, the exchange will be permitted to continue trading the product only in those months in the future that had open interest on the day the transition period ended.

## II. Discussion of Joint Final Rules

*A. CEA Rule 41.11 and Exchange Act Rule 3a55–1: Methods for Determining Market Capitalization and Dollar Value of Average Daily Trading Volume*

1. Determining the Market Capitalization of a Security

The market capitalization of a security is relevant only to the determination of whether a security is one of the 750 securities with the largest market capitalization, permitting the index of which it is a component to qualify as broad-based under the first exclusion

[19] *See* letters to Jean A. Webb, Secretary, CFTC, and Jonathan G. Katz, Secretary, SEC, from, or on behalf of: Philip McBride Johnson, dated May 29, 2001 (''Johnson Letter''); Hong Kong Futures Exchange Limited, dated June 8, 2001 (''HKFE Letter''); General Motors Investment Management Corporation, dated June 11, 2001 (''GMIMCo Letter''); American Stock Exchange LLC, dated June 14, 2001 (''Amex Letter''); Bourse de Montreal (The Montreal Exchange, Inc.), dated June 14, 2001 (''ME Letter''); Chicago Board Options Exchange, Inc., dated June 18, 2001 (''CBOE Letter''); Chicago Mercantile Exchange Inc., dated June 18, 2001 (''CME Letter I''); SFE Corporation Limited, dated June 18, 2001 (''SFE Letter''); The Board of Trade of the City of Chicago, Inc., dated June 25, 2001 (''CBOT Letter''); Managed Funds Association, dated July 11, 2001 (''MFA Letter''); Barclays Global Investors, N.A., dated July 17, 2001 (''Barclays Letter''); Futures Industry Association, Inc., dated July 18, 2001 (''FIA Letter''); The Goldman Sachs Group, Inc. and its subsidiaries, dated July 18, 2001 (''GS Letter''); U.S. Securities Markets Coalition, dated July 18, 2001 (''Securities Markets Coalition Letter''); Chicago Mercantile Exchange Inc., dated July 30, 2001 (''CME Letter II''); Securities Industry Association, dated August 3, 2001 (''SIA Letter'').

[20] *See supra* note 7 and accompanying text.

[21] Depositary shares are generally evidenced by American Depositary Receipts, or ''ADRs.''

[22] *See supra* note 9 and accompanying text.

from the definition of narrow-based security index.[23]

*a. Proposed Rules*

The proposed rules would have defined the market capitalization of a security for these purposes as the product of: (1) the number of outstanding shares of the security as reported in the most recent quarterly or annual report of the company; and (2) the average price of the security over the preceding 6 full calendar months.

The proposed rules defined outstanding shares as the number of outstanding shares as reported in the most recent quarterly or annual report of the company—*i.e.*, Form 10–Q, 10–K, 10–QSB, 10–KSB, or 20–F[24]—filed with the SEC by the issuer of the security. The proposed rules included a method for determining the average price of a security over time that took into account the number of shares in each transaction over the 6-month period.[25]

The Commissions requested comment on the use of this method, and asked whether another method, such as using a security's daily closing price, would be more appropriate. In addition, the Commissions asked for comment on whether, in determining the average price of a security, the price of American Depositary Receipts (''ADRs'') representing shares of such security should be included proportionally. Comment was also requested on whether the definition of outstanding shares should address corporate events that affect the number of shares outstanding of a security and that occur after the annual or quarterly report of the issuer, and whether, for example, updated information contained in any subsequent Form 8–K[26] filed by the issuer, or more current information submitted to the primary market center for the underlying security, should be included.

The Proposing Release also included a request for comment on whether it would be difficult for market participants to determine the Top 750 securities, and whether the Commissions should themselves undertake to compile, on a regular basis, a Top 750 list.

*b. Comment Letters*

Several commenters objected to the use of average price as a factor to determine market capitalization.[27] Most commenters who addressed the Commissions' questions on this subject favored using the security's daily closing price in lieu of average price.[28] This method was seen as a way to simplify the calculation, to yield more verifiable results,[29] and to conform to common methods used in the industry.[30] Some commenters maintained that generally, in view of the number of calculations required to determine market capitalization on an ongoing basis, the least burdensome method should be required.[31] One commenter believed that the Commissions should allow flexibility in the methodologies used to calculate average price and market capitalization,[32] while another emphasized the importance of uniformity.[33] Several commenters favored the inclusion of transaction prices in ADRs in calculating the average price of the underlying security.[34]

Commenters on the definition of outstanding shares favored a rule that would permit taking into account corporate events that affect the number of shares outstanding at the time they become effective.[35] One commenter expressed the concern that vendors of market information routinely adjust the number of shares they use to calculate market capitalization between regular reporting periods in the case of corporate events that affect the number of shares outstanding.[36]

Several commenters indicated that it would indeed be difficult to constantly determine the Top 750 securities and endorsed the suggestion that the Commissions publish lists of the Top 750 securities for purposes of the statutory provision.[37] One exchange also argued that a list published by the Commissions was necessary so as to eliminate uncertainty and assure conformity among markets in determining the status of various security indexes.[38]

*c. Final Rules*

In response to commenters' suggestions, the Commissions are adopting two alternative methods for markets to determine whether a security is one of the Top 750 securities. The Commissions expect to be able at some point in the near future to designate a list of such securities and have provided in the final rules for this possibility.[39] However, because a final determination has not been made regarding the Commissions' designation of a list, the Commissions are adopting rules setting forth the method for markets to use to calculate market capitalization and thereby to determine the securities that comprise the Top 750.[40]

Specifically, in the absence of a designated list of these securities, paragraph (d)(6) of Rule 41.11 under the CEA and Rule 3a55–1 under the Exchange Act[41] defines the ''market capitalization,'' on a particular day, of a security that is not a depositary share as the product of: (1) The number of outstanding shares of the security on that day; and (2) the closing price of the security on that day.[42]

When a component security of an index is an ADR, market capitalization for a particular day is defined as the product of: (1) The closing price of the depositary share that day, divided by the number of deposited securities represented by the depositary share; and (2) the number of outstanding shares of the security represented by the depositary share that same day.

The ''closing price'' of a security is defined in paragraph (d)(2) of the rules[43] as the price at which the last reported transaction[44] in the security

[23] *See supra* note 9 and accompanying text.

[24] 17 CFR 249.310, 249.308a, 249.310b, 249.308b, or 249.220f.

[25] The proposed method, which involved a calculation of the security's volume-weighed average price, is discussed below. *See infra* Part II.A.2.

[26] 17 CFR 249.308.

[27] *See* CBOE Letter; CBOT Letter; CME Letter I; GS Letter.

[28] *See* CBOE Letter; CBOT Letter; GS Letter; SIA Letter. *See also* CME Letter I.

[29] *See* GS Letter.

[30] *See* CBOT Letter.

[31] *See* CBOE Letter; CBOT Letter; SIA Letter.

[32] *See* CME Letter I.

[33] *See* CBOE Letter.

[34] *See* CBOE Letter; CBOT Letter; CME Letter I.

[35] *See, e.g.*, SIA Letter.

[36] *See* CBOT Letter. *See also* CME Letter I.

[37] *See* CBOE Letter; CBOT Letter; CME Letter I; SIA Letter.

[38] *See* CBOE Letter.

[39] Rule 41.11(a)(1) under the CEA and Rule 3a55–1(a)(1) under the Exchange Act, 17 CFR 41.11(a)(1) and 17 CFR 240.3a55–1(a)(1). *See also infra* notes 83–84 and accompanying text.

[40] Rule 41.11(a)(2) under the CEA and Rule 3a55–1(a)(2) under the Exchange Act, 17 CFR 41.11(a)(2) and 17 CFR 240.3a55–1(a)(2).

[41] 17 CFR 41.11(d)(6) and 17 CFR 240.3a55–1(d)(6).

[42] This definition of market capitalization is for purposes only of the Commissions' rules for calculating market capitalization of a security to determine whether it is a Top 750 security. The sponsor or compiler of an index otherwise categorized as a market capitalization-weighted index is not required to use this definition to determine the relative weightings of the index's component securities.

[43] 17 CFR 41.11(d)(2) and 17 CFR 240.3a55–1(d)(2).

[44] As defined in paragraph (d)(10) of the rules, ''reported transaction'' means:

(i) with respect to securities transactions in the United States, any transaction for which a transaction report is collected, processed, and made available pursuant to an effective transaction reporting plan, or for which a transaction report, last sale data, or quotation information is

Continued

took place in the regular session of the principal market for the security[45] in the United States. This definition applies when reported transactions have taken place in the U.S. If no reported transactions in a particular security have taken place in the United States, but a depositary share in the security trades in the U.S., the closing price of the security is defined as the closing price of the depositary share representing the security divided by the number of shares of the underlying security that the depositary share represents.

If no reported transactions in the security or in a depositary share representing the security have taken place in the United States, the closing price of the security is defined as the price at which the last transaction in such security took place in the regular trading session of the principal market for the security. The price, if reported in non-U.S. currency, must be converted into U.S. dollars on the basis of a spot rate of exchange relevant for the time of the transaction obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.[46]

The Commissions concur with the commenters that use of a security's closing price, rather than its average price as proposed, is reasonable in view of the purposes of the rule-determining which securities are among the 750 securities with the largest market capitalization. Relying on the closing price will also help assure uniformity among markets in applying the statutory definition.

For the same reason, the Commissions have defined closing price in the rules generally as the price of the last transaction in the regular trading session of the principal market for the security in the United States.[47] Although a security that is registered under Section 12 of the Exchange Act, and thereby eligible for inclusion among the 750 securities with the largest market capitalization, may trade on markets outside of the United States, the Commissions believe that, in this context, the interests of uniformity are served by defining the closing price in U.S. dollars as based on the last transaction for the security in the regular trading session of the principal U.S. market. When a foreign security that is registered under Section 12 trades in the United States only in the form of a depositary share, the rule establishes that the closing price of such share must be adjusted to reflect the ratio of shares represented by the depositary share to the number of outstanding shares in the underlying security. This is because the formula for market capitalization of the underlying security uses the number of outstanding shares in the underlying security as the multiplier with closing price.

In addition, following the suggestion of commenters, the Commissions have modified the definition of outstanding shares from that proposed to include updated information on changes in the number of shares outstanding reflecting corporate events that occur after the annual or quarterly report, as contained in any Form 8–K filed by the issuer.[48]

The final rules provide that, once the market capitalization of a security is calculated for each day of the preceding 6 full calendar months, market capitalization of such security as of the preceding 6 full calendar months must be determined.[49] This determination requires: (1) Summing the values of the market capitalization for each trading day in the U.S. during the preceding 6 full calendar months;[50] and (2) dividing this sum by the total number of such trading days.[51]

Finally, paragraph (a)(2)(ii) of these rules[52] provides that the 750 securities with the largest market capitalization shall be identified from the universe of all reported securities as defined in Rule 11Ac1–1 under the Exchange Act[53] that are common stock or depositary shares. The Commissions believe that this provision will ease the burden on markets in identifying the Top 750, by limiting the universe from which these securities must be identified to securities listed on a national securities exchange, the trades of which are reported to the Consolidated Tape Association (''CTA''), and securities that are Nasdaq National Market System (''Nasdaq NMS'') securities.

2. Determining Dollar Value of Average Daily Trading Volume of a Security

The dollar value of ADTV of a security is relevant for purposes of: (1) determining whether an index is a narrow-based security index under the statutory definition, which requires an assessment of whether the dollar value of the ADTV of the lowest weighted 25% of the index is less than $50 million (or $30 million for indexes with 15 or more component securities);[54] and (2) determining whether a security is among the 675 securities with the largest dollar value of ADTV, permitting the index of which it is a component to qualify as broad-based under the first exclusion from the definition of narrow-based security index.[55]

*a. Proposed Rules*

The proposed rules would have defined the dollar value of ADTV of a security for the purpose of the definition of narrow-based security index as the product of: (1) The average daily trading volume of the security over the preceding 6 full calendar months; and (2) the average price of the security over the preceding 6 full calendar months.

The definition of average price of a security over the preceding 6 full calendar months in the proposed rules took into account the number of shares

disseminated through an automated quotation system as described in Section 3(a)(51)(A)(ii) of the Act (15 U.S.C. 78c(a)(51)(A)(ii)); and

(ii) with respect to securities transactions outside the United States, any transaction that has been reported to a foreign financial regulatory authority in the jurisdiction where such transaction has taken place.

17 CFR 41.11(d)(10) and 17 CFR 240.3a55–1(d)(10). ''Foreign financial regulatory authority'' is defined, as in the proposed rule, to have the same meaning as in Section 3(a)(52) of the Exchange Act, 15 U.S.C. 78c(a)(52). 17 CFR 41.11(d)(4) and 17 CFR 240.3a55–1(d)(4).

[45] The principal market of a security is defined in paragraph (d)(9) of the rules as the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months. 17 CFR 41.11(d)(9) and 17 CFR 240.3a55–1(d)(9).

[46] *See infra* note 76 and accompanying text for a more detailed discussion of foreign currency conversions under these rules.

[47] *See* CBOE Letter and GS Letter, suggesting a similar definition.

[48] See 17 CFR 41.11(d)(7) and 17 CFR 240.3a55–1(d)(7). The definition does not include, however, information submitted by the issuer to the primary market center for the underlying security, but not filed on a Form 8–K. The Commissions believe that a requirement to include such information could impose an unreasonable burden on markets in terms of monitoring for such changes and could lead to a lack of uniformity in the data used by different markets.

[49] Rule 41.11(a)(2)(i) under the CEA and Rule 3a55–1(a)(2)(i) under the Exchange Act.

[50] The definition of ''preceding 6 full calendar months'' is in paragraph (d)(8) of CEA Rule 41.11 and Exchange Act Rule 3a55–1 and is discussed, *infra* notes 88–92 and accompanying text.

[51] Some commenters suggested that the market capitalization of a security over the preceding 6 full calendar months be determined by first calculating the security's average closing price for the entire 6-month period, and then multiplying such average closing price by the number of outstanding shares of such security for each day in the 6-month period. *See, e.g.*, CBOT Letter. The method adopted by the Commissions, however, requires calculating the market capitalization of a security for each day in the 6-month period, and then averaging those daily market capitalization values over the 6-month period. This method takes into account any change in the number of outstanding shares of the security that may have occurred during the 6-month period.

[52] 17 CFR 41.11(a)(2)(ii) and 17 CFR 3a55–1(a)(2)(ii).

[53] A reported security is a security for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan. See 17 CFR 240.11Ac1–1(a)(20).

[54] *See supra* note 7 and accompanying text.

[55] *See supra* note 9 and accompanying text.

in each transaction during the period. This method, often termed ''volume-weighted average price,'' or ''VWAP,'' would require a person calculating the average to first establish a value for each transaction by multiplying the price per share in U.S. dollars of the transaction by the number of shares traded in that transaction. Then, the sum of these values for all the transactions in the security during the 6-month period would be divided by the total number of shares traded during that period.

The proposed rules provided an alternative method for determining the dollar value of ADTV of a security using a non-volume-weighted average price under certain conditions. Specifically, for purposes of determining whether the dollar value of ADTV of the lowest weighted 25% of a security index exceeded the statutory thresholds of $50 million (or $30 million), national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade would have been permitted to use an average price for each component security defined as the average price level at which transactions in the security took place over the six-month period, irrespective of the number of shares traded in each transaction.

In addition, the proposed rules permitted data from non-U.S. markets to be included in determining the ADTV and average price of a security, provided that the information was reported to a foreign financial regulatory authority in the jurisdiction where the security is traded. To the extent that trades executed on non-U.S. markets were included in the calculation of ADTV, the proposed rules required the same trades to be included in calculating average price. The proposed rules also required that for non-U.S. transactions to be included in the calculation of average price, the price of each transaction would need to be translated into U.S. dollars at the trading date's noon buying rate in New York City as certified for customs purposes by the Federal Reserve Bank of New York (''noon buying rate''). Price and trading volume data for each security were to be included only for the trading days of the principal market for the security.

The Commissions requested comment on the use of the proposed method for determining dollar value of ADTV, and inquired whether another method, such as using an average of a security's daily closing price, would be more appropriate. In addition, the Proposing Release solicited comment on whether, when determining average price of a security, the average price, on a proportional basis, of ADRs representing shares of such security should be considered. The Proposing Release also included a request for comment on whether it would be difficult for market participants to determine the Top 675 securities, and whether the Commissions should themselves undertake to compile, on a regular basis, a Top 675 list.

*b. Comment Letters*

Several commenters objected to the use of VWAP as a multiplier in determining dollar value of ADTV.[56] The commenters asserted that the calculations required by this method would be too numerous, complicated, and overly burdensome in light of the purposes of the statute and would not increase the reliability of the results. Moreover, they pointed out that, because the methodologies of calculating VWAP differ among market data vendors, the results would not be as consistent as using a method based on closing price.

There was a divergence of views, however, with respect to an appropriate alternative. One commenter believed that the Commissions should allow flexibility in the methodologies used to calculate average price and dollar value of ADTV.[57] Some commenters favored the use of the average daily closing price of a security as the multiplier to be used with the security's ADTV to determine dollar value of ADTV.[58] Another commenter maintained that while closing price is the standard multiplier used (with the number of outstanding shares) in calculating market capitalization, using an average closing price to determine dollar value of ADTV would be an ''unconventional and less accurate measure of average value traded'' than using VWAP as the multiplier, which, it argued, is ''standard and intuitive.''[59] This commenter pointed out, however, that the same result reached by using the proposed method could be reached by using a method that had been suggested as an alternative in the Proposing Release. This method involves calculating the actual dollar value of all transactions in a security for each trading day during the 6-month period, and then arriving at an average for the period by summing the values for each trading day and dividing the result by the number of such trading days.

Several commenters favored including the trading in ADRs in calculating the average price of their underlying securities.[60] With respect to the proposed rule permitting the limited use of a non-volume-weighted average price for purposes of determining whether the daily trading value of the lowest weighted 25% of an index exceeded the statutory thresholds, two commenters did not believe that it was likely to be helpful and one commenter did not favor the conditions imposed for use of this alternative.[61]

Three commenters expressed views on the proposed rules with respect to the inclusion of foreign trading data. One commenter generally agreed with the proposed rules,[62] while another believed that, for ADTV, only the volume reported on the principal listing exchange in the United States should be included.[63] A third commenter questioned the restriction limiting the use of foreign data to data reported to a foreign financial regulatory authority, suggesting, instead, that the rules permit the use of trading data derived from trading on foreign markets subject to surveillance by an appropriate foreign regulatory authority.[64] This commenter also sought clarification as to whether the inclusion of data from non-U.S. exchanges is optional or mandatory, noting that if the use of foreign data is merely optional, this could lead to inconsistent determinations as to whether an index is broad-based or narrow-based.[65]

Finally, several commenters indicated that it would indeed be difficult to constantly determine the Top 675 securities, and endorsed the suggestion that the Commissions should publish lists of the Top 675 securities for purposes of the statutory provision.[66] One exchange also argued that a list published by the Commissions was necessary to eliminate uncertainty and assure conformity among markets in determining the status of various security indexes.[67]

*c. Final Rules*

The rules, as adopted, establish different methods to be used to determine the dollar value of a security's ADTV for purposes of the two provisions where this value is relevant,

[56] *See* CBOE Letter; CME Letter 1; GS Letter. *See also* CBOT Letter.

[57] *See* CME Letter I.

[58] *See* CBOE Letter; GS Letter, *See also* CME Letter I.

[59] *See* CBOT Letter.

[60] *See* CBOE Letter; CBOT Letter; CME Letter I; SIA Letter.

[61] *See* CBOT CME Letter I; SIA Letter.

[62] *See* CME Letter I.

[63] *See* CBOE LEtter.

[64] *See* SIA Letter. The SIA stated that it was not clear that all relevant jurisdictions require reporting to a financial regulatory authority.

[65] *Id.*

[66] *See* CBOE Letter; CBOT Letter; CME Letter I; SIA Letter.

[67] *See* CBOE Letter.

as noted above: the statutory definition of narrow-based security index (Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act); and the first exclusion from that definition (Section 1a(25)(B)(i) of the CEA and Section 3(a)(55)(C)(i) of the Exchange Act).

As discussed further below, the final rules provide for the possibility that the Commissions will designate the Top 675 for purposes of the exclusion. The Commissions are actively investigating the possibility of designating this list with routine periodic updates. To the extent feasible, the Commissions are committed to include foreign volume data. The Commissions welcome suggestions at any time from interested parties regarding this matter.

In the event that no such list is designated by the Commissions, the rules provide a method for markets themselves to determine the Top 675 securities for this purpose. The Commissions agree with the view expressed by some commenters that it is important in such case that all markets use the same data. Accordingly, it is critical that the information used to determine these 675 securities is easily obtained by all markets and is identical. Because of limitations in the accessibility and uniformity of trading data from foreign markets, the Commissions have determined that, for purposes only of determining the Top 675 securities, only U.S. market volume data should be used. At this time, the Commissions believe that this simplification will not make a significant impact on the final list drawn from the intersection of the Top 750 and Top 675.

For purposes of determining whether the dollar value of the lowest weighted 25% of a particular index exceeds the $50 million (or $30 million) threshold established by the definition of narrow-based security index, the Commissions believe that small variations in the derived ADTV for component securities are not critical. Therefore, the Commissions have determined to require the inclusion of foreign market trading data in the calculation of a security's dollar value of ADTV.

The Commissions are adopting different methodologies for calculating the value of ADTV for purposes of the two provisions where the value is relevant, i.e., requiring the use of foreign volume data for the definition but not for the first exclusion, for a practical reason. The Commissions believe that it is important to have a single list of the Top 675 securities for ascertaining compliance with the first exclusion to enhance certainty regarding eligible securities. In contrast, the Commissions believe that small variations in the derived ADTV that may result from the use of foreign volume data for component securities under the definition would be acceptable and would not undermine the statutory requirement that the lowest weighted 25% of an index exceed minimum volume thresholds to be a broad-based index.

i. Dollar Value of ADTV for Purposes of Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act

First, paragraph (b)(1)(i)(A) of Rule 41.11 under the CEA and Rule 3a55–1 under the Exchange Act [68] provides the method to determine the dollar value of ADTV of a security for purposes of assessing whether the dollar value of ADTV of the lowest weighted 25% of a security index exceeds $50 million (or $30 million). The method entails calculating the dollar value of ADTV of a security separately for each jurisdiction in which it trades, and then summing the values for all jurisdictions.[69] Once the dollar value of ADTV of each component security comprising the lowest weighted 25% of an index [70] is calculated, those values are summed to determine the aggregate dollar value of ADTV of the lowest weighted 25% of an index.[71]

For trading in a security in the United States, paragraph (b)(1)(ii) of Rule 41.11 under the CEA and Rule 3a55–1[72] under the Exchange Act provides that the dollar value of ADTV of a security is the sum of the value of all reported transactions in the security for each U.S. trading day during the preceding 6 full calendar months, divided by the total number of trading days. For trading in a security in a jurisdiction other than the United States, paragraph (b)(1)(iii)[73] sets forth the same method for determining the dollar value of ADTV of a security in each jurisdiction in which it traded, but stipulates that the value of each day's trading must be translated into U.S. dollars on the basis of that day's exchange rate, as discussed further below.

Calculating a security's VWAP will not be necessary.[74] In response to the concerns raised by commenters, the method adopted for determining dollar value of ADTV requires a market to first compute the dollar value of a security's trading each day, and then to average the result over the 6–month period. This calculation yields the same result as proposed, without requiring the calculation of a security's VWAP.[75]

The rule allows flexibility in the choice of an exchange rate.[76] The proposed rule would have required the use of the noon buying rate to assure conformity in the determination of whether a security is one of the 675 securities with the largest dollar value of ADTV. However, because the Commissions are adopting a different methodology for determining dollar value of ADTV of the lowest weighted 25% of an index than the methodology for determining whether a security is among the Top 675, the Commissions believe that permitting markets some flexibility in applying an exchange rate is acceptable, as long as the exchange rate used is a spot rate of exchange obtained from an independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business. Such entity must be active in the foreign currency markets as a source that quotes rates for the purpose of buying and selling foreign currencies. The Federal Reserve Bank, as in the proposed rules, would be an acceptable source.

As supported by commenters who favored the inclusion of ADR data, the rules also establish that the dollar value of ADTV of a security includes the value of all reported transactions in any depositary share that represents such security; and that the dollar value of ADTV of a depositary share includes the value of all reported transactions in its underlying security.[77]

The Commissions note that the inclusion of information from non-U.S.

[68] 17 CFR 41.11(b)(1)(i)(A) and 17 CFR 240.3a55–1(b)(1)(i)(A).

[69] A separate calculation is required for each jurisdiction because the value of foreign trading, which is reported in local currency, must be converted into U.S. dollars each day on the basis of a spot exchange rate valid for that particular day, *see infra* note 76, and then averaged over the 6–month period. Under the rule as proposed, the overall VWAP in U.S. dollars for all markets could have been calculated together, but that calculation, too, required the value of each day's transactions in each foreign market to have been originally translated from the local currency into U.S. dollars on the basis of a rate valid for that particular day.

[70] *See infra* notes 85–86 and accompanying text for a discussion of the definition of ''lowest weighted 25% of an index.''

[71] 17 CFR 41.11(b)(1)(iv) and 17 CFR 240.3a55–1(b)(1)(iv).

[72] 17 CFR 41.11(b)(1)(ii) and 17 CFR 240.3a55–1(b)(1)(ii).

[73] 73 17 CFR 41.11(b)(1)(iii) and 17 CFR 240.3a55–1(b)(1)(iii).

[74] Both the volume-weighted average price and non-volume-weighted average price definitions of ''average price'' in the proposed rules have thus been eliminated.

[75] This method also does not require the separate calculation of ADTV. Thus, the proposed definition of ADTV is not being adopted.

[76] *See* paragraph (b)(1)(iii)(B) of the rules, 17 CFR 41.11(b)(1)(iii)(B) and 17 CFR 3a55–1(b)(1)(iii)(B) .

[77] *See* paragraph 41.11(b)(1)(i)(B)–(C) of the rules, 17 CFR 41.11(b)(1)(i)(B)–(C) and 17 CFR 240.3a55–1(b)(1)(i)(B)–(C).

markets is mandatory in determining whether the lowest weighted 25% of an index is more than $50 million (or $30 million). The final rule retains the restriction of the proposed rules limiting data from non-U.S. markets to transactions reported to a foreign financial regulatory authority.[78] The Commissions believe that there is no way to assure that information on transactions that are not so reported is reliable or accurate.

ii. Dollar Value of ADTV for Purposes of Determining Whether a Security is One of the Top 675

Second, in response to commenters, the Commissions are adopting two alternative methods for markets to determine whether a security is one of the 675 securities with the largest dollar value of ADTV. The Commissions expect to be able at some point in the near future to designate a list of such securities and have provided in the final rules for such possible designation.[79] However, because a final determination regarding the Commissions' designation of such list has not yet been made, the Commissions are adopting rules setting forth the method for markets themselves to use to calculate dollar value of ADTV and thereby to determine which securities are among the Top 675.

Specifically, in the absence of a designated list of such securities, paragraph (b)(2)(ii)(A) of CEA Rule 41.11 and Exchange Act Rule 3a55–1[80] defines the dollar value of ADTV of a security as of the preceding 6 full calendar months as the sum of the value of all reported transactions in such security in the United States for each trading day during the preceding 6 full calendar months, divided by total number of such trading days.

In considering a method for markets to use in compiling their own lists individually, the Commissions faced a concern about the variability in the way trading information from foreign markets currently may be accessed and compiled. After careful deliberation, the Commissions concluded that for the purposes of certainty and conformity, while the averaging method for determining dollar value of ADTV should remain the same, it is appropriate at this time to limit the data that is to be used by markets in identifying the Top 675 to U.S. trading information. The Commissions believe that this will help ensure that the Top 675 lists compiled individually by various markets, which is one of the bases for determining whether a security index is broad-based, will be uniform and verifiable.

Finally, paragraph (b)(2)(ii)(B) of these rules[81] provides that the 675 securities with the largest dollar value of ADTV shall be identified from the universe of all reported securities as defined in Rule 11Ac1–1 under the Exchange Act[82] that are common stock or depositary shares. The Commissions believe that this provision will ease the burden on markets in identifying the Top 675, by limiting the universe from which these securities must be identified to securities listed on a national securities exchange, the trades of which are reported to the CTA, and securities that are Nasdaq NMS securities.

3. Use of the Top 750 and Top 675 Lists

As noted above, commenters indicated that it would be difficult to constantly determine the Top 750 and Top 675 securities, and endorsed the idea that the Commissions publish a list of the Top 750 and Top 675 securities. The final rules accommodate the possibility of the Commissions designating a list of the Top 750 and of the Top 675 securities. The Commissions may either generate lists of such securities themselves, or designate lists compiled by a third party. Such designated lists would alleviate the burden on markets of calculating the lists, and help ensure uniformity in, and verifiability of, the information used by markets to determine that a security index is broad-based.

Specifically, paragraph (a)(1) of Rule 41.11 under the CEA and Rule 3a55–1 under the Exchange Act provides that a security will be one of 750 securities with the largest market capitalization on any particular day when it is included on a list of such securities designated by the SEC and CFTC.[83] Similarly, paragraph (b)(2)(i) of these rules provides that a security will be one of the 675 securities with the largest dollar value of ADTV on any particular day when it is included on a list of such securities designated by the SEC and CFTC.[84]

The rules contemplate that the Commissions will prepare a list of the Top 750 and a list of the Top 675 that will be the sole source by which a market participant may determine whether a component security of an index fulfills the statutory requirements. The provision also allows for the possibility that the Commissions may choose to designate Top 750 and Top 675 lists that have been prepared by a third party.

The rule providing for the designation of lists is also intended to address another issue raised by the Commissions in the Proposing Release and remarked on by several commenters: How often must the Top 750 and Top 675 securities be identified in order to verify that component securities of an index still would be included on such lists? The final rules provide that a security will be one of 750 securities with the largest market capitalization and one of 675 securities with the largest dollar value of ADTV on any particular day when it is included on a list of such eligible securities designated by the Commissions as applicable for that day. Any security on such list designated by the Commissions would remain an eligible security until the next list is released.

In addition to easing the burden on exchanges, the Commissions note that this provision also has ramifications for the statutory tolerance period, which permits a broad-based security index to retain its broad-based status as long as it does not assume the characteristics of a narrow-based security index for more than 45 business days over three calendar months. The rule adopts a principle suggested in the discussion of the possibility of officially-designated lists in the Proposing Release. Any security that appears on both lists will be deemed to be one of the Top 750 and Top 675 securities every day during the period in which those lists are designated as applicable. Conversely, any security that does not appear on the lists will be deemed not to satisfy the statutory requirements every day those lists are designated as applicable.

4. The Lowest Weighted 25% of an Index

As discussed above, one of the factors that may render a security index narrow-based is if the aggregate dollar value of the ADTV of the lowest weighted 25% of its component securities is less than $50 million (or $30 million for an index of 15 component securities or more).

The Commissions are adopting as proposed a provision that addresses the situation when no group of the lowest weighted securities in an index equals exactly 25% of the index's weighting.

[78] *See supra* note 44.

[79] *See infra* notes 83–84 and accompanying text.

[80] 17 CFR 41.11(b)(2)(ii)(A) and 17 CFR 240.3a55–1(b)(2)(ii)(A).

[81] 17 CFR 41.11(b)(2)(ii)(B) and 17 CFR 3a55–1(b)(2)(ii)(B).

[82] A reported security is a security for which transaction reports are collected, processed, and made available pursuant to an effective transaction reporting plan. *See* 17 CFR 240.11Ac1–1(a)(20).

[83] 17 CFR 41.11(a)(1) and 17 CFR 240.3a55–1(a)(1).

[84] 17 CFR 41.11(b)(2)(i) and 17 CFR 240.3a55–1(b)(2)(i).

Paragraph (d)(5) of CEA Rule 41.11 and Exchange Act Rule 3a55–1 establishes that the ''lowest weighted 25% of an index'' is comprised of those component securities that have the lowest weightings in the index such that, when their weightings are summed, they equal no more than 25% of the weight of the index.[85]

To identify these securities, the following method applies: (1) All component securities in an index are ranked from the lowest to highest weighting; and (2) beginning with the lowest weighted security and proceeding to the next lowest weighted security and continuing in this manner, the weightings are added to each other until they reach the sum that comes closest to, or equals 25%, but does not exceed 25%. Those securities comprise the lowest weighted 25% of the index.

One commenter acknowledged that any application of the statute must account for the situation where no group of securities comprise exactly 25% of the index's weighting, but argued that the solution includes a paradoxical element: in some cases, when a new component security is added to an index—theoretically broadening the index—the result can be that the number of securities in the ''lowest weighted 25%'' is decreased, making it more difficult to clear the $50 million (or $30 million) hurdle.[86]

The Commissions believe that the provision as proposed is consistent with the intent of Congress in fashioning the ''lowest weighted 25%'' test. The commenter's alternative solution is to prorate the dollar value of ADTV of the security that puts the lowest weighted group of securities ''over the top'' of the 25% line. In the Commissions'' view, a pro rata approach does not accord with the concept implicit in the statute that the lowest weighted 25% comprises a whole number of component securities.

Paragraph (d)(5)(ii) of CEA Rule 41.11 and Exchange Act Rule 3a55–1, which is adopted today as proposed, addresses another issue in the calculation of dollar value of ADTV of the lowest weighted 25% of a security index. As explained in the Proposing Release, the calculation of dollar value of ADTV for any given moment in time must take into account trading volume and price data for the relevant securities over the preceding 6 months of trading. Yet the securities that comprise the lowest weighted 25% of an index may vary from day to day. The rule provides instruction as to how the dollar value of ADTV of the lowest weighted 25% of an index is to be determined on a particular day.

Paragraph (d)(5)(ii) of CEA Rule 41.11 and Exchange Act Rule 3a55–1 establishes that, for any particular day, the ADTV of the lowest weighted 25% of the index is calculated based on the price and trading data over the preceding 6 months for the securities that comprise the lowest weighted 25% of the index for that day. The Commissions believe that this method of taking a ''snapshot'' of the current lowest weighted 25% and then looking retroactively to determine the aggregate dollar value of the ADTV over the preceding 6 months of the securities in the snapshot is a reasonable approach for the purposes of the statute and will be considerably less burdensome than the alternative of requiring a calculation of the data for the lowest weighted 25% of the index for each day of the preceding 6 full calendar months.[87]

5. Determining ''the Preceding 6 Full Calendar Months''

As already noted, the CEA and Exchange Act specify that the dollar value of ADTV and market capitalization are to be calculated as of the ''preceding 6 full calendar months.''[88]

Paragraph (d)(8) of CEA Rule 41.11 and Exchange Act Rule 3a55–1, being adopted today as proposed, defines ''preceding 6 full calendar months,'' with respect to a particular day, as the period of time beginning on the same day of the month 6 months before such day, and ending on the day prior to such day.[89] For example, for August 16 of a particular year, the preceding 6 full calendar months means the period beginning February 16 and ending August 15. Similarly, for March 8 of a particular year, the preceding 6 full calendar months begins on September 8 of the previous year and ends on March 7.

The Commissions believe that this ''rolling'' 6-month approach is appropriate, particularly in light of issues that would arise if 6 full calendar months were measured from the first to the last day of each month on the calendar. If that approach were used, it would be difficult to apply the third exclusion from the definition of narrow-based security index in the CEA and Exchange Act, which excepts a broad-based security index from the definition of narrow-based security index if it has assumed narrow-based characteristics for 45 or fewer business days in a three-month period.[90]

For example, if a national securities exchange, designated contract market, registered DTEF, or foreign board of trade needed to assess the dollar value of ADTV of a security for the six months preceding July 20, and the measuring period were the 6-month period from January 1 through June 30, the dollar value of ADTV of such security would be static for each day in July. In this example, the calculation would not take into account any transactions that occurred during July. The Commissions believe that the tolerance provision of the third exclusion, which specifies 45 days of tolerance within a three-month period in which dollar value of ADTV levels may drop below the threshold, indicates that a ''rolling month'' approach is most appropriate.

One commenter agreed with this approach.[91] Another commenter, however, took issue, maintaining that Congress likely intended ''calendar months'' to mean the month-long periods referred to as January, February, etc., and that it is possible to read the statute's tolerance provisions compatibly with this interpretation.[92] This commenter's main contention in this connection, however, appeared to be that it would be advantageous to keep market capitalization values and dollar values of ADTV static for a month at a time. According to this commenter, a month-by-month compilation of the Top 750 and Top 675 lists—rather than a required daily compilation—would, among other things, ''dramatically reduce the data gathering calculation, and paperwork burden on exchanges.''

The Commissions note that in view of the new facet of the final rule providing for the designation of Top 750 and 675 lists that may be applicable for periods of some duration, this latter concern may to a large extent be alleviated. The Commissions also believe that a month-long, static dollar value of ADTV would not comport with the purposes of the statute's $50 million (or $30 million) hurdle for the lowest weighted 25% of an index to achieve broad-based status. Thus, the Commissions have adopted the proposed definition of ''preceding 6 full calendar months'' in the final rules.

[85] 17 CFR 41.11(d)(5) and 17 CFR 240.3a55–1(d)(5). *See also* paragraph (d)(12) of the rule, which clarifies that ''weighting'' of a component security of an index means the percentage of the index's value represented or accounted for by that component security.

[86] *See* CME Letter I. For further explanation, *see id.*, at pages 4–5.

[87] *See also* SIA Letter endorsing this approach.

[88] Section 1a(25)(E)(i) of the CEA and Section 3(a)(55)(F)(i) of the Exchange Act.

[89] 17 CFR 41.11(d)(8) and 17 CFR 240.3a55–1(d)(8).

[90] Sections 1a(25)(B)(iii) and (D) of the CEA and Sections 2(a)(55)(C)(iii) and (E) of the Exchange Act. *See supra* notes 11–12 and accompanying text.

[91] *See* CBOE Letter.

[92] *See* CME Letter I.

6. Depositary Shares

In the Proposing Release, the Commissions requested comment on whether an ADR should be considered registered pursuant to Section 12 of the Exchange Act for purposes of the first exclusion from the definition of narrow-based security index, which is available for an index comprised solely of Top 750 and Top 675 securities registered under Section 12.[93]

Commenters responded favorably on this issue.[94] Because a depositary share is a security that represents a common stock, the Commissions believe that an instance where a depositary share is a component security of an index is fundamentally equivalent to the instance where the common stock is the component security. The Commissions, therefore, have provided in the final rules [95] that the requirement that each component security of an index be registered under Section 12 of the Exchange Act for purposes of the first exclusion will be satisfied with respect to any security that is a depositary share if the deposited securities underlying the depositary share is registered under Section 12. This allowance is granted on condition that the depositary share is registered under the Securities Act of 1933 on Form F–6.[96]

7. General Guidance in Application of the Rule

As a general matter, the Commissions note that any national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades a future on a security index will be required to determine whether or not the future is a security future to assure that the market is in compliance with the CEA and the Exchange Act.[97]

The Proposing Release asked for comment on whether the Commissions should permit a national securities exchange, designated contract market, registered DTEF, or foreign board of trade to rely on independent calculations by a third party to determine market capitalization and dollar value of ADTV for purposes of these rules, and if so, whether any conditions should be imposed when a third party is used and whether the third party should be required to meet certain qualification standards.

Several commenters believed that markets should be permitted to rely on third parties,[98] and one added that no conditions should be imposed and third parties should not be required to meet qualification standards.[99] One commenter believed, however, that the Commissions should create or designate one official source for any data used for purposes of determining market capitalization and dollar value of ADTV, not only for the Top 750 and Top 675, but for all securities registered under Section 12.[100]

Upon careful consideration of the question, the Commissions have determined not to adopt any rules at this time that prohibit or place conditions on the use of third parties or impose qualifications standards on such third parties.

As such, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade may contract with an outside party to supply the information and data analysis required to determine, for example, whether the dollar value of ADTV of the lowest weighted 25% of a security index exceeds the $50 million (or $30 million) threshold, thus demonstrating that the index falls outside the basic definition of narrow-based security index; or whether the market capitalization and dollar value of ADTV of all the component securities in an index are among the Top 750 and Top 675 securities for purposes of the first exclusion from that definition. For example, the market trading the future may have a contract with a data vendor that supplies transaction information through an electronic medium. However, in all circumstances the market will be responsible for assuring that the calculation by the outside party is consistent with the final rules.

One commenter maintained that an exchange ''should be able to apply logical relationships to minimize the calculation burden.''[101] The commenter supplied an example where the lowest traded price of a security over the 6-month period, multiplied by the ADTV of the security over the same period, yielded a value of more than $50 million. Because the dollar value of ADTV based on actual prices would necessarily be more than $50 million, the commenter argued, no further calculations should be necessary. Based on this example, the commenter recommended that flexibility be granted so that an exchange will have the ability to choose the least burdensome way of satisfying the statutory criteria.

The Commissions note the rules establish the methods by which market capitalization and dollar value of ADTV are determined. Any way that a market can minimize its calculations, yet still demonstrate with mathematical certainty that the statutory thresholds have been met, is acceptable.

One commenter believed that the rules should require only an annual determination as to whether an index is narrow-based or broad-based, and that if it is determined that an index has changed in status, a future on the index should be permitted to continue trading for an additional one-year grace period.[102] As the commenter recognized, this approach differs from the grace periods specified in the CEA and Exchange Act. At this time the Commissions do not believe such a substantial change from the statutory definition is appropriate.

*B. CEA Rule 41.12 and Exchange Act Rule 3a55–2: A Future on a Broad-Based Security Index that Becomes Narrow-Based During First 30 Days of Trading*

1. The Relevant Statutory Provision

As discussed above, the CEA and Exchange Act include a tolerance provision that allows, under certain conditions, a future on a security index to continue to trade as a broad-based index future—even when the index temporarily assumes characteristics that would render it a narrow-based security index under the statutory definition. An index qualifies for this tolerance and therefore is not a narrow-based security index if: (i) A future on the index traded for at least 30 days as an instrument that was not a security future before the index assumed the characteristics of a narrow-based security index; and (ii) the index does not retain the characteristics of a narrow-based security index for

[93] As explained in the Proposing Release, while the security of an issuer that underlies an ADR must be registered pursuant to Section 12, the ADR itself is deemed to be a separate security and is exempt from Section 12 registration.

[94] *See* CBOE Letter; CBOT Letter; CME Letter I; SIA Letter.

[95] *See* paragraph (c) of CEA Rule 41–11 and Exchange Act Rule 3a55–1, 17 CFR 41.11(c) and 17 CFR 240.3a55–1(c).

[96] 17 CFR 239.36.

[97] The Commissions further note that national securities exchanges, designated contract markets, or registered DTEFs that trade security index futures will need to preserve records of all their determinations with respect to whether a security index is narrow-based or broad-based to comply with their recordkeeping requirements under Sections 5(d)(17) and 5a(d)(8) of the CEA and new Rule 41.2 under the CEA, 17 CFR 41.2, and Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1.

[98] *See* CBOT Letter; CME Letter I; SIA Letter.

[99] *See* CME Letter I. *See also* SIA Letter, maintaining that notification to the CFTC or SEC on the use of third-party data should not be required.

[100] *See* CBOE Letter. With respect to components of a security index that are not registered under Section 12, the CBOE believed that it is the responsibility of the self-regulatory organization on which the index is listed to determine and monitor dollar value of ADTV.

[101] CME Letter I.

[102] *See* SIA Letter.

more than 45 business days over three consecutive calendar months.[103]

Under these statutory provisions, if a future began trading on a security index that was broad-based, and, within fewer than 30 days, the index assumed the characteristics of a narrow-based security index, the future would become a security future immediately. A designated contract market, registered DTEF, or foreign board of trade that is not registered with the SEC would not be permitted to allow trading in the instrument to continue on its market, unless it were in compliance with relevant provisions of the Exchange Act.

2. Proposed Rules

To avert any dislocations that could potentially be created by such a sudden change in a product's status, the Commissions proposed new rules under the CEA and Exchange Act to create a temporary exclusion from the definition of narrow-based security index.[104] As proposed, that exclusion would have permitted a future on a broad-based index to continue to trade as such even if the index assumed narrow-based characteristics during the first 30 days of trading, provided that the index would not have been a narrow-based security index, had it been in existence, for an uninterrupted period of six months prior to the first day of trading. Put in other terms, if a future on an index would not have been deemed a security future, had the index been in existence, for six months prior to the beginning of trading, it could continue trading as a broad-based future even if, during the first 30 days, the index temporarily assumed the characteristics of a narrow-based index (so long as it did not retain those characteristics for more than 45 business days in three consecutive calendar months).

3. Comment Letters

The two commenters who addressed this subject generally favored the aim of the proposed rules, but were concerned about the six months of calculations that would be required to satisfy the condition for the temporary exclusion.[105] One of these commenters noted, in particular, that to determine that an index was not a narrow-based security index as of a date six months before trading begins, as required by the proposed rules, a market would actually be required to look at trading data from yet another six months prior to that date.[106] This is because the definition of narrow-based security index requires an assessment of dollar value of ADTV ''as of the preceding 6 full calendar months.'' This commenter supported an approach that would require dollar value of ADTV of the lowest weighted 25% of an index to meet the $50 million (or $30 million) hurdle separately for each day of the six months prior to the beginning of trading to qualify for the exclusion.

The other commenter expressed the additional concern that under the rules as proposed, an exchange with plans to begin trading a future on a broad-based index would have no assurance, until the eve of the launch date, that in fact the index had been broad-based for every day during the preceding 6 months.[107] This commenter suggested that an exclusion instead should be granted if the index simply was narrow-based no more than 45 days over three months looking retroactively from the launch date.

4. Final Rules

After careful consideration of the comments, the Commissions have determined to adopt the temporary exclusion with slight modifications from the proposal. The final rules exclude from the definition of narrow-based security index an index that satisfies one of three alternative requirements. In addition, under the final rules, an index may qualify for the exclusion on the basis of data compiled as of a date up to a month prior to the beginning of trading of a future on the index. This provides exchanges with some certainty about the regulatory framework under which a product will trade.

Specifically, Rule 41.12 under the CEA and Rule 3a55–2 under the Exchange Act[108] provide that an index is not a narrow-based security index during the first 30 days of trading if:

- The index would not have been a narrow-based security index on each trading day of the six-month period[109] preceding a date up to 30 days prior to the launch of trading of a future on the index. This alternative requires that the index would have been a broad-based security index for an uninterrupted six months prior to trading to qualify for the exclusion for the first 30 days, as in the proposed rules.
- On each trading day of the six-month period preceding a date up to 30 days prior to the launch of trading of a future on the index, (i) the index had more than 9 component securities; (ii) no component security in the index comprised more than 30% of the index's weighting; (iii) the 5 highest weighted component securities in the index did not comprise, in the aggregate, more than 60% of the index's weighting; and (iv) the dollar value of the trading volume of the lowest weighted 25% of such index was not less than $50 million (or in the case of an index with 15 or more component securities, $30 million). This alternative requires an index not to be a narrow-based security index under Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act, but permits a market to determine the dollar value of a security's trading volume on a daily basis without calculating an average using six months of data for each day.[110]
- On each trading day of the six-month period preceding a date up to 30 days prior to the launch of trading of a future on the index, (i) the index had at least 9 component securities; (ii) no component security in the index comprised more than 30% of the index's weighting; and (iii) each component security in such index was registered pursuant to Section 12 of the Act and was one of the Top 750 and Top 675 securities that day. This alternative requires an index to meet the requirements for the exclusion from the definition of narrow-based security index under Section 1a(25)(B) of the CEA and Section 3(a)(55)(C) of the Exchange Act, but permits a market to determine whether a component security is one of the Top 750 and one of the Top 675 on a daily basis without calculating an average using six months of data for each day.

The Commissions note that the statute by its own terms requires 30 days of trading as a broad-based index before changes in an index's characteristics may be tolerated. The Commissions believe that an index that is broad-based for six uninterrupted months, subject to the additional allowances permitted

[103] Section 1a(25)(B)(iii) of the CEA and Section 3(a)(55)(C)(iii) of the Exchange Act.

[104] As discussed *supra* note 16 and accompanying text, Section 1a(25)(B)(vi) of the CEA and Section 3(a)(55)(C)(vi) of the Exchange Act grant the Commissions authority to create additional exclusions from the statutory definition of narrow-based security index for indexes underlying futures that meet such requirements that they may establish.

[105] *See* CBOT Letter; CME Letter I. Another comment letter, relating to the tax ramifications of these proposed rules, is discussed *infra* note 139 and accompanying text.

[106] *See* CME Letter I.

[107] *See* CBOT Letter.

[108] 17 CFR 41.12 and 17 CFR 3a55–2.

[109] The rules identify this six-month period as the ''preceding 6 full calendar months with respect to a date no earlier than 30 days prior to the commencement of trading'' of a future on the index. *Id.*

[110] The second and third alternative may ease the burden on markets, as suggested by one of the commenters, by allowing a market to calculate the relevant values for each day separately, without averaging in data for the previous 6 full calendar months.

under the second and third alternatives noted above, is sufficient enough of an indication that a subsequent change in the index's character within the first 30 days of actual trading would be an anomaly and would warrant a temporary exclusion from the definition of narrow-based security index. On the other hand, the Commissions do not believe that it is reasonable, as suggested by one commenter, to provide an exclusion for an index that was still fluctuating from broad-based to narrow-based status (albeit for fewer than 46 days over three months) in the months immediately prior to trading.

Finally, the rules as adopted provide, as in their proposed version, that if an index that has qualified under the temporary exclusion subsequently assumes narrow-based characteristics for more than 45 business days over three consecutive calendar months, it becomes a narrow-based security index, and thus the future on it becomes a security future following an additional three-month grace period.

5. Other Issues Concerning a Broad-Based Index That Becomes Narrow-Based

If a security index on which a future is trading became narrow-based for more than 45 days over three consecutive months, and thus pursuant to Section 1a(25)(D) of the CEA and Section 3(a)(55)(E) of the Exchange Act becomes narrow-based, the Commissions believe that in order for trading to continue to be regulated exclusively by the CFTC, the designated contract market, registered DTEF, or foreign board of trade trading the contract would be required, before the temporary three-month grace period elapses, to change the composition of, or weightings of securities in, the index so that the index is not a narrow-based security index. Alternatively, the designated contract market, registered DTEF, or foreign board of trade trading a future on such index could comply with the requirements of the securities laws applicable to security futures.

The Proposing Release requested comment on whether the Commissions should expressly specify the extent of changes that would need to be made to the index in the event that the market does not wish to comply with the requirements of the securities laws. The three commenters who addressed this question generally responded in the negative.[111] The Commissions have determined not to undertake the adoption of specific rules for this situation at this time.

One commenter suggested that even after the grace period has elapsed for a broad-based index that has become a narrow-based security index, liquidating trades in the future should still be permitted in months with open interest.[112] The Commissions note that the statute did not make allowances for such trades. In view of the fact that a three-month grace period already exists for such futures, in addition to the three-month tolerance period, the Commissions are not adopting any additional allowance at this time.

*C. CEA Rule 41.13 and Exchange Act Rule 3a55–3: A Future Traded on or Subject to the Rules of a Foreign Board of Trade*

1. Proposed Rules

In the Proposing Release, the Commissions expressed the belief that security indexes underlying futures that are traded on or subject to the rules of foreign boards of trade should be considered broad-based security indexes if they qualify as such in light of the statutory definition of a narrow-based index, or the exclusions from that definition. The Commissions thus proposed Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act to clarify and establish that when a future on an index is traded on or subject to the rules of a foreign board of trade, that index would not be a narrow-based security index if it would not be a narrow-based security index if a future on the same index were traded on a designated contract market or registered DTEF.[113] The Proposing Release also requested comment on how rules relating to foreign security indexes should address issues specific to indexes traded on or subject to the rules of a foreign board of trade.

2. Comment Letters

Most of the commenters who addressed the subject of indexes traded on or subject to the rules of a foreign board of trade did not appear to object to the proposed rule, but focused their comments on the question of an additional rule to create different standards for indexes traded on or subject to the rules of a foreign board of trade that would expand the types of indexes that would be considered broad-based indexes.[114] One commenter maintained that the public interest requires the Commissions to move forward and grant relief with respect to foreign security index contracts promptly.[115]

Commenters in favor of a different and more expansive standard for when a security index future traded on or subject to the rules of a foreign board of trade is broad-based made a number of arguments in support of their view. For example, commenters contended that Congress intended that different criteria be created for such indexes,[116] and that American investors, particularly institutional investors, need to be able to trade in futures on foreign indexes for risk management, asset allocation, ''view-driven'' strategies, and other purposes, and would suffer substantial adverse impact and competitive disadvantage with respect to non-U.S. investors if they could not trade such futures.[117]

In addition, commenters stated that the standards embodied in the statutory definition of narrow-based security index are of little value in evaluating foreign indexes because they were designed with U.S. markets in mind,[118] that standards for foreign-based indexes should be flexible and consistent with the realities of the local stock market and economy,[119] and that futures on foreign-based indexes are normally traded only among sophisticated investors and therefore need little or no regulation.[120]

Other arguments from commenters supporting a different standard for indexes underlying futures traded on foreign markets were that many foreign boards of trade operate under regulatory regimes comparable to that in the United States, that principles of international regulatory comity support reliance on such regimes, and that local stock market regulation should be sufficient to minimize the risk that a foreign index future or its underlying

[111] *See* CBOE Letter; CBOT Letter; CME Letter I.

[112] *See* CBOT Letter.

[113] Section 1a(25)(B)(iv) of the CEA and Section 3(a)(55)(C)(iv) of the Exchange Act grant the Commissions joint authority to exclude an index underlying a futures contract from the definition of narrow-based security index when that index is traded on or subject to the rules of a foreign board of trade and meets such requirements that are established by rule or regulation jointly by the Commissions.

[114] *See* Barclays Letter; CBOE Letter; CBOT Letter; CME Letter I; FIA Letter; GMIMCo Letter; GS Letter; HFKE Letter; Johnson Letter; ME Letter; MFA Letter; SFE Letter; SIA Letter.

[115] *See* FIA Letter. On the other hand, the CME Letter suggested that, in view of the controversy surrounding standards for foreign indexes, proposed rules in this area be separated from the rest of the proposed rules so as not to disrupt and prolong the rulemaking process.

[116] *See* Barclays Letter; FIA Letter; GMIMCo Letter; GS Letter.

[117] *See* Barclays Letter; FIA Letter; GMIMCo Letter; GS Letter; ME Letter.

[118] *See* FIA Letter.

[119] *See* FIA Letter; GS Letter; HKFE Letter; ME Letter; SIA Letter.

[120] *See* GMIMCo Letter.

securities will be manipulated.[121] Finally, some commenters claimed that U.S. interest in the integrity of foreign securities trading is less than U.S. interest in the integrity of trading in U.S. securities.[122]

Some of these commenters proposed their own, or endorsed an alternative set of, criteria for indexes traded on or subject to the rules of a foreign board of trade.[123] Others, while not as specific, set forth the general principles by which they believed the Commissions should formulate rules for foreign-based indexes.[124]

Two commenters, on the other hand, believed that indexes traded on or subject to the rules of foreign boards of trade should be held to the same standards as indexes traded on U.S. markets.[125] In particular, one commenter argued, the susceptibility of the component securities of an index to manipulation-with a view to the depth of the market in those component securities, their liquidity, and their concentration in the index-should continue to guide the Commissions in determining the status of foreign-based indexes.[126] Another commenter argued that a rule that would create a distinction between an index future traded on or subject to the rules of a foreign board of trade would unfairly place domestic boards of trade at a competitive disadvantage and would contradict Congress's explicit intentions in enacting the CFMA.[127]

In connection with foreign-based indexes, some commenters also raised concerns relating to current statutory provisions that govern the trading of futures by ''eligible contract participants,'' or ''ECPs.'' [128] These commenters observed that ECPs may trade futures on securities—including futures on narrow-based security indexes and any type of foreign-based security index—in the over-the-counter market with little regulatory supervision either by the SEC or CFTC, and contended that futures exchanges are disadvantaged as a result.

Several of these commenters therefore advocated the adoption of a rule that would permit the trading of futures on such indexes on futures exchanges at least by ECPs, in the absence of a separately crafted standard for foreign based security indexes to qualify as broad-based indexes.[129] Otherwise, they argued, the trading of such futures would migrate to an unregulated arena.[130] Two commenters observed, on the other hand, that trading over-the-counter is more difficult and substantially more expensive than on an exchange, and cited this fact as an argument to permit trading in such indexes on a futures exchange.[131]

3. Final Rules

The Commissions are adopting Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act [132] as proposed. These rules provide that when a future on an index is traded on or subject to the rules of a foreign board of trade, such index is not a narrow-based security index if it would not be a narrow-based security index if a future on the same index were traded on a designated contract market or registered DTEF. The rules clarify and establish that an index underlying a future traded on or subject to the rules of a foreign board of trade will be considered broad-based if it qualifies as such pursuant to the statutory definition of narrow-based security index.

Because of the strong interest in the Commissions' adopting rules implementing the definition of narrow-based security index, as they are today doing, the Commissions believe that at this time it is prudent to adopt Rule 41.13 under the CEA and Rule 3a55–3 under the Exchange Act as proposed. Nevertheless, the Commissions recognize the need to address those foreign index futures that are currently trading as broad-based index futures under the exclusive jurisdiction of the CFTC and that would be considered narrow-based index futures under the rules being adopted today.[133] The Commissions recognize their obligation jointly to adopt rules or regulations that set forth the requirements that a future on a security index traded on or subject to the rules of a foreign board of trade must meet in order for the index to be excluded from the definition of narrow-based security index. The Commissions also acknowledge the requests of commenters that further rulemaking should be considered by the Commissions to address what commenters characterize as the unique nature of foreign stocks, foreign stock indexes and foreign markets. The Commissions jointly will consider further amendments to the rules regarding index futures trading on or subject to the rules of a foreign board of trade pursuant to their joint statutory rulemaking authority. As part of their considerations, the Commissions will weigh the competitive implications of treating a future on an index as a broad-based index future when traded on or subject to the rules of a foreign board of trade, but treating a future on the same index as a security future when it trades on a U.S. market.

The Commissions note at the same time that the CEA and Exchange Act grant them joint authority to exclude any security index from the definition of narrow-based security index by rule or by order that meets such requirements that they jointly establish. Because of ongoing business activities, the Commissions will consider using this authority in the case of foreign-based security indexes that are currently offered to U.S. investors pursuant to CFTC no-action letters, and may also consider using this authority as to foreign-based security indexes that may be developed in the future.

*D. CEA Rule 41.14: A Future on a Narrow-Based Security Index That Becomes Broad-Based*

1. The Relevant Statutory Provision

As discussed above, the statutory definition of narrow-based security index provides a temporary exclusion under certain conditions for a future trading on an index that was not narrow-based and subsequently became narrow-based for no more than 45 business days over three consecutive calendar months. If the index becomes narrow-based for more than 45 days over three consecutive calendar months, the statute then provides a grace period of three months during which the index is excluded from the definition of narrow-based security index.[134]

The statute provides no such tolerance and grace period for a narrow-based security index that subsequently becomes broad-based.

2. Proposed Rule

Rule 41.14 under the CEA was proposed to fill this gap by providing a temporary exclusion and transitional grace period for a security futures product that was trading on a narrow-based security index that becomes a broad-based index. Paragraph (a) of the rule was proposed to establish a temporary exclusion for a security

[121] *See* HKFE Letter; ME Letter; SFE Letter; SIA Letter.

[122] *See* GMIMCo Letter.

[123] *See* Barclays Letter; FIA Letter; GMIMCo Letter; GS Letter; SIA Letter.

[124] *See* HKFE Letter; ME Letter; SFE Letter.

[125] *See* CBOE Letter; CME Letter I.

[126] *See* CBOE Letter.

[127] *See* CME Letter II.

[128] *See* HKFE Letter.

[129] *See* GS Letter; HKFE Letter; ME Letter; MFA Letter.

[130] *See* CBOT Letter; GMIMCo Letter.

[131] *See* FIA Letter; GS Letter. The FIA, however, did not suggest limiting the trading of futures on foreign indexes to ECPs.

[132] 17 CFR 41.13 and 17 CFR 240.3a55–3.

[133] *See* supra note 15 and accompanying text.

[134] *See supra* note 12 and accompanying text.

future that began trading on an index that was narrow-based and subsequently became broad-based for no more than 45 days in a three-month calendar period. In such case the index would continue to be treated for an interim grace period of three months as a narrow-based contract.

Paragraph (b) of the rule was proposed to provide a transition period for an index that was a narrow-based security index and became broad-based for more than 45 days over three consecutive calendar months, permitting it to continue to be a narrow-based security index for the three following calendar months.[135]

To minimize disruption, paragraph (c) of the rule also was proposed to provide that a national securities exchange may, following the transition period, continue to trade only in those months in which the contract had open interest on the date the transition period ended and shall limit trading to liquidating positions.

3. Comment Letters

Two commenters addressed proposed Rule 41.14. One of these commenters believed the rule was appropriate, but in regard to a narrow-based index that becomes a broad-based index, suggested that a designated contract market or registered DTEF be allowed to immediately treat the index as a broad-based security index, rather than wait through the three-month grace period, and be subject to the sole jurisdiction of the CFTC.[136] This would give the listing market the freedom to choose the course that is less disruptive to market participants.

The other commenter suggested that if the underlying index had been narrow-based for at least six consecutive months prior to the initial trading of the security index futures contract, but later became a broad-based index, there should be a presumption that the contract was offered as a narrow-based contract in good faith.[137] As such, the rule should allow a grace period of nine months, instead of three, for purposes of unwinding the contract, or the rule should allow the listing market to seek qualification as a designated contract market in order to continue trading the contract. This commenter also suggested that the CFTC should have the flexibility to extend the grace period or eliminate the ''liquidating only'' limitation, in order to foster liquidity and avoid harming traders.

4. Final Rule

After careful consideration of the comments, the CFTC has determined to adopt the rules in large measure as they were proposed, with one change resulting from the suggestion of a commenter.

The CFTC has decided not to allow a designated contract market or registered DTEF to immediately treat an index that has switched from narrow-based to broad-based as a broad-based index. Instead, all markets must continue to treat former narrow-based indexes as narrow-based indexes during the three-month grace period provided for in 41.14(b). The CFTC notes that indexes that switch from being narrow-based to broad-based may still be in a transitioning period. The three-month grace period, which will continue to treat an index as a narrow-based index, will provide certainty to the market and investors that the index has indeed become broad-based, and is not in the midst of more fluctuation.

Furthermore, when an index underlying a security index futures contract switches from being narrow-based to broad-based and does not return to narrow-based status during the grace period, the customers who trade that contract would need to switch regulatory regimes. A three-month grace period will prevent those who trade in such contracts from being taken by surprise by the switch in regulatory oversight.

Regarding the comments of the second commenter, the CFTC agrees that only allowing liquidating trades as proposed under Rule 41.14(c) will reduce liquidity and may harm traders. As such, markets may continue trading security index futures contracts on narrow-based indexes that have become broad-based, without limiting trading to liquidating trades only. However, the CFTC has decided to keep the three-month grace period in Rule 41.14(b), instead of allowing a nine-month grace period or other extended grace period. The three-month grace period mirrors the time frame established by the CFMA governing broad-based indexes that become narrow-based. Comparable treatment for narrow-based indexes that become broad-based is equitable. Moreover, allowing flexible extended grace periods for certain contracts would create uncertainty in the market and for traders regarding the status of the product and their obligations. Further, allowing for an extension of the grace period on a case-by-case basis may be a lengthy process, leaving traders uncertain as to when trading in the particular contract may come to an end or when the new regulatory scheme becomes applicable.

The Commissions note that a national securities exchange that intends to trade an index following the end of the transition period, other than as specified in paragraph (b), will be required to take such action as may be necessary to trade the index as a broad-based index subject to the sole jurisdiction of the CFTC.[138] The CFTC has determined to adopt a ''no-action'' position with respect to a national securities exchange trading a contract based on a narrow-based security index that becomes a broad-based security index, so long as the national securities exchange administers the contract in accordance with Rule 41.14. Accordingly, the CFTC will not institute any enforcement action for violations of the CEA when a national securities exchange is in the midst of the 45-day tolerance provision of paragraph (a), the three-month grace period of paragraph (b), or the unwinding period of paragraph (c).

*E. Additional Comments*

One comment letter, submitted by the U.S. Securities Markets Coalition (''Coalition''),[139] raised concerns over certain tax implications that these markets believe result from the definition of narrow-based security index and the rules as proposed. Under new tax provisions that were enacted contemporaneously with the CFMA, futures and options on broad-based security indexes receive certain favorable treatment that futures and options on narrow-based security indexes do not. As to the determination of which indexes qualify as broad-based and which are treated as narrow-based, the tax laws incorporate by reference the definition of narrow-based security index in the Exchange Act.

As discussed above, under the definition of narrow-based security index in the Exchange Act and the proposed rules, when a broad-based index suddenly becomes narrow-based, the status of the index as broad-based is preserved unless the index becomes narrow-based for more than 45 days over a three-month period. When this tolerance is exceeded, the index remains broad-based for another three months. These tolerance and grace period provisions by their own terms apply, however, only when a future is already trading on the index. As a result, if only an option (and not a future) is trading on a broad-based index, and the index

[135] Rule 41.1(a) as proposed defined ''broad-based security index'' as ''a group or index of securities that does not constitute a narrow-based security index.''

[136] *See* CME Letter I.

[137] *See* Amex Letter.

[138] *See* Section 2(a)(1)(C)(ii) of the CEA.

[139] Securities Markets Coalition Letter.

suddenly becomes narrow-based, the option would be considered an option on a narrow-based security index immediately. The option would thus immediately lose its favorable tax treatment.

The Coalition further noted that, as a result of this statutory framework, if only an option, and not a future, is trading on a particular security index, that index may fluctuate back and forth in tax status from day to day. This result, the Coalition believes, will create uncertainty and confusion for investors, with a resulting disruption of the markets. The Coalition recommended that the Commissions modify their rules to the extent possible to address this issue.

Specifically, the Coalition observed that Rule 41.14 under the CEA, which creates tolerance and grace periods for a narrow-based security index that becomes broad-based, defines an index's status without regard to whether a future is trading on the index. The Coalition recommended, first, that the equivalent of CEA Rule 41.14 be adopted as a rule under the Exchange Act, so that it will be incorporated by reference by the tax laws. The Coalition further recommended that Rule 41.12 under the CEA and Rule 3a55–2 under the Exchange Act, which provide an exclusion for a broad-based security index that became narrow-based during the first 30 days of trading, be worded similarly to define such an index's status without regard to whether a future traded on the index.

The Commissions note, in consideration of these comments, that the CFMA itself, as incorporated in the CEA and Exchange Act, ties its tolerance and grace period provisions to indexes upon which a future has traded. The Commissions cannot alter these statutory provisions, and believe that their rules providing an additional temporary exclusion for a broad-based index that became narrow-based must conform to the statutory contours. In addition, the SEC believes that it is not empowered to adopt the equivalent of CEA Rule 41.14 under the Exchange Act, which provides relief for futures on indexes that become broad-based, because the SEC has no jurisdiction over broad-based security index futures.

Two commenters raised issues concerning the treatment of futures on Exchange Traded Funds.[140] The Commissions believe that these issues fall outside the scope of the current rulemaking and will not address them in this context. The Commissions expect to receive in the coming months questions about futures on other types of security products, as well, and for the foreseeable future will evaluate the status of such futures on a case-by-case basis.

## III. Administrative Procedure Act

*CFTC*

The Administrative Procedure Act (the ''APA'') generally requires that rules promulgated by an agency not be made effective less than thirty days after publication, except for, among other things, instances where the agency finds good cause to make a rule effective sooner, and has published that finding together with the rule.[141] Pursuant to the CFMA, beginning on August 21, 2001, eligible contract participants may trade security futures products on a principal-to-principal basis. The rules being published today directly affect the products that eligible contract participants may trade. The CFTC believes good cause exists for the rules to become effective on August 21, 2001, so that eligible contract participants may begin trading the new products as contemplated by the CFMA.

*SEC*

Section 553(d) of the Administrative Procedure Act[142] generally provides that, unless an exception applies, a substantive rule may not be made effective less than 30 days after notice of the rule has been published in the **Federal Register**. One exception to the 30-day requirement is an agency's finding of good cause for providing a shorter effective date.

The CFMA provides that principal-to-principal transactions between certain eligible contract participants in security futures products may commence on August 21, 2001, or such date that a futures association registered under Section 17 of the CEA meets the requirements in Section 15A(k)(2) of the Exchange Act.[143] The CFMA lifted the ban on, and permits the trading of, futures contracts on single securities and on narrow-based security indexes. Furthermore, the CFMA amended the CEA and Exchange Act by adding an objective definition of ''narrow-based security index'' to provide guidance for markets to determine whether a security index is narrow-based.[144] Futures contracts on security indexes that are narrow-based security indexes will be jointly regulated by the CFTC and the SEC under the framework established by the CFMA. Futures contracts on indexes that are not narrow-based security indexes, on the other hand, will be under the sole jurisdiction of the CFTC, and therefore only a designated contract market, registered DTEF, or foreign board of trade may trade these products.

The CFMA became law on December 21, 2000. Since the passage of the CFMA, the SEC has moved quickly to propose and adopt rules that would provide markets with the method for determining market capitalization and dollar value of ADTV for purposes of ascertaining whether a security index is narrow-based. The SEC proposed these rules on May 17, 2001. The initial comment period for the rules expired on June 18, 2001. The comment period, however, was extended by the CFTC and the SEC until July 11, 2001. After reviewing and considering the comments received, the SEC is adopting the rules, which provide the methods for markets to determine whether a security index is narrow-based or broad-based as required by the Exchange Act, as amended by the CFMA. By allowing principal-to-principal transactions between certain eligible contract participants in security futures products to commence on August 21, 2001, Congress effectively established a statutory deadline for the adoption of these rules. If the effective date is delayed for 30 days, the SEC will not have rules in place for markets to determine market capitalization and dollar value of ADTV. Therefore, eligible contract participants will be unable to trade futures on security indexes on a principal-to-principal basis.

The primary purpose of the 30-day delayed effectiveness requirement is to give affected parties a reasonable period of time to adjust to the new rules. Here, the parties that must comply with the rules would not be harmed by immediate effectiveness of the rules. The affected entities are familiar with the proposed rules, which were published for comment, and the adopted rules are substantially similar to those proposed rules. Moreover, the 30-day delay in effectiveness could interfere with the goals established by Congress in adopting the CFMA. For these reasons, the SEC finds that good cause exists for the rules to be immediately effective upon publication.

## IV. Paperwork Reduction Act

*CFTC*

This rulemaking contains information collection requirements. As required by the Paperwork Reduction Act of 1995

[140] *See* Amex Letter; CBOT Letter.

[141] 5 U.S.C. 553(d)(3).

[142] 5 U.S.C. 553(d).

[143] *See* Section 6(g)(5)(B)(ii) of the Exchange Act, 15 U.S.C. 78f(g)(5)(B)(ii).

[144] *See* Section 1a(25) of the CEA and Section 3(a)(55) of the Exchange Act.

(44 U.S.C. 3501 *et seq.*), the CFTC submitted a copy of these rules to the Office of Management and Budget for its review. *See* 44 U.S.C. 3507(d)(1).

*Collection of Information:* Part 41, Relating to Security Futures Products, OMB Control Number 3038–0059.

The information collection requirements of this rulemaking will impact designated contract markets (including notice-registered contract markets) and registered DTEFs that wish to trade a futures contract on a security index. Designated contract markets and registered DTEFs that wish to trade futures contracts on a security index would use the methods specified in these rules to determine market capitalization and dollar value of ADTV of a security or a group of securities comprising the index. These determinations would enable these designated contract markets and registered DTEFs to ascertain whether a security index on which they propose to trade or are trading a futures contract is ''narrow-based,'' and thus subject to the joint jurisdiction of the SEC and the CFTC, or is ''broad-based,'' and thus subject to the exclusive jurisdiction of the CFTC.

Furthermore, Rule 41.2 requires designated contract markets and registered DTEFs that trade a futures contract on a security index to maintain, in accordance with the requirements of Rule 1.31, books and records of all activities relating to the trading of such products. This rule restates the existing recordkeeping requirements of the CEA.[145] The rule also specifies that, in order to comply with these recordkeeping requirements, designated contract markets and registered DTEFs that trade futures contracts on security indexes are required to preserve records of any calculations used to determine whether an index is narrow-based or broad-based.

The CFTC may not conduct or sponsor, and a person is not required to respond to an information collection unless it displays a currently valid OMB control number. No comments were received in response to the CFTC's invitation in the notice of proposed rulemaking to comment on any potential paperwork burden associated with these rules. See 44 U.S.C. 3507(d)(2).

*SEC*

Certain provisions of Rules 3a55–1 through 3a55–3 contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA''),[146] and the SEC submitted them to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507(d) and 5 CFR 1320.11. The SEC proposed, and OMB approved, an amendment to the collection of information entitled ''Rule 17a-1: Recordkeeping rule for national securities exchanges, national securities associations, registered clearing agencies, and the Municipal Securities Rulemaking Board'' (OMB Control Number 3235–0208). 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 Proposing Release solicited comments on this collection of information requirement.[147] Two comments were received implicitly addressing the PRA section of the Proposing Release. One commenter stated that it would be a heavy administrative burden to preserve the records documenting daily calculations of market capitalization and dollar value of ADTV of a security or group of securities comprising an index.[148] The same commenter, however, stated that the CFMA's statutory framework provides a ''clear implication'' that these calculations must be made daily.[149] The other commenter on PRA issues stated that Congress' intention when adopting the CFMA was to require monthly, rather than daily, calculations for purposes of the determining whether a security index is narrow-based.[150] According to the commenter, if monthly calculations were intended and required by the statute, the paperwork burden on the exchanges, as well as the paperwork and review burden on the Commissions, would be reduced.[151]

Because the final rules are substantially similar to the proposed rules, the SEC continues to believe that the estimates published in the Proposing Release regarding the proposed collection of information with respect to recordkeeping burdens associated with the final rules, as discussed below, are appropriate. The Commissions, however, have amended the proposed rules to establish methods for determining the market capitalization and dollar value of ADTV for purposes of ascertaining whether a security-index is narrow-based that are responsive to commenters' suggestions. In this regard, the Commissions have incorporated revisions to the proposed rules to reflect what commenters view as simpler methods of calculating these values. These modifications to the rules change somewhat the methodology used to determine whether a security index is narrow-based or broad-based but do not, in any way, alter the recordkeeping burden associated with the preservation of the records of these calculations, i.e., the collection of information required pursuant to Rule 17a-1 under the Exchange Act.[152]

Any collection of information pursuant to the new rules is mandatory and will need to be retained by the national securities exchanges, including national securities exchanges registered pursuant to Section 6(g) of the Exchange Act (''notice-registered national securities exchanges''), for no less than five years; for the first two years, the information must be kept in an easily accessible place, as required under Exchange Act Rule 17a-1.

*A. The Use and Disclosure of the Information Collected*

The information collected to comply with the methods to determine market capitalization and dollar value of ADTV that are set forth in the final rules is required by the CFMA. The CFMA lifted the ban on the trading of futures on single securities and on narrow-based security indexes and established a framework for the joint regulation of these products by the CFTC and the SEC. In addition, the CFMA amended the CEA and the Exchange Act by adding a definition of ''narrow-based security index,'' which establishes an objective test of whether a security index is narrow-based.[153] Futures on security indexes that meet the statutory definition of narrow-based security index are jointly regulated by the CFTC and the SEC. Futures on indexes that do not meet the statutory definition of narrow-based security index remain under the sole jurisdiction of the CFTC. To implement the definition of a narrow-based security index, the Commissions are required to jointly specify by rule or regulation the method to determine market capitalization and dollar value of ADTV of securities comprising an index.[154] The rules adopted in this release fulfill this statutory directive.

In addition, the CFMA amended the Exchange Act by adding new Section

[145] *See* Sections 5(d)(17) and 5a(d)(8) of the CEA.

[146] 44 U.S.C 3501 *et seq.*

[147] *See* Proposing Release, *supra* note 17.

[148] *See* CBOT Letter.

[149] *Id.*

[150] *See* CME Letter I.

[151] *Id.*

[152] 17 CFR 240.17a-1

[153] *See* Section 1a(25)(A) of the CEA and Section 3(a)(55)(B) of the Exchange Act.

[154] *See* Section 1a(25)(E) of the CEA and Section 3(a)(55)(F) of the Exchange Act.

6(g), which requires an exchange that is a designated contract market or a registered DTEF that lists or trades security futures products to register as a national securities exchange-by filing written notice with the SEC-solely for the purpose of trading security futures products.[155]

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade that trades or proposes to trade futures on a security index must ascertain whether the security index falls within or outside of the definition of narrow-based security index to determine if the futures contract is jointly regulated by the CFTC and SEC or solely by the CFTC. This is necessary because, to comply with the applicable laws and carry out their regulatory functions, the markets must know which set or sets of statutes and rules apply to a particular futures contract. This process entails, among other things, a collection of the information necessary to make the requisite determination under the provisions of the CEA and Exchange Act regarding the market capitalization and dollar value of ADTV of component securities comprising a security index.

Rule 3a55–1 under the Exchange Act specifies the method to determine market capitalization and dollar value of ADTV with respect to the definition of narrow-based security index.[156] Thus, the final rule provides the methods by which a market trading a futures contract on a security index must determine the market capitalization and dollar value of ADTV to ascertain whether a security index on which it proposes to trade, or is trading, a futures contract is narrow-based, and thus is subject to the joint jurisdiction of the CFTC and the SEC. If the security index is determined to be broad-based, the trading of futures on that index is subject to the sole jurisdiction of the CFTC.

The SEC will use the collected information to monitor whether the calculations are being made in compliance with the rules. The SEC will obtain access to the information upon request. Any collection of information received by the SEC will not be made public.

Rule 17a-1, among other things, requires national securities exchanges, which by definition include entities registered under the new notice registration provisions of the Exchange Act,[157] to retain copies of all documents, including all correspondence, memoranda, papers, books, notices, accounts, and other records made or received by them in the course of their business and in the conduct of their self-regulatory activities for a period of not less than five years; for the first two years, these documents must be kept in an easily accessible place. Any exchange that lists or trades a futures contract on a narrow-based security index must be registered with the SEC pursuant to Section 6 of the Exchange Act and, as a registered national securities exchange, will be subject to the recordkeeping requirements of Rule 17a-1. Rule 17a-1 thus applies to any notice-registered national securities exchange. Accordingly, to comply with these recordkeeping requirements, a national securities exchange, including a notice-registered national securities exchange, that lists or trades futures contracts on narrow-based security indexes will be required to preserve records of any calculations used to determine whether an index is narrow-based.[158]

*B. Total Annual Reporting and Recordkeeping Burden*

1. Capital Costs

Rule 17a-1 under the Exchange Act requires a national securities exchange, including any notice-registered national securities exchange, that trades futures contracts on a narrow-based security index to keep on file for a period of no less than five years, the first two years in an easily accessible place, all records concerning their determinations that such indexes were narrow-based. In the Proposing Release, the SEC estimated that any additional costs of retaining and storing the collected information discussed above would be nominal because national securities exchanges, including notice-registered national securities exchanges that have been designated as contract markets by, or registered as DTEFs with, the CFTC, are currently required to have recordkeeping systems in place.[159]

The SEC received no direct comments on the costs of data retention and storage. Based on information provided by an industry source, the SEC anticipates that retaining and storing the determinations made under the new rules may require the use of one or two compact discs on a daily basis or setting up servers to preserve the information. The SEC believes, however, that because exchanges already have data storage facilities in place, it will not be burdensome or costly for exchanges to modify their existing recordkeeping systems to accommodate the storage of the records of calculations made pursuant to the new rules. In addition, it should be noted that the new rules simply provide the methodologies for determining market capitalization and dollar value of ADTV, as mandated by the CFMA. The CFMA requires that the determinations as to market capitalization and dollar value of ADTV, and thus the status of a securities index as narrow-based or broad-based, be made, while Exchange Act Rule 17a–1 simply requires that such determinations be retained.

2. Burden Hours

National securities exchanges, including notice-registered national securities exchanges, that trade futures contacts on security indexes will be required to comply with the recordkeeping requirements under Rule 17a–1. National securities exchanges, including notice-registered national securities exchanges, will be required to retain and store any documents related to determinations made using the definitions in Exchange Act Rule 3a55–1 for no less than five years, the first two years in an easily accessible place. The current burden hour estimate for Rule 17a–1, as of July 20, 1998, is 50 hours per year for each exchange.[160] In the Proposing Release, the SEC estimated that it would take each of the 11 national securities exchanges, including notice-registered national securities exchanges, expected to trade futures contracts on security indexes one hour annually to retain any documents made or received by it in determining whether an index is a narrow-based security index. No comments were received on this particular estimate. The total burden in complying with Rule 17a–1

[155] *See* Section 6(g) of the Exchange Act, 15 U.S.C. 78f(g).

[156] Rule 41.11 under the CEA parallels Rule 3a55–1.

[157] *See* Section 6 of the Exchange Act, 15 U.S.C. 78f.

[158] This PRA analysis does not include any collection of information and recordkeeping requirements that will apply to designated contract markets, registered DTEFs, and foreign boards of trade that trade futures contracts on security indexes that are not narrow-based because the trading of these products is not subject to the SEC's jurisdiction. Therefore, such information and recordkeeping will not be subject to Rule 17a-1 under the Exchange Act. The CFTC has adopted Rule 41.2, which contains recordkeeping requirements for designated contract markets and registered DTEFs.

[159] *See* Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1, and Sections 5(d)(17) and 5a(d)(8) of the CEA.

[160] *See* 63 FR 38865 (July 20, 1998) (SEC File No. 270–244, OMB Control No. 3235–0208) (seeking an extension of OMB approval of Rule 17a–1 under the Exchange Act.

for each national securities exchange, including notice registered national securities exchanges, under new Rule 3a55–1 is therefore estimated to be 11 hours.

## V. Costs and Benefits of the Final Rules

*CFTC*

Section 15 of the CEA, as amended by section 119 of the CFMA, requires the CFTC to consider the costs and benefits of its action before issuing a new regulation under the CEA. The CFTC understands that, by its terms, section 15 does not require the CFTC to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs.

Section 15 further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: (1) Protection of market participants and the public; (2) efficiency, competitiveness, and financial integrity of futures markets; (3) price discovery; (4) sound risk management practices; and (5) other public interest considerations. Accordingly, the CFTC could in its discretion give greater weight to any one of the five enumerated areas of concern and could in its discretion determine that, notwithstanding its costs, a particular rule was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act.

The CFTC considered the costs and benefits of this rule package in light of the specific areas of concern identified in section 15 of the CEA,[161] and concluded that these rules would have no effect on the financial integrity or price discovery function of the markets, or on the risk management practices of trading facilities. The CFTC also concluded that these rules would have no material effect on the protection of market participants and the public, and should not impact the efficiency and competition of the markets. The CFTC solicited comments about its consideration of these costs and benefits.[162] The CFTC received no comments.

The CFTC further notes that the CFMA specifically mandates that the CFTC and the SEC jointly adopt rules or regulations specifying the method to be used to determine market capitalization and dollar value of average daily trading volume.[163] Accordingly, the CFTC has determined to adopt the regulations discussed above.

*SEC*

New Rule 3a55–1 under the Exchange Act provides the methods of determining market capitalization and dollar value of ADTV, respectively, for purposes of ascertaining whether a security index is narrow-based within the meaning of the Exchange Act. New Rule 3a55–2 under the Exchange Act excludes from the definition of narrow-based security index those security indexes on which futures contracts have traded on a designated contract market, a registered DTEF, or foreign board of trade for fewer than 30 days and become narrow-based, provided that they meet certain criteria. New Rule 3a55–3 under the Exchange Act establishes that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index will not be considered a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF. These rules provide methods of calculation and guidance for national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade in determining whether a security index is narrow-based under the Exchange Act.

*A. Comments*

In the Proposing Release, the SEC requested comments on all aspects of the costs and benefits of the proposed rules, including identification of additional costs and benefits of the proposals. None of the commenters provided dollar-based estimates regarding the overall costs and benefits of the proposed rules. However, several commenters discussed certain aspects of the joint CFTC–SEC proposal that addressed the costs and benefits of the proposed rules, and one commenter provided an estimate regarding staffing needs to comply with the proposed rules.[164]

In particular, two commenters stated that the rules as proposed would impose a heavy administrative burden and that performing lengthy calculations to determine the status of a security index on a daily basis would be cumbersome and resource intensive.[165] One of these commenters also stated that calculations would be pointless for indexes that were not ''close calls.'' [166] Both commenters suggested that, to ease the computational burden imposed by the proposed rules, markets trading these products should be permitted to use and rely on third-party vendors for information and calculations.[167]

Another commenter specifically remarked about the consistency and accuracy of data available through third-party vendors.[168] The commenter stated that there should be one official source that compiles the lists of Top 750 and Top 675 securities.[169] The commenter suggested that having an official source for such lists will reduce the overall costs to all markets otherwise required to make these calculations. This commenter noted that a single compiler of the lists will result in consistent treatment of futures on security indexes. Furthermore, this commenter indicated that it will need to hire two additional staff personnel to calculate market capitalization and dollar value of ADTV for securities comprising an index on which future contracts trade.

The SEC also received several comments regarding potential costs that might be incurred unless different criteria for the definition of narrow-based security index are adopted to accommodate indexes comprised of foreign securities.[170] The SEC notes that the Commissions have adopted Rules 41.13 under the CEA and 3a55–3 under

[161] 66 FR 27559, 27572 (May 17, 2001).

[162] 66 FR at 27571.

[163] Section 1a(25)(E)(ii) of the CEA; 7 U.S.C. 1a(25)(E)(ii).

[164] One commenter raised concerns about certain implications that it believed could result from the statutory definition of narrow-based security index and certain proposed rules. *See* Securities Markets Coalition Letter. The commenter pointed to the differing tax treatment that may result if an option (not a future) is traded on a broad-based security index that becomes narrow-based. In addition, the commenter suggested that the proposed rules under the CEA creating tolerance and grace periods for a narrow-based security index that becomes broad-based also be adopted under the Exchange Act. The SEC notes that this commenter's concerns result from the provisions of the CFMA itself, which the Congress, and not the Commissions, is empowered to change. Accordingly, the SEC has not incorporated this comment letter into its analysis of the costs and benefits of the final rules.

[165] *See* CBOT Letter and CME Letter I.

[166] *See* CME Letter I.

[167] *See* CBOT Letter and CME Letter I.

[168] *See* CBOE Letter.

[169] *See* Section II.A.3. above for a description of Top 750 and Top 675 securities.

[170] Several commenters supported the adoption of different standards for security indexes underlying futures traded on or subject to the rules of a foreign board of trade. *See* ME Letter, HKFE Letter, and SFE Letter. Two commenters, however, stated that security indexes underlying futures traded on or subject to the rules of a foreign board of trade should be held to the same standards as security indexes underlying futures traded in U.S. markets. *See* CBOE Letter, CME Letter II. Some of the commenters favoring separate criteria for the indexes comprised of foreign securities mentioned the perceived costs that could be incurred by investors, unless separate standards are adopted. *See* ME Letter, HKFE Letter; SFE Letter. The SEC points out that the definition of narrow-based security index as contained in the CEA and Exchange Act, and not the rules adopted in this release, set forth the criteria regarding whether a security index is narrow-based. Consequently, the perceived costs result from the statute's provisions and not the final rules.

the Exchange Act, which establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index will not be considered a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF. The Commissions will continue to consider the views and suggestions of the commenters regarding futures contracts on security indexes comprised of foreign securities.

In response to the commenters' concerns and suggestions, the SEC has amended the proposed rules with respect to the methods for determining market capitalization and dollar value of ADTV to assess whether a security index is narrow-based or broad-based. Where possible, estimated costs and benefits are provided below, as well as the SEC's response to these comments.

*B. Benefits*

In the Proposing Release, the SEC noted that the benefits of Rules 3a55–1 through 3a55–3 under the Exchange Act are related to the benefits that will accrue as a result of the enactment of the CFMA. By repealing the ban on the trading of futures on single securities and on narrow-based security indexes, the CFMA enables a greater variety of financial products to be traded that potentially could facilitate price discovery and the ability to hedge. Investors will benefit by having a wider choice of financial products to buy and sell, and markets and market participants will benefit by having the ability to trade these products. The benefits are likely to relate to the volume of trading in these new security futures.

Furthermore, the CFMA clarifies the jurisdiction of the CFTC and the SEC over futures contracts on security indexes, and alleviates the regulatory burden of dual CFTC and SEC jurisdiction where it is appropriate to do so. Under the new provisions of the CEA and Exchange Act, the CFTC and SEC will jointly regulate futures contracts on narrow-based security indexes. The trading of futures contracts on broad-based security indexes will be under the sole jurisdiction of the CFTC and may be traded only on designated contract markets, and registered DTEFs. The CFMA provides objective criteria for determining whether or not a security index is narrow-based, and the newly-adopted rules provide assistance in applying those criteria.

New Rule 3a55–1 under the Exchange Act provides methodologies for determining market capitalization and dollar value of ADTV for purposes of ascertaining whether or not a security index is narrow-based as defined in the Section 3(a)(55) of the Exchange Act. The adopted rule provides the benefit of clear, objective standards for determining both market capitalization and dollar value of ADTV. In the Proposing Release, the proposed rules used ''average price'' to compute market capitalization and dollar value of ADTV. Based on the suggestions of commenters, the Commissions have amended the methods to determine market capitalization and dollar value of ADTV. In particular, the new rule uses the ''closing price'' for a security for a particular day for purposes of determining its market capitalization. Also, unlike the proposed rule, Rule 3a55–1 does not mandate using a volume-weighted average price to determine dollar value of ADTV.

Under the Rule 3a55–1, market capitalization of a security on a particular day is defined as the product of the closing price of such security on that same day and the number of outstanding shares of such security on that same day. Rule 3a55–1 provides an objective definition for the ''closing price'' of a security based on whether reported transactions in the security have taken place in the United States or only in other jurisdictions for purposes of calculating market capitalization. Market capitalization is relevant in determining whether an index qualifies for an exclusion from the definition of narrow-based security index. If each component security is one of 750 securities with the largest market capitalization and one of 675 securities with the largest dollar value of ADTV, among other criteria, the index is broad-based.

Market capitalization of a security for purposes of Rule 3a55–1 can be determined in the following manner. If, on a particular day, each component security of an index is on the list of the Top 750 securities with the largest market capitalization that is designated by the CFTC and SEC as applicable for that day, then the market capitalization criterion is satisfied. If the CFTC and SEC have not designated such a list, the method to be used to determine market capitalization for a security as of the preceding 6 full calendar months is to sum the values of the market capitalization of such security for each U.S. trading day of the preceding 6 full calendar months, and then divide that sum by the total number of such trading days.

New Rule 3a55–1 also provides two separate methods for determining dollar value of ADTV. For purposes of Section 3(a)(55)(B) of the Exchange Act,[171] dollar value of ADTV of a security is the sum of dollar value of ADTV of all reported transactions in such security, in each jurisdiction where the security trades, including transactions in the United States and transactions in jurisdictions other than the United States. In addition, Rule 3a55–1 sets forth the method to determine dollar value of ADTV for trading in a security in the United States and in jurisdictions other than the United States over a period of the preceding 6 full calendar months. The new rule also establishes how to calculate dollar value of ADTV for the lowest weighted 25% of an index and clarifies that all reported transactions for any depositary share that represents a security be included in the calculation of dollar value of ADTV of the underlying security, and that all reported transactions for a security underlying a depository share be included in the calculation of dollar value of ADTV of the depository share.

For purposes of Section 3(a)(55)(C)(i)(III)(cc) of the Exchange Act,[172] if a component security of the index is on the list of Top 675 securities with the largest dollar value of ADTV by the SEC and the CFTC as applicable for that day, the dollar value of ADTV criterion is satisfied. If the Commissions do not designate such a list, then the method to be used to determine dollar value of ADTV for a single security as of the preceding 6 full calendar months is to sum the value of all reported transactions in such security in the United States for each U.S. trading day during the preceding 6 full calendar months, and then divide the sum by the total number of such trading days.

Under the statutory definition of narrow-based security index, the market capitalization and dollar value of ADTV must be calculated ''as of the preceding 6 full calendar months.'' Rule 3a55–1 specifies a ''rolling'' 6 month period, *i.e.*, with respect to a particular day, the ''preceding 6 full calendar months'' will mean the period of time beginning on the same calendar date 6 months before and ending on the day prior to that day.

The SEC believes new Rule 3a55–1 under the Exchange Act provides an additional benefit to national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade by permitting use of foreign trading data for the calculation of dollar value of ADTV for the lowest weighted 25% of the index when component securities of an index are also traded on markets outside of the United States.

[171] 15 U.S.C. 78c(a)(55)(B).

[172] 15 U.S.C. 78c(a)(55)(C)(i)(III)(cc).

The new rule clarifies that such foreign transaction data may be used only if it has been reported to a foreign financial regulatory authority in the jurisdiction in which the security is traded, and that, if the price information is reported in a foreign currency, it must be converted into U.S. dollars on the basis of a rate of exchange for that day obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

In addition, the SEC adopted Rule 3a55–2 under the Exchange Act. The new rule provides a limited exclusion from the definition of ''narrow-based security index'' for an index underlying a futures contract that has traded for less than 30 days, as long as the index meets certain specified criteria. This exclusion is beneficial because it will allow futures contracts to continue to trade during this 30 day period without triggering Exchange Act provisions requiring registration by the market trading the futures.

Finally, new Rule 3a55–3 under the Exchange Act establishes that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index will not be considered a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF. This rule is beneficial because it aids markets in assessing whether a futures contract trading on a security index comprised of foreign securities will be subject to sole CFTC jurisdiction or joint CFTC–SEC jurisdiction.

*C. Costs*

In complying with new Rules 3a55–1 through 3a55–3 under the Exchange Act, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade will incur certain costs. Under the CFMA, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade must use the methods provided by the new rules to determine whether or not a security index is narrow-based and thus whether the futures contract is subject solely to the CFTC's jurisdiction or subject to the joint jurisdiction of the CFTC and SEC. Thus, the costs of complying with the new rules primarily are attributable to the implementation of the new provisions of the Exchange Act pertaining to the definition of narrow-based security index. National securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade trading these products are responsible for assuring their own compliance with the newly-adopted rules and thus will incur various costs in determining the market capitalization and dollar value of ADTV for component securities of a security index.

The new rules require national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade to gather information to ascertain the market capitalization and dollar value of ADTV for component securities of an index with respect to each day, in certain cases taking into account data for the preceding 6 full calendar months. To compute dollar value of ADTV for a single security that is a component of an index, Rule 3a55–1 requires a market in certain circumstances to tally the sum of dollar value of ADTV of all reported transactions in such security in each jurisdiction where the security trades for the preceding 6 full calendar months, using the method described in the rule. An additional calculation will be required to determine dollar value of ADTV of the lowest weighted 25% of an index.

In addition, an exclusion from the definition of narrow-based security index is available when all component securities are among both the Top 750 securities (by market capitalization) and Top 675 securities (by dollar value of ADTV). To compute market capitalization in the event the Commissions do not designate a list of the Top 750 securities, the final rules require a market to determine the number of outstanding shares of a security on a particular day as reported on the issuer's most recent annual or periodic report filed with the SEC and each security's closing price for that same day for a period comprising the preceding 6 full calendar months. A designated contract market, registered DTEF, or foreign board of trade will be charged with identifying these Top 750 and Top 675 securities to determine whether a security index qualifies for this exclusion by using the calculations specified in the new rules. Rule 3a55–1, however, allows the CFTC and the SEC to designate lists providing the Top 750 securities with respect to market capitalization and the Top 675 securities with respect to dollar value of ADTV.

A market may incur costs if it contracts with an outside party to perform the calculations. In addition, a national securities exchange, designated contract market, registered DTEF, or foreign board of trade may incur the costs associated with obtaining and accessing appropriate data from an independent third party vendor. For example, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade may be required to pay certain fees to a vendor to acquire the necessary information. Furthermore, if the market capitalization and dollar value of ADTV calculations require data that is not readily available, particularly if foreign data is used, national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade possibly will incur additional costs to obtain such data.

The commenters did not provide the SEC with actual estimates of the costs that they would incur to compile the data and make the computations with respect to market capitalization and dollar value of ADTV. The SEC therefore contacted several exchanges regarding cost assessments; however, these exchanges did not provide dollar-based estimates. Consequently, the SEC is using estimates provided by third-party vendors in assessing the start-up and maintenance costs to perform and retain the calculations required by the new rules. The SEC estimates the cost of obtaining a third-party vendor's terminal to be $1,650 per month for the first terminal and $1,300 per month per terminal if two or more terminals are used. The SEC estimates a cost of $500 per month to maintain communication lines to obtain the data feed. In addition, it is anticipated that there will be a one-time installation fee of $300 per terminal. The total cost for each of the 11 exchanges expected to trade futures on security indexes to install and maintain one terminal for the first year is estimated to be $26,100, which includes the one-time installation fee. The total cost for each of the 11 exchanges to maintain one terminal on an annual basis thereafter is estimated to be $25,800. The total cost for *all* of the 11 exchanges to install and maintain one terminal for the first year is estimated to be $287,100, which includes the one-time installation fee. The total cost for all of the 11 exchanges to maintain one terminal on an annual basis thereafter is estimated to be $283,800. The SEC notes, however, that for those exchanges that already have such third-party vendor terminals in place, there should be no additional costs associated with obtaining the required data to comply with the new rules.

The calculations required under the new rules for market capitalization and dollar value of ADTV may require

additional data storage.[173] A national securities exchange, designated contract market, or registered DTEF will need to consider how to store the data—whether to maintain hard copies or electronic copies of all the computations. The national securities exchange, designated contract market, or registered DTEF will also have to take into consideration the time period for which the data will have to be stored and the costs associated with such storage and maintenance. Taking into account that exchanges already have recordkeeping systems in place, the SEC believes that any new or additional data storage costs will be minimal. In addition, the SEC understands that data storage may be minimized if markets rely on third-party vendors as a source for data because those vendors' terminals generally are linked to PC terminals that can readily store the information.

A national securities exchange, designated contract market, registered DTEF, or foreign board of trade may also incur resource costs to carry out the computations required under the new rules. As noted above, one commenter indicated that it would need two additional staff personnel to comply with the new rules.[174] While not necessarily agreeing with that estimate, using the assessment that two full-time staff persons would be required, the SEC estimates that the total annual cost of employing a staff person in a clerical position to perform the computations based on the new rules will be approximately $42,520 plus 35% for overhead costs (*i.e.*, costs of supervision, space and administrative support), for a total of approximately $57,600 ($32 per hour per market).[175] The SEC estimates that the total annual cost of employing a staff person in a supervisory position to oversee the clerical staff person will be approximately $135,001 plus 35% for overhead costs, for a total of approximately $180,000 ($100 per hour per market).[176] Therefore, the SEC estimates the total cost that each of the 11 exchanges expected to trade futures on security indexes will incur in engaging staff to make the required computations to be $237,600 annually. The total cost that all of the 11 exchanges will incur in engaging staff to comply with the final rules is estimated to be $2,613,600 annually.

The SEC therefore anticipates that the total cost that will be incurred by each of the 11 exchanges expected to trade futures on security indexes to comply with the new rules will be $263,700 for the first year with the one-time installation fee. The SEC anticipates that the total cost that will be incurred by each of the 11 exchanges thereafter will be $263,400 annually. The total cost anticipated for all 11 exchanges will therefore be $2,900,700 for the first year and $2,897,400 annually thereafter. The SEC anticipates that, in fact, the actual costs that will be incurred by the 11 markets expected to trade futures on security indexes will be significantly less than this total estimated cost because most of these markets currently have access to the requisite data. Additionally, costs will be reduced if the Commissions disseminate the lists of Top 750 securities (by market capitalization) and Top 675 securities (by dollar value of ADTV).

## VI. Consideration of Burden on Competition, and Promotion of Efficiency, Competition, and Capital Formation

*SEC*

Section 3(f) of the Exchange Act requires the SEC, when engaged in rulemaking that requires it to consider or determine whether an action is necessary or appropriate in the public interest, to consider whether the action would promote efficiency, competition, and capital formation.[177] Section 23(a)(2) requires the SEC, in adopting rules under the Exchange Act, to consider the impact any rule would have on competition.[178] In the Proposing Release, the SEC requested comments on these statutory considerations.

The SEC believes that new Rule 3a55–1 under the Exchange Act will promote efficiency by setting forth clear methods and guidelines for national securities exchanges, designated contract markets, registered DTEFs, and foreign boards of trade in applying the statutory definition of narrow-based security index. The SEC further believes that new Rule 3a55–2 under the Exchange Act will promote efficiency by providing designated contract markets, registered DTEFs, and foreign boards of trade a way to ensure that a futures contract trading solely under the jurisdiction of the CFTC does not suddenly become a security future within the first 30 days of trading and subject, as a result, to a new regulatory regime. The SEC also believes that new Rule 3a55–3 under the Exchange Act will promote efficiency by clarifying and establishing that when a futures contract on an index is traded on or subject to the rules of a foreign board of trade, such index will not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF.

The SEC believes that the final rules may enhance capital formation, because the new rules will provide clarity with respect to the method for determining whether a particular security index is narrow-based or broad-based. In this way, market participants will have certainty as to whether a futures contract on a particular index falls within the sole jurisdiction of the CFTC or will be under the joint jurisdiction of the SEC and CFTC. The benefits to the capital formation process, however, principally flow from the CFMA itself, which lifts the ban on the trading of futures on single securities and narrow-based security indexes.

The SEC believes that the adopted rules will not impose any significant burdens on competition. The statutory definition of narrow-based security index and the exclusions from that definition contained in Section 1a(25)(A) and (B) of the CEA and Section 3(a)(55)(B) and (C) of the Exchange Act set forth the criteria that a market trading a futures contract on a stock index must use to determine whether the SEC and CFTC jointly, or the CFTC alone, will have regulatory authority over that futures contract. The statutory definition of a narrow-based security index and the exclusions from that definition substantively are identical in both the CEA and the Exchange Act, and the joint CFTC–SEC rules adopted in this release also are substantively identical.

Several commenters addressed the issue of competition with respect to the proposed rules. In particular, the SEC received a few comments stating that exchanges will face unregulated competition because eligible contract participants trading futures over-the-counter will not be subject to these new rules.[179] The SEC points out that the

[173] Under Rule 17a–1 under the Exchange Act, 17 CFR 240.17a–1, and Sections 5(d)(17) and 5a(d)(8) of the CEA, and new Rule 41.2 under CEA, respectively, national securities exchanges, designated contract markets, and registered DTEFs will need to preserve records of all their determinations with respect to the narrow-based or non-narrow-based status of security indexes.

[174] *See* CBOE Letter.

[175] *See* Report on Office Salaries In The Securities Industry 2000, prepared by the Securities Industry Association (September 2000).

[176] *See* Report on Management & Professional Earnings In The Securities Industry 2000, prepared by the Securities Industry Association (September 2000).

[177] Section 3(f) of the Exchange Act, 15 U.S.C. 78c(f).

[178] Section 23(a)(2) of the Exchange Act, 15 U.S.C. 78w(a)(2).

[179] *See* HKFE Letter; SFE Letter; ME Letter.

Congress, in adopting the CFMA, provided for a differing scheme of regulation for eligible contract participants. The SEC also received several comments stating that foreign boards of trade should be subject to different criteria with respect to the definition of narrow-based security index.[180] Two other commenters, however, stated that foreign boards of trade should be held to the same standards as national securities exchanges, designated contract markets, and registered DTEFs.[181] The SEC notes that the new rules are even-handed in their application with respect to domestic and foreign markets that propose to trade futures on a particular security index and thus should not impose any burden on competition with respect to how particular security indexes are treated under the final rules.

The CFMA directed the SEC and CFTC to jointly specify the methods for determining market capitalization and dollar value of ADTV, as those terms are used in the aforementioned statutory definition and exclusion. The SEC believes that new Rule 3a55–1, developed jointly with the CFTC, sets forth objective methods in fulfillment of the CFMA directive and further clarifies the application of the statutory provisions. The SEC believes that new Rule 3a55–2 is necessary in the public interest to prevent potential dislocations for market participants trading a futures contract on an index that becomes narrow-based during the first 30 days of trading and should impose no burden on competition. This rule is important because, to qualify for the statutory tolerance period of 45 days over 3 consecutive calendar months, a future on a security index must have been traded on a designated contract market or a registered DTEF for at least 30 days. In addition, the SEC believes that new Rule 3a55–3 is necessary in the public interest and should impose no burden on competition because it serves to clarify and establish that when a futures contract on a security index is traded on or subject to the rules of a foreign board of trade, that index shall not be considered a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered DTEF. This means that a foreign board of trade can look to the same criteria to determine whether a security index is broad-based as a designated contract market or registered DTEF.

## VII. Regulatory Flexibility Act Certification

*CFTC*

The Regulatory Flexibility Act (''RFA''), 5 U.S.C. 601 *et seq.*, requires federal agencies, in promulgating rules, to consider the impact of those rules on small entities. The rules adopted herein would affect contract markets and registered DTEFs. The CFTC previously established certain definitions of ''small entities'' to be used by the CFTC in evaluating the impact of its rules on small entities in accordance with the RFA.[182] In its previous determinations, the CFTC concluded that contract markets are not small entities for the purpose of the RFA.[183] The CFTC recently determined that registered DTEFS are also not small entities for the purposes of the RFA.[184] The CFTC invited the public to comment on its proposed determination that registered DTEFs would not be small entities for purposes of the RFA and on the Chairman's certification that these rules would not have a significant economic impact on a substantial number of small entities.[185] The CFTC received no comments on its proposed determination or on its certification.

*SEC*

Pursuant to section 605(b) of the Regulatory Flexibility Act,[186] the Acting Chairman of the SEC certified that the rules would not have a significant economic impact on a substantial number of small entities. This certification was attached to the Proposing Release as an Appendix.[187] The SEC solicited comments concerning the impact on small entities and the Regulatory Flexibility Act Certification, but received no comments.

## VIII. Text of Rules

### List of Subjects

*17 CFR Part 41*

Security futures products, Reporting and recordkeeping requirements.

*17 CFR Part 240*

Securities.

### Chapter I—Commodity Futures Trading Commission

In accordance with the foregoing, Title 17, chapter I of the Code of Federal Regulations is amended by adding part 41 to read as follows:

## PART 41—SECURITY FUTURES

Sec.

**Subpart A—General Provisions**

41.1 Definitions.
41.2 Required records.
41.3–41.9 [Reserved]

**Subpart B—Narrow-Based Security Indexes**

41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.
41.12 Indexes underlying futures contracts trading for fewer than 30 days.
41.13 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.
41.14 Transition period for indexes that cease being narrow-based security indexes.

**Authority:** 7 U.S.C. 1a, 2, 6j, 7a–2, 12a.

## Subpart A—General Provisions

### § 41.1 Definitions.

For purposes of this part:

* * * * *

(a)–(b) [Reserved]

(c) *Broad-based security index* means a group or index of securities that does not constitute a narrow-based security index.

(d) *Foreign board of trade* means a board of trade located outside of the United States, its territories or possessions, whether incorporated or unincorporated, where foreign futures or foreign options are entered into.

(e) *Narrow-based security index* has the same meaning as in section 1a(25) of the Commodity Exchange Act.

### § 41.2 Required records.

A designated contract market or registered derivatives transaction execution facility that trades a security index or security futures product shall maintain in accordance with the requirements of § 1.31 books and records of all activities related to the trading of such products, including: Records related to any determination under subpart B of this part whether or not a futures contract on a security index is a narrow-based security index or a broad-based security index.

[180] *See* FIA Letter; GMIMCo Letter; Barclays Letter; ME Letter; HKFE Letter; SFE Letter; MFA Letter.

[181] *See* CBOE Letter; CME Letter II.

[182] 47 FR 18618–21 (April 30, 1982).

[183] 47 FR 18618, 18619 (discussing contract markets).

[184] 66 FR 42256, 42268 (August 10, 2001).

[185] *See* 5 U.S.C. 605(b).

[186] *See* 5 U.S.C. 605(b).

[187] *See* Proposing Release, *supra* note 17.

**§§ 41.3—41.9 [Reserved]**

## Subpart B—Narrow-Based Security Indexes

### § 41.11 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

(a) *Market capitalization.* For purposes of Section 1a(25)(B) of the Act (7 U.S.C. 1a(25)(B)):

(1) On a particular day, a security shall be 1 of 750 securities with the largest market capitalization as of the preceding 6 full calendar months when it is included on a list of such securities designated by the Commission and the SEC as applicable for that day.

(2) In the event that the Commission and the SEC have not designated a list under paragraph (a)(1) of this section:

(i) The method to be used to determine market capitalization of a security as of the preceding 6 full calendar months is to sum the values of the market capitalization of such security for each U.S. trading day of the preceding 6 full calendar months, and to divide this sum by the total number of such trading days.

(ii) The 750 securities with the largest market capitalization shall be identified from the universe of all reported securities, as defined in § 240.11Ac1–1, that are common stock or depositary shares.

(b) *Dollar value of ADTV.*

(1) For purposes of Section 1a(25)(A) and (B) of the Act (7 U.S.C. 1a(25)(A) and (B)):

(i) (A) The method to be used to determine the dollar value of ADTV of a security is to sum the dollar value of ADTV of all reported transactions in such security in each jurisdiction as calculated pursuant to paragraphs (b)(1)(ii) and (iii) of this section.

(B) The dollar value of ADTV of a security shall include the value of all reported transactions for such security and for any depositary share that represents such security.

(C) The dollar value of ADTV of a depositary share shall include the value of all reported transactions for such depositary share and for the security that is represented by such depositary share.

(ii) For trading in a security in the United States, the method to be used to determine the dollar value of ADTV as of the preceding 6 full calendar months is to sum the value of all reported transactions in such security for each U.S. trading day during the preceding 6 full calendar months, and to divide this sum by the total number of such trading days.

(iii) (A) For trading in a security in a jurisdiction other than the United States, the method to be used to determine the dollar value of ADTV as of the preceding 6 full calendar months is to sum the value in U.S. dollars of all reported transactions in such security in such jurisdiction for each trading day during the preceding 6 full calendar months, and to divide this sum by the total number of trading days in such jurisdiction during the preceding 6 full calendar months.

(B) If the value of reported transactions used in calculating the ADTV of securities under paragraph (b)(1)(iii)(A) is reported in a currency other than U.S. dollars, the total value of each day's transactions in such currency shall be converted into U.S. dollars on the basis of a spot rate of exchange for that day obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(iv) The dollar value of ADTV of the lowest weighted 25% of an index is the sum of the dollar value of ADTV of each of the component securities comprising the lowest weighted 25% of such index.

(2) For purposes of Section 1a(25)(B)(III)(cc) of the Act (7 U.S.C. 1a(25)(B)(III)(cc)):

(i) On a particular day, a security shall be 1 of 675 securities with the largest dollar value of ADTV as of the preceding 6 full calendar months when it is included on a list of such securities designated by the Commission and the SEC as applicable for that day.

(ii) In the event that the Commission and the SEC have not designated a list under paragraph (b)(2)(i) of this section:

(A) The method to be used to determine the dollar value of ADTV of a security as of the preceding 6 full calendar months is to sum the value of all reported transactions in such security in the United States for each U.S. trading day during the preceding 6 full calendar months, and to divide this sum by the total number of such trading days.

(B) The 675 securities with the largest dollar value of ADTV shall be identified from the universe of all reported securities as defined in § 240.11Ac1–1 that are common stock or depositary shares.

(c) *Depositary Shares and Section 12 Registration.* For purposes of Section 1a(25)(B)(III)(aa) of the Act (7 U.S.C. 1a(25)(B)(III)(aa)), the requirement that each component security of an index be registered pursuant to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78*l*) shall be satisfied with respect to any security that is a depositary share if the deposited securities underlying the depositary share are registered pursuant to Section 12 of the Securities Exchange Act of 1934 and the depositary share is registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) on Form F–6 (17 CFR 239.36).

(d) *Definitions.* For purposes of this section:

(1) *SEC* means the Securities and Exchange Commission.

(2) *Closing price* of a security means:

(i) If reported transactions in the security have taken place in the United States, the price at which the last transaction in such security took place in the regular trading session of the principal market for the security in the United States.

(ii) If no reported transactions in a security have taken place in the United States, the closing price of such security shall be the closing price of any depositary share representing such security divided by the number of shares represented by such depositary share.

(iii) If no reported transactions in a security or in a depositary share representing such security have taken place in the United States, the closing price of such security shall be the price at which the last transaction in such security took place in the regular trading session of the principal market for the security. If such price is reported in a currency other than U.S. dollars, such price shall be converted into U.S. dollars on the basis of a spot rate of exchange relevant for the time of the transaction obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(3) *Depositary share* has the same meaning as in § 240.12b–2.

(4) *Foreign financial regulatory authority* has the same meaning as in Section 3(a)(52) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(52)).

(5) *Lowest weighted 25% of an index.* With respect to any particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting for purposes of Section 1a(25)(A)(iv) of the Act (7 U.S.C. 1a(25)(A)(iv)) (''lowest weighted 25% of an index'') means those securities:

(i) That are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology; and

(ii) For which the sum of the weight of such securities is equal to, or less than, 25% of the index's total weighting.

(6) *Market capitalization* of a security on a particular day:

(i) If the security is not a depositary share, is the product of:

(A) The closing price of such security on that same day; and

(B) The number of outstanding shares of such security on that same day.

(ii) If the security is a depositary share, is the product of:

(A) The closing price of the depositary share on that same day divided by the number of deposited securities represented by such depositary share; and

(B) The number of outstanding shares of the security represented by the depositary share on that same day.

(7) *Outstanding shares* of a security means the number of outstanding shares of such security as reported on the most recent Form 10–K, Form 10–Q, Form 10–KSB, Form 10–QSB, or Form 20–F (17 CFR 249.310, 249.308a, 249.310b, 249.308b, or 249.220f) filed with the Securities and Exchange Commission by the issuer of such security, including any change to such number of outstanding shares subsequently reported by the issuer on a Form 8–K (17 CFR 249.308).

(8) *Preceding 6 full calendar months* means, with respect to a particular day, the period of time beginning on the same day of the month 6 months before and ending on the day prior to such day.

(9) *Principal market* for a security means the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months.

(10) *Reported transaction* means:

(i) With respect to securities transactions in the United States, any transaction for which a transaction report is collected, processed, and made available pursuant to an effective transaction reporting plan, or for which a transaction report, last sale data, or quotation information is disseminated through an automated quotation system as described in Section 3(a)(51)(A)(ii) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(51)(A)(ii)); and

(ii) With respect to securities transactions outside the United States, any transaction that has been reported to a foreign financial regulatory authority in the jurisdiction where such transaction has taken place.

(11) *U.S. trading day* means any day on which a national securities exchange is open for trading.

(12) *Weighting* of a component security of an index means the percentage of such index's value represented, or accounted for, by such component security.

**§ 41.12 Indexes underlying futures contracts trading for fewer than 30 days.**

(a) An index on which a contract of sale for future delivery is trading on a designated contract market, registered derivatives transaction execution facility, or foreign board of trade is not a narrow-based security index under Section 1a(25) of the Act (7 U.S.C. 1a(25)) for the first 30 days of trading, if:

(1) Such index would not have been a narrow-based security index on each trading day of the preceding 6 full calendar months with respect to a date no earlier than 30 days prior to the commencement of trading of such contract;

(2) On each trading day of the preceding 6 full calendar months with respect to a date no earlier than 30 days prior to the commencement of trading such contract:

(i) Such index had more than 9 component securities;

(ii) No component security in such index comprised more than 30 percent of the index's weighting;

(iii) The 5 highest weighted component securities in such index did not comprise, in the aggregate, more than 60 percent of the index's weighting; and

(iv) The dollar value of the trading volume of the lowest weighted 25% of such index was not less than $50 million (or in the case of an index with 15 or more component securities, $30 million); or

(3) On each trading day of the 6 full calendar months preceding a date no earlier than 30 days prior to the commencement of trading such contract:

(i) Such index had at least 9 component securities;

(ii) No component security in such index comprised more than 30 percent of the index's weighting; and

(iii) Each component security in such index was:

(A) Registered pursuant to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78) or was a depositary share representing a security registered pursuant to Section 12 of the Securities Exchange Act of 1934;

(B) 1 of 750 securities with the largest market capitalization that day; and

(C) 1 of 675 securities with the largest dollar value of trading volume that day.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Definitions.* For purposes of this section:

(1) *Market capitalization* has the same meaning as in § 41.11(d)(6) of this chapter.

(2) *Dollar value of trading volume* of a security on a particular day is the value in U.S. dollars of all reported transactions in such security on that day. If the value of reported transactions used in calculating dollar value of trading volume is reported in a currency other than U.S. dollars, the total value of each day's transactions shall be converted into U.S. dollars on the basis of a spot rate of exchange for that day obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(3) *Lowest weighted 25% of an index* has the same meaning as in § 41.11(d)(5) of this chapter.

(4) *Preceding 6 full calendar months* has the same meaning as in § 41.11(d)(8) of this chapter.

(5) *Reported transaction* has the same meaning as in § 41.11(d)(10) of this chapter.

**§ 41.13 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.**

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

**§ 41.14 Transition period for indexes that cease being narrow-based security indexes.**

(a) Forty-five day tolerance provision. An index that is a narrow-based security index that becomes a broad-based security index for no more than 45 business days over 3 consecutive calendar months shall be a narrow-based security index.

(b) Transition period for indexes that cease being narrow-based security indexes for more than forty-five days. An index that is a narrow-based security index that becomes a broad-based security index for more than 45 business days over 3 consecutive calendar months shall continue to be a narrow-

based security index for the following 3 calendar months.

(c) Trading in months with open interest following transition period. After the transition period provided for in paragraph (b) of this section ends, a national securities exchange may continue to trade only in those months in the security futures product that had open interest on the date the transition period ended.

(d) Definition of calendar month. Calendar month means, with respect to a particular day, the period of time beginning on a calendar date and ending during another month on a day prior to such date.

## Chapter II—Securities and Exchange Commission

### Authority

The Commission is adopting the rules pursuant to its authority under Exchange Act Sections 3(a), 3(b), 6, 15A, 17(a), 17(b), 19, 23(a).

In accordance with the foregoing, Title 17, chapter II, part 240 of the Code of Federal Regulations is amended as follows:

## PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. The authority citation for part 240 continues to read, in part, as follows:

**Authority:** 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78f, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

2. Sections 240.3a55–1 through 240.3a55–3 are added to read as follows:

### § 240.3a55–1 Method for determining market capitalization and dollar value of average daily trading volume; application of the definition of narrow-based security index.

(a) *Market capitalization.* For purposes of Section 3(a)(55)(C)(i)(III)(bb) of the Act (15 U.S.C. 78c(a)(55)(C)(i)(III)(bb)):

(1) On a particular day, a security shall be 1 of 750 securities with the largest market capitalization as of the preceding 6 full calendar months when it is included on a list of such securities designated by the Commission and the CFTC as applicable for that day.

(2) In the event that the Commission and the CFTC have not designated a list under paragraph (a)(1) of this section:

(i) The method to be used to determine market capitalization of a security as of the preceding 6 full calendar months is to sum the values of the market capitalization of such security for each U.S. trading day of the preceding 6 full calendar months, and to divide this sum by the total number of such trading days.

(ii) The 750 securities with the largest market capitalization shall be identified from the universe of all reported securities, as defined in § 240.11Ac1–1, that are common stock or depositary shares.

(b) *Dollar value of ADTV.*

(1) For purposes of Section 3(a)(55)(B) of the Act (15 U.S.C. 78c(a)(55)(B)):

(i) (A) The method to be used to determine the dollar value of ADTV of a security is to sum the dollar value of ADTV of all reported transactions in such security in each jurisdiction as calculated pursuant to paragraphs (b)(1)(ii) and (iii).

(B) The dollar value of ADTV of a security shall include the value of all reported transactions for such security and for any depositary share that represents such security.

(C) The dollar value of ADTV of a depositary share shall include the value of all reported transactions for such depositary share and for the security that is represented by such depositary share.

(ii) For trading in a security in the United States, the method to be used to determine the dollar value of ADTV as of the preceding 6 full calendar months is to sum the value of all reported transactions in such security for each U.S. trading day during the preceding 6 full calendar months, and to divide this sum by the total number of such trading days.

(iii) (A) For trading in a security in a jurisdiction other than the United States, the method to be used to determine the dollar value of ADTV as of the preceding 6 full calendar months is to sum the value in U.S. dollars of all reported transactions in such security in such jurisdiction for each trading day during the preceding 6 full calendar months, and to divide this sum by the total number of trading days in such jurisdiction during the preceding 6 full calendar months.

(B) If the value of reported transactions used in calculating the ADTV of securities under paragraph (b)(1)(iii)(A) is reported in a currency other than U.S. dollars, the total value of each day's transactions in such currency shall be converted into U.S. dollars on the basis of a spot rate of exchange for that day obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(iv) The dollar value of ADTV of the lowest weighted 25% of an index is the sum of the dollar value of ADTV of each of the component securities comprising the lowest weighted 25% of such index.

(2) For purposes of Section 3(a)(55)(C)(i)(III)(cc) of the Act (15 U.S.C. 78c(a)(55)(C)(i)(III)(cc)):

(i) On a particular day, a security shall be 1 of 675 securities with the largest dollar value of ADTV as of the preceding 6 full calendar months when it is included on a list of such securities designated by the Commission and the CFTC as applicable for that day.

(ii) In the event that the Commission and the CFTC have not designated a list under paragraph (b)(2) of this section:

(A) The method to be used to determine the dollar value of ADTV of a security as of the preceding 6 full calendar months is to sum the value of all reported transactions in such security in the United States for each U.S. trading day during the preceding 6 full calendar months, and to divide this sum by the total number of such trading days.

(B) The 675 securities with the largest dollar value of ADTV shall be identified from the universe of all reported securities as defined in § 240.11Ac1–1 that are common stock or depositary shares.

(c) *Depositary Shares and Section 12 Registration.* For purposes of Section 3(a)(55)(C) of the Act (15 U.S.C. 78c(a)(55)(C)), the requirement that each component security of an index be registered pursuant to Section 12 of the Act (15 U.S.C. 78*l*) shall be satisfied with respect to any security that is a depositary share if the deposited securities underlying the depositary share are registered pursuant to Section 12 of the Act and the depositary share is registered under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) on Form F–6 (17 CFR 239.36).

(d) *Definitions.* For purposes of this section:

(1) *CFTC* means Commodity Futures Trading Commission.

(2) *Closing price* of a security means:

(i) If reported transactions in the security have taken place in the United States, the price at which the last transaction in such security took place in the regular trading session of the principal market for the security in the United States.

(ii) If no reported transactions in a security have taken place in the United States, the closing price of such security shall be the closing price of any depositary share representing such security divided by the number of shares represented by such depositary share.

(iii) If no reported transactions in a security or in a depositary share representing such security have taken place in the United States, the closing price of such security shall be the price at which the last transaction in such security took place in the regular trading session of the principal market for the security. If such price is reported in a currency other than U.S. dollars, such price shall be converted into U.S. dollars on the basis of a spot rate of exchange relevant for the time of the transaction obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(3) *Depositary share* has the same meaning as in § 240.12b–2.

(4) *Foreign financial regulatory authority* has the same meaning as in Section 3(a)(52) of the Act (15 U.S.C. 78c(a)(52)).

(5) *Lowest weighted 25% of an index.* With respect to any particular day, the lowest weighted component securities comprising, in the aggregate, 25% of an index's weighting for purposes of Section 3(a)(55)(B)(iv) of the Act (15 U.S.C. 78c(a)(55)(B)(iv)) (''lowest weighted 25% of an index'') means those securities:

(i) That are the lowest weighted securities when all the securities in such index are ranked from lowest to highest based on the index's weighting methodology; and

(ii) For which the sum of the weight of such securities is equal to, or less than, 25% of the index's total weighting.

(6) *Market capitalization* of a security on a particular day:

(i) If the security is not a depositary share, is the product of:

(A) The closing price of such security on that same day; and

(B) The number of outstanding shares of such security on that same day.

(ii) If the security is a depositary share, is the product of:

(A) The closing price of the depositary share on that same day divided by the number of deposited securities represented by such depositary share; and

(B) The number of outstanding shares of the security represented by the depositary share on that same day.

(7) *Outstanding shares* of a security means the number of outstanding shares of such security as reported on the most recent Form 10–K, Form 10–Q, Form 10–KSB, Form 10–QSB, or Form 20–F (17 CFR 249.310, 249.308a, 249.310b, 249.308b, or 249.220f) filed with the Commission by the issuer of such security, including any change to such number of outstanding shares subsequently reported by the issuer on a Form 8–K (17 CFR 249.308).

(8) *Preceding 6 full calendar months* means, with respect to a particular day, the period of time beginning on the same day of the month 6 months before and ending on the day prior to such day.

(9) *Principal market* for a security means the single securities market with the largest reported trading volume for the security during the preceding 6 full calendar months.

(10) *Reported transaction* means:

(i) With respect to securities transactions in the United States, any transaction for which a transaction report is collected, processed, and made available pursuant to an effective transaction reporting plan, or for which a transaction report, last sale data, or quotation information is disseminated through an automated quotation system as described in Section 3(a)(51)(A)(ii) of the Act (15 U.S.C. 78c(a)(51)(A)(ii); and

(ii) With respect to securities transactions outside the United States, any transaction that has been reported to a foreign financial regulatory authority in the jurisdiction where such transaction has taken place.

(11) *U.S. trading day* means any day on which a national securities exchange is open for trading.

(12) *Weighting* of a component security of an index means the percentage of such index's value represented, or accounted for, by such component security.

**§ 240.3a55–2 Indexes underlying futures contracts trading for fewer than 30 days.**

(a) An index on which a contract of sale for future delivery is trading on a designated contract market, registered derivatives transaction execution facility, or foreign board of trade is not a narrow-based security index under Section 3(a)(55) of the Act (15 U.S.C. 78c(a)(55)) for the first 30 days of trading, if:

(1) Such index would not have been a narrow-based security index on each trading day of the preceding 6 full calendar months with respect to a date no earlier than 30 days prior to the commencement of trading of such contract;

(2) On each trading day of the preceding 6 full calendar months with respect to a date no earlier than 30 days prior to the commencement of trading such contract:

(i) Such index had more than 9 component securities;

(ii) No component security in such index comprised more than 30 percent of the index's weighting;

(iii) The 5 highest weighted component securities in such index did not comprise, in the aggregate, more than 60 percent of the index's weighting; and

(iv) The dollar value of the trading volume of the lowest weighted 25% of such index was not less than $50 million (or in the case of an index with 15 or more component securities, $30 million); or

(3) On each trading day of the preceding 6 full calendar months, with respect to a date no earlier than 30 days prior to the commencement of trading such contract:

(i) Such index had at least 9 component securities;

(ii) No component security in such index comprised more than 30 percent of the index's weighting; and

(iii) Each component security in such index was:

(A) Registered pursuant to Section 12 of the Act (15 U.S.C. 78) or was a depositary share representing a security registered pursuant to Section 12 of the Act;

(B) 1 of 750 securities with the largest market capitalization that day; and

(C) 1 of 675 securities with the largest dollar value of trading volume that day.

(b) An index that is not a narrow-based security index for the first 30 days of trading pursuant to paragraph (a) of this section, shall become a narrow-based security index if such index has been a narrow-based security index for more than 45 business days over 3 consecutive calendar months.

(c) An index that becomes a narrow-based security index solely because it was a narrow-based security index for more than 45 business days over 3 consecutive calendar months pursuant to paragraph (b) of this section shall not be a narrow-based security index for the following 3 calendar months.

(d) *Definitions.* For purposes of this section:

(1) *Market capitalization* has the same meaning as in § 240.3a55–1(d)(6).

(2) *Dollar value of trading volume* of a security on a particular day is the value in U.S. dollars of all reported transactions in such security on that day. If the value of reported transactions used in calculating dollar value of trading volume is reported in a currency other than U.S. dollars, the total value of each day's transactions shall be converted into U.S. dollars on the basis of a spot rate of exchange for that day obtained from at least one independent entity that provides or disseminates foreign exchange quotations in the ordinary course of its business.

(3) *Lowest weighted 25% of an index* has the same meaning as in § 240.3a55–1(d)(5).

(4) *Preceding 6 full calendar months* has the same meaning as in § 240.3a55–1(d)(8).

(5) *Reported transaction* has the same meaning as in § 240.3a55–1(d)(10).

**§ 240.3a55–3 Futures contracts on security indexes trading on or subject to the rules of a foreign board of trade.**

When a contract of sale for future delivery on a security index is traded on or subject to the rules of a foreign board of trade, such index shall not be a narrow-based security index if it would not be a narrow-based security index if a futures contract on such index were traded on a designated contract market or registered derivatives transaction execution facility.

By the Commodity Futures Trading Commission.

Dated: August 20, 2001.

**Catherine D. Dixon,**

*Assistant Secretary.*

By the Securities and Exchange Commission.[188]

Dated: August 20, 2001.

**Jonathan G. Katz,**

*Secretary.*

[FR Doc. 01–21391 Filed 8–21–01; 8:45 am]

BILLING CODE 8010–01–P

[188] Chairman Pitt did not participate in this matter.

Federal Register

Thursday,
August 23, 2001

# Part IV

# Department of Defense
# General Services Administration
# National Aeronautics and Space Administration

**48 CFR Parts 2, 7, 8, 16, and 17**
**Federal Acquisition Regulation; Task-Order and Delivery-Order Contracts; Proposed Rule**

**DEPARTMENT OF DEFENSE**
**GENERAL SERVICES ADMINISTRATION**
**NATIONAL AERONAUTICS AND SPACE ADMINISTRATION**

**48 CFR Parts 2, 7, 8, 16, and 17**

**[FAR Case 1999–303]**

**RIN 9000–AI72**

## Federal Acquisition Regulation; Task-Order and Delivery-Order Contracts

**AGENCIES:** Department of Defense (DoD), General ServicesAdministration (GSA), and National Aeronautics and SpaceAdministration (NASA).

**ACTION:** Proposed rule.

**SUMMARY:** The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) are proposing to amend the Federal Acquisition Regulation (FAR) to further implement Subsections 804(a) and (b) of the National Defense Authorization Act for Fiscal Year 2000. These subsections focus primarily on appropriate use of task-order and delivery-order contracts and specific steps agencies should take when placing orders under task-order and delivery-order contracts established by another agency. The proposed amendment also clarifies that written acquisition plans may be required for orders as determined by the agency head.

**DATES:** Interested parties should submit comments in writing on or before October 22, 2001 to be considered in the formulation of a final rule.

**ADDRESSES:** Submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Street, NW, Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Submit electronic comments via the Internet to: farcase.1999–303@gsa.gov

Please submit comments only and cite FAR case 1999–303 in all correspondence related to this case.

**FOR FURTHER INFORMATION CONTACT:** The FAR Secretariat, Room 4035, GS Building, Washington, DC, 20405, at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Ms. Julia Wise, Procurement Analyst, at (202) 208–1168. Please cite FAR case 1999–303.

**SUPPLEMENTARY INFORMATION:**

### A. Background

On April 25, 2000, the Councils published a final rule, FAR case 1999–014, Competition Under Multiple AwardContracts, in the **Federal Register** at 65 FR 24317, to clarify what contracting officers should consider when planning for multiple awards of indefinite-delivery contracts, and clarify how orders should be placed against the resultant contracts. That rule implemented portions of Subsections 804(a) and (b) of the National DefenseAuthorization Act for Fiscal Year 2000. This rule proposes to further strengthen that policy and the implementation of Subsections 804(a) and (b) of the National DefenseAuthorization Act for Fiscal Year 2000 in several ways.

With respect to acquisition planning, the rule draws greater attention to the capital planning requirements of the Clinger-Cohen Act (40 U.S.C. 1422) and ensures more deliberation by agency acquisition planners before orders are placed under a Governmentwide acquisition contract, a task-order or delivery-order contract issued by another agency, or the multiple award schedules program. The Councils are continuing to review the agency acquisition planning practices of customers of inter-agency contracts to determine if additional guidance is needed to ensure strategic use of these vehicles.

With respect to the structuring of orders and the consideration given to contract holders prior to order placement, the rule (1) increases attention to modular contracting principles to help agencies avoid unnecessarily large and inadequately defined orders, (2) facilitates information exchange during the fair opportunity process so that contractors may develop and propose solutions that enable the Government to award performance-based orders, and (3) revises existing documentation requirements to address the issuance of sole-source orders as logical follow-ons to orders already issued under the contract.

This is not a significant regulatory action and, therefore, was not subject to review under Section 6(b) of Executive Order 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

### B. Regulatory Flexibility Act

The Councils do not expect this proposed rule to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.*, because the rule merely clarifies existing language. An Initial Regulatory Flexibility Analysis has, therefore, not been performed. We invite comments from small businesses and other interested parties. The Councils will consider comments from small entities concerning the affected FAR Parts 2, 7, 8, 16, and 17 in accordance with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 1999–303), in correspondence.

### C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

**List of Subjects in 48 CFR parts 2, 7, 8, 16, and 17:**

Government procurement.

Dated: August 20, 2001.

**Gloria Sochon,**

*Acting Director, Acquisition Policy Division.*

Therefore, DoD, GSA, and NASA propose that 48 CFR parts 2, 7, 8, 16, and 17 be amended as set forth below:

1. The authority citation for 48 CFR parts 2, 7, 8, 16, and 17 continues to read as follows:

**Authority:** 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

## PART 2—DEFINITIONS OF WORDS AND TERMS

2. Amend section 2.101 by adding, in alphabetical order, the definitions ''Governmentwide acquisition contract'' and ''Multi-agency contract (MAC)'' to read as follows:

**2.101 Definitions.**

* * * * *

*Governmentwide acquisition contract* means a task-order or delivery-order contract for information technology established by one agency for Governmentwide use that is operated—

(1) By an executive agent designated by the Office of Management and Budget pursuant to Section 5112(e) of the Clinger-Cohen Act, 40 U.S.C. 1412(e); or

(2) Under a delegation of procurement authority issued by the General Services Administration (GSA) prior to August 7, 1996, under authority granted GSA by the Brooks Act, 40 U.S.C. 759 (repealed by Pub. L. 104–106). The Economy Act does not apply to orders under a Governmentwide acquisition contract.

* * * * *

*Multi-agency contract (MAC)* means a task or delivery order contract established by one agency for use by Government agencies to obtain supplies and services, consistent with the Economy Act. Multi-agency contracts

include contracts for information technology established pursuant to section 5124(a)(2) of the Clinger-Cohen Act, 40 U.S.C. 1424(a)(2).

* * * * *

## PART 7—ACQUISITION PLANNING

3. Amend section 7.101 by adding, in alphabetical order, the definition ''Order'' to read as follows:

### 7.101 Definitions.

* * * * *

*Order* means an order placed under a task-order contract or delivery-order contract awarded by another agency (*i.e.*, a Federal Supply Schedule contract, Governmentwide acquisition contract, or multi-agency contract).

* * * * *

4. In section 7.103—

a. Revise the introductory text and paragraphs (e) and (q);

b. Amend the second sentence of paragraph (r) by removing the word ''contracts'' and adding ''contract types'' in its place; and

c. Add paragraph (t) to read as follows:

### 7.103 Agency-head responsibilities.

The agency head must prescribe procedures for—

* * * * *

(e) Writing plans either on a systems basis, on an individual contract basis, or on an individual order basis, depending upon the acquisition.

* * * * *

(q) Ensuring that no purchase request is initiated or contract entered into that would result in the performance of an inherently governmental function by a contractor and that all contracts or orders are adequately managed so as to ensure effective official control over contract or order performance.

* * * * *

(t) Ensuring that agency planners on information technology acquisitions comply with the capital planning and investment control requirements in 40 U.S.C. 1422 and OMB Circular A–130.

5. Amend section 7.104 by revising the first sentence of paragraph (a); in the second sentence of paragraph (b) by adding ''with'' after the word ''consult''; and by revising the second sentence of paragraph (c) to read as follows:

### 7.104 General procedures.

(a) Acquisition planning should begin as soon as the agency need is identified, preferably well in advance of the fiscal year in which contract award or order placement is necessary. * * *

* * * * *

(c) * * * If the plan proposes using other than full and open competition when awarding a contract, the plan shall also be coordinated with the cognizant competition advocate.

6. Amend section 7.105 in the first sentence of the introductory paragraph by removing ''subparagraph'' and adding ''paragraph'' in its place, and in the fifth sentence by adding ''or orders'' after the word ''contracts''; and by revising paragraph (b)(4) to read as follows:

### 7.105 Contents of written acquisition plans.

* * * * *

(b) * * *

(4) *Acquisition considerations.* (i) For each contract contemplated, discuss contract type selection (see part 16); use of multiyear contracting, options, or other special contracting methods (see part 17); any special clauses, special solicitation provisions, or FAR deviations required (see subpart 1.4); whether sealed bidding or negotiation will be used and why; whether equipment will be acquired by lease or purchase (see subpart 7.4) and why; and any other contracting considerations.

(ii) For each order contemplated, discuss—

(A) For information technology acquisitions, how the capital planning and investment control requirements of 40 U.S.C. 1422 and OMB Circular A–130 will be met (see 7.103(s) and part 39); and

(B) Why this action benefits the Government, such as when—

(*1*) The agency can accomplish its mission more efficiently and effectively (*e.g.,* take advantage of the servicing agency's specialized expertise; or gain access to contractors with needed expertise); or

(*2*) Ordering through one of these vehicles facilitates access to small business concerns, including small disadvantaged business concerns, 8(a) contractors, women-owned small business concerns, HUBZone small business concerns, veteran-owned small business concerns, or service-disabled veteran-owned small business concerns.

* * * * *

## PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

### 8.001 through 8.003 [Redesignated as 8.002 through 8.004]

7. Redesignate sections 8.001 through 8.003 as 8.002 through 8.004, respectively; and add a new section 8.001;

a. In the newly designated section 8.002 remove ''8.002'' and ''shall'' and add ''8.003'' and ''must'' in their places, respectively;

b. In the newly designated section 8.003, remove ''shall'' and add ''must'' in its place; and

b. Revise the newly designated section 8.004.

The revised text reads as follows:

### 8.001 General.

Regardless of the source of supplies or services to be acquired, information technology acquisitions must comply with capital planning and investment control requirements in 40 U.S.C. 1422 and OMB Circular A–130.

* * * * *

### 8.004 Contract clause.

Insert the clause at FAR 52.208–9, Contractor Use of Mandatory Sources of Supply, in solicitations and contracts that require a contractor to purchase supply items for Government use that are available from the Committee for Purchase from People Who Are Blind or Severely Disabled. The contracting officer must identify in the contract schedule the items that must be purchased from a mandatory source and the specific source.

8. Amend section 8.404 by revising paragraph (a) to read as follows:

### 8.404 Using schedules.

(a) *General.* (1) Parts 13 and 19 do not apply to orders placed against Federal Supply Schedules, except for the provision at 13.303–2(c)(3). Orders placed against a Multiple Award Schedule (MAS), using the procedures in this subpart, are considered to be issued using full and open competition (see 6.102(d)(3)).

(i) Ordering offices need not seek further competition, synopsize the requirement, make a separate determination of fair and reasonable pricing, or consider small business programs.

(ii) GSA has already determined the prices of items under schedule contracts to be fair and reasonable.

By placing an order against a schedule using the procedures in this section, the ordering office has concluded that the order represents the best value and results in the lowest overall cost alternative (considering price, special features, administrative costs, etc.), to meet the Government's needs.

(2) Orders placed under a Federal Supply Schedule contract are not exempt from the development of acquisition plans (see subpart 7.1), and an information technology acquisition strategy (see part 39).

* * * * *

## PART 16—TYPES OF CONTRACTS

9. Amend section 16.505 as follows:

a. Revise paragraph (a)(2);

b. Amend paragraph (a)(3) by adding ''or order'' after the word ''contract'';

c. Redesignate paragraphs (a)(4), (a)(5), and (a)(6) as (a)(5), (a)(6), and (a)(8), respectively, and add new paragraphs (a)(4) and (a)(7);

d. Add paragraphs (b)(1)(iii)(A)(*4*) and(b)(1)(iii)(A)(*5*);

e. Remove the word ''as'' from paragraph (b)(2)(iii) and add ''because it is'' in its place;

f. Revise the introductory text of paragraph (b)(2);

g. Revise paragraph (b)(4); and

h. Revise the heading and the first sentence of paragraph (b)(5) to read as follows:

### 16.505 Ordering.

(a) * * *

(2) Individual orders must clearly describe all services to be performed or supplies to be delivered so the full cost or price for the performance of the work can be established when the order is placed. Orders must be within the scope, issued within the period of performance, and be within the maximum value of the contract.

* * * * *

(4) When acquiring information technology and related services, consider the use of modular contracting to reduce program risk (see 39.103(a)).

* * * * *

(7) Orders placed under a task-order contract or delivery-order contract awarded by another agency (*i.e.,* a Governmentwide acquisition contract, or multi-agency contract)—

(i) Are not exempt from the development of acquisition plans (see subpart 7.1), and development of an information technology acquisition strategy (see part 39); and

(ii) May not be used to circumvent conditions and limitations imposed on the use of funds (*e.g.,* 31 U.S.C. 1501(a)(1)).

* * * * *

(b) * * *

(1) * * *

(iii) * * *

(A) * * *

(*4*) The amount of time contractors need to make informed business decisions on whether to respond to potential orders.

(*5*) Whether contractors could be encouraged to respond to potential orders by outreach efforts to promote exchanges of information, such as—

(*i*) Seeking comments from two or more contractors on draft statements of work;

(*ii*) Using a multiphased approach when effort required to respond to a potential order may be resource intensive (*e.g.,* requirements are complex or need continued development), where all contractors are initially considered on price considerations (*e.g.,* rough estimates) and other considerations as appropriate (*e.g.,* proposed conceptual approach, past performance). The contractors most likely to submit the highest value solutions are then selected for one-on-one sessions with the Government to increase their understanding of the requirements, provide suggestions for refining requirements, and discuss risk reduction measures.

* * * * *

(2) *Exceptions to the fair opportunity process.* The contracting officer must give every awardee a fair opportunity to be considered for a delivery order or task order exceeding $2,500 unless one of the following statutory exceptions applies:

* * * * *

(4) *Decision documentation for orders.* The contracting officer must document in the contract file the rationale for placement and price of each order, including the basis for award and the rationale for any tradeoffs among cost or price and non-cost considerations in making the award decision. This documentation need not quantify the tradeoffs that led to the decision. The contract file must also identify the basis for using an exception to the fair opportunity process. If the agency uses the logical follow-on exception, the rationale must describe why the relationship between the initial order and the follow-on is logical (*e.g.,* in terms of scope, period of performance, or value).

(5) *Task- and delivery-order ombudsman.* The head of the agency must designate a task- and delivery-order ombudsman. * * *

* * * * *

## PART 17—SPECIAL CONTRACTING METHODS

10. In section 17.500, revise paragraph (b) to read as follows:

### 17.500 Scope of subpart.

* * * * *

(b) The Economy Act applies when more specific statutory authority does not exist. Examples of interagency acquisitions to which the Economy Act does not apply include—

(1) Acquisitions from required sources of supplies prescribed in part 8, which have separate statutory authority; and

(2) Acquisitions using Governmentwide acquisition contracts.

[FR Doc. 01–21352 Filed 8–22–01; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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**Food and Nutrition Service**

Child nutrition programs:

National school lunch and school breakfast programs—

Blended beef, pork, poultry, or seafood products; identification; published 7-24-01

**ENVIRONMENTAL PROTECTION AGENCY**

Air quality implementation plans; approval and promulgation; various States:

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**JUSTICE DEPARTMENT**

Trafficking victims; protection and assistance; published 7-24-01

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Trafficking victims; protection and assistance; published 7-24-01

**TRANSPORTATION DEPARTMENT**

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Ports and waterways safety:

Milwaukee Harbor, WI; Festa Italiana 2001, safety zone; published 8-23-01

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**National Highway Traffic Safety Administration**

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Criminal penalty safe harbor provision; published 7-24-01

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Michigan et al.; comments due by 8-30-01; published 7-31-01

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**COMMERCE DEPARTMENT**

**National Oceanic and Atmospheric Administration**

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National priorities list update; comments due by 8-29-01; published 7-30-01

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**HOUSING AND URBAN DEVELOPMENT DEPARTMENT**

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**Comptroller of the Currency**

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## LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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**H.R. 2213/P.L. 107–25**

To respond to the continuing economic crisis adversely affecting American agricultural producers. (Aug. 13, 2001; 115 Stat. 201)

**H.R. 2131/P.L. 107–26**

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2004, and for other purposes. (Aug. 17, 2001; 115 Stat. 206)

**Last List August 7, 2001**

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