1–17–03 Friday
Vol. 68 No. 12 Jan. 17, 2003
Pages 2409–2678

Federal Register

The **FEDERAL REGISTER** is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see http://www.nara.gov/fedreg.

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge as one of the databases on GPO Access, a service of the U.S. Government Printing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6 a.m. each day the **Federal Register** is published and it includes both text and graphics from Volume 59, Number 1 (January 2, 1994) forward.

GPO Access users can choose to retrieve online **Federal Register** documents as TEXT (ASCII text, graphics omitted), PDF (Adobe Portable Document Format, including full text and all graphics), or SUMMARY (abbreviated text) files. Users should carefully check retrieved material to ensure that documents were properly downloaded.

On the World Wide Web, connect to the **Federal Register** at http://www.access.gpo.gov/nara. Those without World Wide Web access can also connect with a local WAIS client, by Telnet to swais.access.gpo.gov, or by dialing (202) 512–1661 with a computer and modem. When using Telnet or modem, type swais, then log in as guest with no password.

For more information about GPO Access, contact the GPO Access User Support Team by E-mail at gpoaccess@gpo.gov; by fax at (202) 512–1262; or call (202) 512–1530 or 1–888–293–6498 (toll free) between 7 a.m. and 5 p.m. Eastern time, Monday–Friday, except Federal holidays.

The annual subscription price for the **Federal Register** paper edition is $699, or $764 for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $264. Six month subscriptions are available for one-half the annual rate. The charge for individual copies in paper form is $10.00 for each issue, or $10.00 for each group of pages as actually bound; or $2.00 for each issue in microfiche form. All prices include regular domestic postage and handling. International customers please add 25% for foreign handling. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard or Discover. Mail to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250–7954.

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 68 FR 12345.

Printed on recycled paper.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Paper or fiche	**202–741–6005**
Assistance with Federal agency subscriptions	**202–741–6005**

What's NEW!

Federal Register Table of Contents via e-mail

Subscribe to FEDREGTOC, to receive the **Federal Register** Table of Contents in your e-mail every day.

If you get the HTML version, you can click directly to any document in the issue.

To subscribe, go to **http://listserv.access.gpo.gov** and select:

Online mailing list archives
FEDREGTOC-L
Join or leave the list

Then follow the instructions.

Contents

Federal Register

Vol. 68, No. 12

Friday, January 17, 2003

Agency for Healthcare Research and Quality
NOTICES
Meetings:
Health Care Policy and Research Special Emphasis Panel, 2557

Agriculture Department
See Commodity Credit Corporation
See Foreign Agricultural Service
See Forest Service
See National Agricultural Statistics Service

Army Department
See Engineers Corps
NOTICES
Meetings:
Armed Forces Epidemiological Board, 2532

Blind or Severely Disabled, Committee for Purchase From People Who Are
See Committee for Purchase From People Who Are Blind or Severely Disabled

Centers for Disease Control and Prevention
NOTICES
Meetings:
Immunization Practices Advisory Committee, 2557–2558
Tuberculosis Elimination Advisory Council, 2558

Centers for Medicare & Medicaid Services
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2558–2559
Submission for OMB review; comment request, 2559–2561

Coast Guard
RULES
Ports and waterways safety:
Lower Mississippi River—
Head of Passes, New Orleans, LA; safety zone, 2451–2454

Commerce Department
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Oceanic and Atmospheric Administration

Committee for Purchase From People Who Are Blind or Severely Disabled
NOTICES
Procurement list; additions and deletions, 2498

Commodity Credit Corporation
NOTICES
Grants and cooperative agreements; availability, etc.:
Emerging Markets Program, 2484–2486
Market Access Program, 2486–2487
Quality Samples Program, 2487–2489

Consumer Product Safety Commission
NOTICES
Agency information collection activities:
Submission for OMB review; comment request, 2531–2532

Defense Department
See Army Department
See Engineers Corps

Education Department
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2533
Submission for OMB review; comment request, 2534
Postsecondary education:
Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs—
Applications, reports, etc.; deadline and submission dates, 2534–2535

Employment Standards Administration
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 2576–2578

Energy Department
See Federal Energy Regulatory Commission
NOTICES
Grants and cooperative agreements; availability, etc.:
Ultra high temperature fossil fuel applications; novel sensors development, 2535–2536

Engineers Corps
NOTICES
Environmental statements; notice of intent:
Mid-Chesapeake Bay Island, MD; environmental restoration feasibility study, 2532–2533

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 2454–2459
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
Pennsylvania, 2476–2477
NOTICES
Air quality; prevention of significant deterioration (PSD):
Permit determinations, etc.—
Nucor Steel, 2537–2538
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 2539–2540
Weekly receipts, 2538–2539
Water pollution control:
National Pollution Discharge Elimination System—
Alaska; log transfer facilities; general permits, 2540

Executive Office of the President
See Presidential Documents

Farm Credit Administration
NOTICES
Farm credit system:
Loan policies and operations—
Loan syndication transactions, 2540–2541

Federal Aviation Administration
RULES
Class D and Class E airspace, 2421
Class E airspace, 2422–2425
PROPOSED RULES
Class E airspace, 2460–2464
NOTICES
Aeronautical land-use assurance; waivers:
Luray Caverns Airport, VA, 2628–2629
Passenger facility charges; applications, etc.:
Arcata/Eureka Airport, CA, 2629

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 2541

Federal Emergency Management Agency
PROPOSED RULES
Flood elevation determinations:
North Carolina, 2477–2479
Various States, 2479–2480
NOTICES
Disaster and emergency areas:
Arkansas, 2541–2542
Micronesia, 2542
North Carolina, 2542–2543
South Carolina, 2543

Federal Energy Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Eastern Shore Natural Gas Co., 2536
Horning, Jane A., 2536–2537
New England Power Pool, 2537
Snoqualmie River Hydro Inc., 2537
Trailblazer Pipeline Co., 2537

Federal Housing Finance Board
NOTICES
Federal home loan bank system:
Community support review; members selected for review; list, 2543–2555

Federal Motor Carrier Safety Administration
NOTICES
Motor carrier safety standards:
Driver qualifications—
Adams, Doris V., et al.; vision requirement exemptions, 2629–2632

Federal Trade Commission
RULES
Hart-Scott-Rodino Antitrust Improvements Act:
Premerger notification; reporting and waiting period requirements, 2425–2446
PROPOSED RULES
Rules and industry guides; Federal regulatory review; intent to request public comments, 2465
NOTICES
Premerger notification waiting periods; early terminations, 2555–2556

Financial Management Service
See Fiscal Service

Fiscal Service
RULES
Bonds and notes, U.S. Treasury:
Series EE and I savings bonds issued January 2003 or later; redemption eligibility period extended from 6 to 12 months, 2665–2667

Fish and Wildlife Service
NOTICES
Comprehensive conservation plans; availability, etc.:
Bon Secour National Wildlife Refuge, AL, 2564–2565
Des Lacs, Upper Souris, and J. Clark Salyer National Wildlife Refuges, ND, 2565–2566
Sabine, Cameron Prairie, and Lacassine National Wildlife Refuges, LA, 2566
Endangered and threatened species permit applications, 2566–2567
Environmental statements; availability, etc.:
Incidental take permits—
Bastrop County, TX; Houston toad, 2567–2568
El Paso County, CO; Preble's meadow jumping mouse, 2568

Food and Drug Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2561–2562

Foreign Agricultural Service
NOTICES
Grants and cooperative agreements; availability, etc.:
Foreign Market Development Cooperator Program, 2489–2491
Section 108 Foreign Currency Program, 2491–2493

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Various States
Flint Ink North America Corp.; pigments, inks, and varnish products manufacturing and distribution facilities, 2498–2499

Forest Service
NOTICES
Environmental statements; notice of intent:
Gallatin National Forest, MT, 2493–2494
Kootenai National Forest, MT, 2494–2495
Meetings:
Resource Advisory Committees—
Del Norte County, 2495–2496

Health and Human Services Department
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Centers for Medicare & Medicaid Services
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration
NOTICES
Meetings:
Vital and Health Statistics National Committee, 2557

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 2563–2564

Indian Affairs Bureau
PROPOSED RULES
No Child Left Behind Act; implementation:
Negotiated rulemaking committee, intent to form; tribal representatives, 2465–2466

Industry and Security Bureau
NOTICES
Meetings:
Information Systems Technical Advisory Committee, 2499
Sensors and Instrumentation Technical Advisory Committee, 2499

Interior Department
See Fish and Wildlife Service
See Indian Affairs Bureau
See Land Management Bureau
See National Park Service
See Reclamation Bureau
See Surface Mining Reclamation and Enforcement Office
NOTICES
Meetings:
Blackstone River Valley National Heritage Corridor Commission, 2564

Internal Revenue Service
PROPOSED RULES
Income taxes:
Accruals and allocations due to age attainment, reductions; and cash balance plans; nondiscrimination cross-testing rules application
Hearing location and date change, 2466

International Trade Administration
NOTICES
Antidumping:
Structural steel beams from—
Korea, 2499–2501
Export trade certificates of review, 2501–2513

Labor Department
See Employment Standards Administration
See Pension and Welfare Benefits Administration
NOTICES
Reports and guidance documents; availability, etc.:
Fleet alternative fuel vehicle acquisition report (1999-2001), 2575–2576

Land Management Bureau
NOTICES
Environmental statements; availability, etc.:
Northwest National Petroleum Reserve, AK; hearing schedule; integrated activity plan, 2568–2569
Powder River and Billings Resource Areas, MT, 2569–2570
Powder River Basin Oil and Gas Project, WY, 2570–2572
Meetings:
Resource Advisory Councils—
Utah, 2572
Survey plat filings:
Colorado, 2572–2573

National Agricultural Statistics Service
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2496–2497

National Communications System
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2590

National Highway Traffic Safety Administration
PROPOSED RULES
Motor vehicle safety standards:
Occupant crash protection—
Seat belt assemblies; longer seat belts or seat belt extenders; rulemaking petition denied, 2480–2483

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands and Gulf of Alaska groundfish; Steller sea lion protection measures; correction, 2636
NOTICES
Grants and cooperative agreements; availability, etc.:
Coral Reef Conservation Program, 2513–2526
New England Fishery Management Council; sea scallop research projects, 2527–2530
Meetings:
Pacific Fishery Management Council, 2530–2531

National Park Service
PROPOSED RULES
Special regulations:
Glen Canyon National Recreation Area, UT and AZ; personal watercraft use, 2466–2476

National Science Foundation
NOTICES
Meetings:
Mathematical and Physical Sciences Advisory Committee, 2590

Nuclear Regulatory Commission
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2591

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
Northwest Airlines, Inc., 2578–2590

Personnel Management Office
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2591
Submission for OMB review; comment request, 2591–2592

Presidential Documents
PROCLAMATIONS
Special observances:
National Sanctity of Human Life Day (Proc. 7639), 2417–2418

ADMINISTRATIVE ORDERS
Russia; chemical weapons destruction facility, waiver of conditions on funds (Presidential Determination No. 2003-10 of Jan. 10, 2003), 2409–2415
Russia; waiver of restrictions on assistance (Presidential Determination No. 2003-11 of Jan. 10, 2003), 2416
Sierra Leone and Liberia; continuation of national emergency (Notice of January 16, 2003), 2675–2677

Public Debt Bureau
See Fiscal Service

Public Health Service
See Agency for Healthcare Research and Quality
See Centers for Disease Control and Prevention
See Food and Drug Administration
See Substance Abuse and Mental Health Services Administration

Reclamation Bureau
NOTICES
Environmental statements; notice of intent:
Folsom Lake State Recreation Area, CA, 2573–2574

Securities and Exchange Commission
PROPOSED RULES
Securities:
Sarbanes-Oxley Act of 2002; implementation—
Listed company audit committees; standards, 2637–2664
NOTICES
Self-regulatory organizations; proposed rule changes:
American Stock Exchange LLC, 2592–2593
Boston Stock Exchange, Inc., 2593–2594
Chicago Board Options Exchange, Inc., 2594–2597
Chicago Stock Exchange, Inc., 2597–2601
National Association of Securities Dealers, Inc., 2601–2603
New York Stock Exchange, Inc., 2603–2611
Pacific Exchange, Inc., 2612–2614
Philadelphia Stock Exchange, Inc., 2614–2615

Sentencing Commission, United States
See United States Sentencing Commission

Social Security Administration
NOTICES
Meetings:
Ticket to Work and Work Incentives Advisory Panel, 2628

Statistical Reporting Service
See National Agricultural Statistics Service

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2562–2563

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Oklahoma, 2447–2451
NOTICES
Agency information collection activities:
Proposed collection; comment request, 2574–2575
Submission for OMB review; comment request, 2575

Surface Transportation Board
NOTICES
Railroad operation, acquisition, construction, etc.:
Canadian Pacific Railway, 2632
Newport & Richford Railroad Co. et al. (estates), 2632–2633
SMS Rail Service, Inc., 2633–2634

Transportation Department
See Coast Guard
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See National Highway Traffic Safety Administration
See Surface Transportation Board
See Transportation Security Administration

Transportation Security Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Intercity Bus Security Program, 2634

Treasury Department
See Fiscal Service
See Internal Revenue Service
NOTICES
Meetings:
Debt Management Advisory Committee, 2634–2635

United States Sentencing Commission
NOTICES
Sentencing guidelines and policy statements for Federal courts, 2615–2628

Veterans Affairs Department
RULES
Medical benefits:
Enrollment; hospital and outpatient care provided to veterans subpriorities of priority categories 7 and 8 and annual enrollment decision, 2669–2673
PROPOSED RULES
Adjudication; pensions, compensation, dependency, etc.:
Plain Language Regulations Project; five proposed rules withdrawn, 2476

Separate Parts In This Issue

Part II
Securities and Exchange Commission, 2637–2664

Part III
Treasury Department, Fiscal Service, 2665–2667

Part IV
Veterans Affairs Department, 2669–2673

Part V
Presidential Documents, 2675–2677

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.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
7639.....2409
Adminstrative Orders:
Presidential
Determinations
2003-10 of January 10, 2003.....2411
2003-11 of January 10, 2003.....2419

14 CFR
71 (6 documents)...2421, 2422, 2423, 2424
Proposed Rules:
71 (4 documents)...2460, 2461, 2462, 2463

15 CFR
902.....2636

16 CFR
801.....2425
803.....2425
Proposed Rules:
Ch. I.....2465

17 CFR
Proposed Rules:
228.....2638
229.....2638
240.....2638
249.....2638
274.....2638

25 CFR
Proposed Rules:
Ch. I.....2465

26 CFR
Proposed Rules:
1.....2466

30 CFR
936.....2447

31 CFR
321.....2666
351.....2666
352.....2666
353.....2666
359.....2666
360.....2666

33 CFR
165.....2451

36 CFR
Proposed Rules:
7.....2466

38 CFR
17.....2670
Proposed Rules:
3.....2476

40 CFR
52.....2454
Proposed Rules:
52.....2476

44 CFR
Proposed Rules:
67 (2 documents)....2477, 2479

49 CFR
Proposed Rules:
571.....2480

50 CFR
679.....2636

Federal Register
Vol. 68, No. 12
Friday, January 17, 2003

Presidential Documents

Title 3—

The President

Proclamation 7639 of January 14, 2003

National Sanctity of Human Life Day, 2003

By the President of the United States of America

A Proclamation

Our Nation was built on a promise of life and liberty for all citizens. Guided by a deep respect for human dignity, our Founding Fathers worked to secure these rights for future generations, and today we continue to seek to fulfill their promise in our laws and our society. On National Sanctity of Human Life Day, we reaffirm the value of human life and renew our dedication to ensuring that every American has access to life, liberty, and the pursuit of happiness.

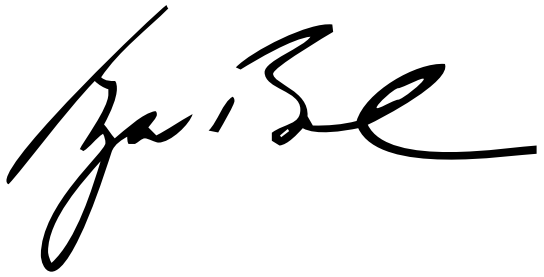
As we seek to improve quality of life, overcome illness, and promote vital medical research, my Administration will continue to honor our country's founding ideals of equal dignity and equal rights for every American. Every child is a priority and a blessing, and I believe that all should be welcomed in life and protected by law. My Administration has championed compassionate alternatives to abortion, such as helping women in crisis through maternity group homes, encouraging adoption, promoting abstinence education, and passing laws requiring parental notification and waiting periods for minors.

The Born-Alive Infants Protection Act, which I signed into law in August 2002, is an important contribution to our efforts to care for human life. This important legislation helps protect the most vulnerable members of our society by ensuring that every infant born alive, including one who survives abortion, is considered a person and receives protection under Federal law. It helps achieve the promises of the Declaration of Independence for all, including those without the voice and power to defend their own rights.

Through ethical policies and the compassion of Americans, we will continue to build a culture that respects life. Faith- based and community organizations and individual citizens play a critical role in strengthening our neighborhoods and bringing care and comfort to those in need. By helping fellow citizens, these groups recognize the dignity of every human being and the possibilities of every life; and their important efforts are helping to build a more just and generous Nation. By working together to protect the weak, the imperfect, and the unwanted, we affirm a culture of hope and help ensure a brighter future for all.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim Sunday, January 19, 2003, as National Sanctity of Human Life Day. As we reflect upon the sanctity of human life, I call upon all Americans to recognize this day with appropriate ceremonies in our homes and places of worship, to rededicate ourselves to compassionate service, and to reaffirm our commitment to respecting the life and dignity of every human being.

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



[FR Doc. 03–1276
Filed 1–16–03; 8:45 am]
Billing code 3195–01–P

Federal Register
Vol. 68, No. 12
Friday, January 17, 2003

Presidential Documents

Title 3—

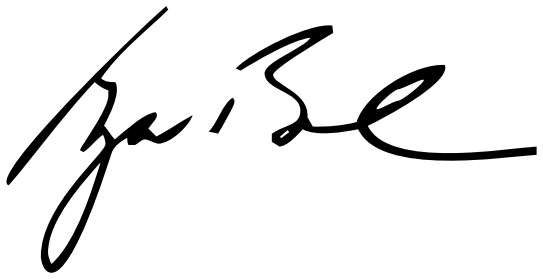
The President

Presidential Determination No. 03–10 of January 10, 2003

Presidential Determination on Waiver of Conditions on Obligation and Expenditure of Funds for Planning, Design, and Construction of a Chemical Weapons Destruction Facility in Russia

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 8144 of the Department of Defense Appropriations Act for Fiscal Year 2003 (Public Law 107–248) (the ''Act''), I hereby certify that waiving the conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106–65) is important to the national security interests of the United States, and include herein, for submission to the Congress, the statement, justification, and plan described in section 8144(a) of the Act. You are authorized and directed to transmit this certification, including the statement, justification, and plan to the Congress and to arrange for its publication in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 10, 2003.

Billing code 4710–10–P

STATEMENT, JUSTIFICATION AND PLAN INCLUDED IN PRESIDENTIAL CERTIFICATION UNDER SECTION 8144 OF THE DEPARTMENT OF DEFENSE APPROPRIATIONS ACT FOR FY 2003 (P.L. 107-248)

Section 8144 of Public Law 107-248 provides that the conditions described in section 1305 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65) (FY2000 Act) shall not apply to the obligation and expenditure of funds for fiscal years 2000, 2001, 2002 and 2003 for the planning, design, or construction of a chemical weapons (CW) destruction facility in Russia if the President submits to Congress a written certification that includes:

(1) a statement as to why waiving the conditions is important to the national security interests of the Untied States;

(2) a full and complete justification for exercising this waiver; and

(3) a plan to promote a full and accurate disclosure by Russia regarding the size, content, status and location of its CW stockpile.

1. Waiving the conditions is important to the national security interests of the United States.

The Russian Federation inherited from the Soviet Union millions of modern nerve agent munitions that must be destroyed pursuant to the Chemical Weapons Convention (CWC). Many of these munitions are manportable, in excellent, ready-to-use condition, and are stored at five declared storage sites in Russia identified as having potential security vulnerabilities. For the most part, these munitions are small, easily transportable, and stored in wooden structures. They therefore present a significant proliferation risk.

A key United States national security objective is to keep the world's most dangerous technologies out of the hands of the world's most dangerous people. An important element in achieving this goal is to support efforts for prompt and irreversible destruction of Russia's CW in accordance with the verification provisions in the CWC. Because the Secretary of Defense cannot certify the elements specified in Section 1305 of the FY2000 Act, assistance cannot be provided for the construction of a facility at which these weapons would be destroyed unless the President exercises the authority provided

by Section 8144 of Public Law 107-248 to waive the conditions in the FY2000 Act. It is therefore important to the national security interests of the United States that the conditions in Section 1305 of the FY2000 Act be waived. Issuance of the waiver will permit assistance to Russia for construction of a nerve agent CW destruction facility at Shchuch'ye, at which Russia can destroy the munitions that pose the greatest proliferation threat.

2. Full and complete justification for exercising this waiver.

Section 1305 of the FY2000 Act prohibited the obligation or expenditure of funds appropriated for Cooperative Threat Reduction (CTR) programs for planning, design or construction of a CW destruction facility in Russia. This provision was amended by Section 1308 of the National Defense Authorization Act for Fiscal Year 2002, Public Law 107-107, to permit such obligation or expenditure upon certification by the Secretary of Defense that there has been:

(1) information provided by Russia, that the United States assess to be full and accurate, regarding the size of the CW stockpile of Russia;

(2) a demonstrated annual commitment by Russia to allocate at least $25 million to CW elimination;

(3) development by Russia of a practical plan for destroying its stockpile of nerve agents;

(4) enactment of a law by Russia that provides for the elimination of all nerve agents at a single site;

(5) an agreement by Russia to destroy or convert its chemical weapons production facilities (CWPF) at Volgograd and Novocheboksarsk; and

(6) a demonstrated commitment from the international community to fund and build infrastructure needed to support and operate the facility.

As detailed below, the actions that the Russian Federation has taken over the past two years, satisfy the second and fifth elements under Section 1305 of the FY2000 Act, and actions by other donor governments satisfy the sixth. With regard to the three remaining elements, our concerns have not yet been resolved. The Secretary of Defense is therefore unable to make

the certification required by Section 1305. The conditions in Section 1305 of the FY2000 Act on spending funds for a CW destruction facility in Russia must therefore be waived to make possible U.S. assistance for a facility for the destruction of millions of lethal nerve agent weapons that pose a significant proliferation risk as long as they exist.

Resolved Elements:

Element 2: A demonstrated annual commitment by Russia to allocate at least $25 million to CW elimination.

Since 2001, Russia has allocated at least $25 million per year to eliminate its CW at Shchuch'ye. Russia's 2001 budget allocated three billion rules ($107 million[1]) for CW destruction in Russia, including $25 million for Shchuch'ye. Russia's fiscal year 2002 budget for chemical weapons destruction is 5.436 billion rubles ($181 million), including $35 million to fund social and industrial infrastructure projects (e.g., housing, schools, power lines) at Shchuch'ye. In October 2002, Russia announced plans to spend at least $35 million for Shchuch'ye in 2003.

Russia plans to spend significantly more for CW elimination during each succeeding year. According to Russia's July 5, 2001 revised CW estruction program plan, over 90 billion rubles ($3 billion) will be expended through fiscal year 2011 for CW elimination.

Element 5: An agreement by Russia to destroy or convert its CWPF at Volgograd and Novocheboksarsk.

As a State Party to the CWC, Russia is legally obligated to destroy all of its declared CWPF, including those at Volgograd and Novocheboksarsk. In exceptional cases of compelling need, CWC States Parties may request permission to use a CWPF for purposes not prohibited under the CWC. The Organization for the Prohibition of Chemical Weapons (OPCW) Conference of the States Parties has approved Russia's request conversion requests for portions of the Volgograd and Novocheboksarsk facilities. Since 1999 the CTR program has, following OPCW approval, provided assistance to Russia to demilitarize nerve agent production facilities at both locations.

---

[1] The amounts stated in this paper in U.S. dollars for Russian funding and international assistance are approximate, because of the fluctuation of currency exchange rates.

Element 6: A demonstrated commitment from the international community to fund and build infrastructure needed to support and operate the CW destruction facility.

To date, the international community has committed or plans to commit about $50 million to fund and build the infrastructure needed to support and operate a nerve agent destruction facility at Shchuch'ye. G8 leaders have cited CW destruction in Russia as a priority for the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, agreed at the Kananaskis Summit in Jun 2002. It is expected, therefore, that international assistance to the Shchuch'ye facility will increase under the G8 Global Partnership.

Specific international commitments (alphabetized by donor country) for Shchuch'ye areas follows:

Canada: provided $250,000 for Shchuch'ye infrastructure in 2000-2001; signed an agreement with Russia in 2002 for an additional $3.4 million.

European Union: committed $1.8 million in 2001.

Germany: plans to provide $1.3 million in 2002.

Italy: ratified an agreement with Russia to provide $7.15 million over three years, beginning in 2001, for Shchuch'ye infrastructure.

The Netherlands: contributing $10 million to Russian chemical weapons destruction, including a possible contribution of $2 million to support Shchuch'ye.

Norway: committed $2.15 million for Shchuch'ye infrastructure.

Sweden: intends to commit $700,000.

Switzerland: earmarked $11.4 million in assistance to Russian CW destruction program over at least five years, beginning in 2003; seriously considering contributing a significant portion of that to Shchuch'ye.

United Kingdom: agreed with Russia in December 2001 to contribute $18 million for Shchuch'ye over three years.

In addition, Denmark, Czech Republic, France, Japan and Poland have indicated interest in providing assistance to Shchuch'ye. In March 2002, the Nuclear Threat Initiative (a non-governmental organization) announced a $1 million commitment to Shchuch'ye to match $2 million in funds from an international donor. The United States will continue to press Allies for commitments to fund and build infrastructure needed to support and operate the Shchuch'ye facility.

Unresolved Elements

Element 1: Information provided by Russia, that the United States assesses to be full and accurate, regarding the size of the CW stockpile of Russia.

The United States is engaged in ongoing bilateral consultations with Russia on the Russian CWC stockpile declaration and is seeking to resolve our concerns. Only limited progress has been made. Russia has provided some additional information on its stockpile declaration but that information does not resolve U.S. concerns. A U.S. team visited Moscow in early December to review documentation offered by Russia as relevant to resolving the question of an undeclared stockpile. Russia offered only documents already available to the United States through the OPCW. The Administration continues to stress with senior Russian officials the importance of resolving this element.

Element 3: Development by Russia of a practical plan for destroying its stockpile of nerve agents.

Russia continues to revise a practical plan for destroying its stockpile of nerve agents. On July 5, 2001, the Russian Government approved the revised CW destruction program plan (Resolution No. 510) that amends the initial Russian plan of March 21, 1996 (Resolution No. 305). Russia has provided the United States and the OPCW numerous details on the planned destruction of its nerve agent stocks. However, the United States continues to seek clarification and additional information as the Russian plan continues to evolve. In October 2002, Russia recognized the need to provide a single document that addresses all the necessary steps, including transportation and safety measures, to destroy its nerve agent stockpile at Shchuch'ye in accordance with the CWC.

Element 4: Enactment of a law by Russia that provides for the elimination of all nerve agents at a single site.

A May 2, 1997 Russian law had prohibited, *inter alia*, transportation of chemical weapons across Russian regions. As a result of an amendment signed by President Putin on November 29, 2001, Russian federal law now allows the transportation of nerve agents from one storage site to another storage site. Russia is seriously considering a recent U.S. proposal that it formally confirm the Russian commitment to eliminate all nerve agents at a single site (i.e., Shchuch'ye). The amendment of November 29, 2001, coupled with an anticipated official commitment by Russia to eliminate all nerve agents at Shchuch'ye, would satisfy this condition.

3. Plan to promote a full and accurate disclosure by Russia regarding the size, content, status, and location of its chemical weapons stockpile.

The United States continues to work closely with Russia in an attempt to resolve our concerns with the first element. The United States intends to address this concern through a combination of gathering corroborating information, encouraging Russian cooperation and transparency, conducting bilateral expert consultations, and seeking Russian agreement to a U.S. proposal that would allow short-notice visits, with unimpeded access, to undeclared suspect Russian CW sites. The Administration continues to stress with senior Russian officials the importance of resolving this element.

[FR Doc. 03–1237
Filed 1–16–03; 8:45 am]
Billing code 4710–10–C

Presidential Documents

Presidential Determination No. 03–11 of January 10, 2003

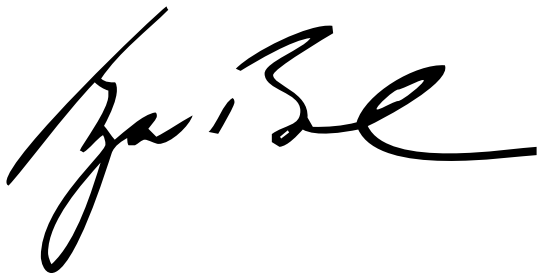
Presidential Determination on Waiver of Restrictions on Assistance to Russia under the Cooperative Threat Reduction Act of 1993 and Title V of the FREEDOM Support Act

Memorandum for the Secretary of State

Pursuant to the authority vested in me by section 1306 of the National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314), I hereby certify that waiving the restrictions contained in subsection (d) of section 1203 of the Cooperative Threat Reduction Act of 1993 (22 U.S.C. 5952), as amended, and the requirements contained in section 502 of the FREEDOM Support Act (22 U.S.C. 5852) during Fiscal Year 2003 with respect to the Russian Federation is important to the national security interests of the United States.

I have enclosed the unclassified report described in section 1306(b)(1) of the National Defense Authorization Act for Fiscal Year 2003, together with a classified annex.

You are authorized and directed to transmit this certification and report with its classified annex to the Congress and to arrange for the publication of this certification in the **Federal Register**.



THE WHITE HOUSE,
Washington, January 10, 2003.

[FR Doc. 03–1238
Filed 1–16–03; 8:45 am]
Billing code 4710–10–P

Rules and Regulations

Federal Register
Vol. 68, No. 12
Friday, January 17, 2003

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

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14046; Airspace Docket No. 02–AGL–15]

Establishment of Class D Airspace; Sparta, WI; Modification of Class E Airspace; Sparta, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace at Sparta, WI, and modifies Class E airspace at Sparta, WI. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPs) have been developed for Sparta/Fort McCoy Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action would establish a radius of Class D airspace, and increase the radius of the existing Class E airspace for Sparta/Fort McCoy Airport.

EFFECTIVE DATE: 0901 UTC, March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, September 19, 2002, the FAA proposed to amend 14 CFR part 71 to establish Class D airspace and modify Class E airspace at Sparta, WI (67 FR 59029). The proposal was to establish Class D and modify Class E airspace, extending upward from 700 feet above the surface of the earth to contain Instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class D airspace designations are published in paragraph 5000, and Class E airspace areas extending upward from 700 feet above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 establishes Class D airspace at Sparta, WI, and modifies Class E airspace at Sparta, WI, to accommodate aircraft executing instrument flight procedures into and out of Sparta/Fort McCoy Airport. The area will be depicted on appropriate aeronautical charts.

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

Adoption of the Amendment

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

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 95665, 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 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

Paragraph 5000 Class D airspace

* * * * *

AGL WI D Sparta, WI [New]

Sparta, Sparta/Fort McCoy Airport, WI
(Lat. 43° 57′30″ N., long. 90°44′16″ W.)

That airspace extending upward from the surface to and including 3,300 feet MSL within a 4.0-mile radius of the Sparta/Fort McCoy Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

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

* * * * *

AGL WI E5 Sparta, WI [Revised]

Sparta, Sparta/Fort McCoy Airport, WI
(Lat 43°57′30″ N., long. 90°44′16″ W.)
McCoy NDB
(Lat. 43°56′16″ N., long. 90°38′31″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Sparta/Fort McCoy Airport and within 3.8 miles each side of the 097° bearing from the McCoy NDB, extending from the 6.5-mile radius to 7 miles east of the NDB.

* * * * *

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1125 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14179; Airspace Docket No. 02–AGL–08]

Modification of Class E Airspace; Circleville, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Circleville, OH. An Area Navigation (RNAV) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 23 has been developed for Ross County Airport. Controlled airspace extending upward from 700 feet above the surface of the earth is needed to contain aircraft executing this approach. This action increases the area of the existing controlled airspace at Pickaway County Memorial Airport, by adding a radius of controlled airspace around Ross County Airport.

EFFECTIVE DATE: 0901 UTC, March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Wednesday, July 10, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Circleville, OH (67 FR 45682). The proposal was to modify controlled airspace extending upward from 700 feet above the surface of the earth to contain instrument Flight Rules (IFR) operations in controlled airspace during portions of the terminal operation and while transiting between the enroute and terminal environments.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005, of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Circleville, OH, to accommodate aircraft executing instrument flight procedures into and out of Ross County Airport. The area will be depicted on appropriate aeronautical charts.

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

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Circleville, OH [Revised]

Circleville, Pickaway County Memorial Airport, OH
(Lat. 39°30′58″N., long. 82°58′56″W.)
Cillicothe, Ross County Airport, OH
(Lat. 39°26′29″N., long. 83°01′41″W.)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of the Pickaway County Memorial Airport, and within a 9.1-mile radius of the Ross County Airport, excluding that airspace within the Waverly, OH Class E Airspace area.

* * * * *

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1124 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14005; Airspace Docket No. 02–AGL–14]

Modification of Class E Airspace; Columbus, OH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Columbus, OH. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for Darby Dan Airport, Columbus, OH. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of existing controlled airspace at Port Columbus International Airport, OH.

EFFECTIVE DATE: 0901 UTC, March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, September 19, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Columbus, OH (67 FR 59030). The proposal was to modify existing Class E airspace at Port Columbus International Airport, OH in order to protect for several new RNAV SIAPS.

Interested parties were invited to participate in this rulemaking

proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Columbus, OH, by increasing the radius of controlled airspace around the Port Columbus International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area will be depicted on appropriate aeronautical charts.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Columbus, OH [Revised]

Columbus, Port Columbus International Airport, MI
(Lat. 39°59′53″ N., long. 82°53′31″ W.)
Columbus, Rickenbaker International Airport, OH
(Lat. 39°48′50″ N., long. 82°55′40″ W.)
Columbus, Ohio State University Airport, OH
(Lat. 40°04′47″ N., long. 83°04′23″ W.)
Columbus, Bolton Field Airport, OH
(Lat. 39°54′04″ N., long. 83°08′13″ W.)
Columbus, Darby Dan Airport, OH
(Lat. 39°56′31″ N., long. 83°12′18″ W.)
Lancaster, Fairfield County Airport, OH
(Lat. 39°45′20″ N., long. 82°39′26″ W.)
Don Scott NDB
(Lat. 40°04′49″ N., long. 83°04′44″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Port Columbus International Airport, and within a 7-mile radius of Rickenbacker International Airport, and within a 6.5-mile radius of the Ohio State University Airport, and within 3 miles either side of the 091° bearing from the Don Scott NDB extending from the 6.5-mile radius area to 9.8 miles east of the NDB, and within a 7.4-mile radius of Bolton Field Airport, and within a 6.4-mile radius of Fairfield County Airport, and within a 6.5-mile radius of Darby Dan Airport, excluding that airspace within the London, OH Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1126 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

14 CFR Part 71

[Docket No. FAA–2002–13817; Airspace Docket No. 02–AGL–09]

Modification of Class E Airspace; Indianapolis, IN; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: This action corrects several errors contained in a final rule that was published in the **Federal Register** on Monday, November 25, 2002 (67 FR 70535). The final rule modified Class E airspace at Indianapolis, IN.

EFFECTIVE DATE: 0901 UTC, January 23, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, IL 60018, telephone (847) 294–7477.

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 02–29899 published on Monday, November 25, 2002 (67 FR 70535), modified Class E Airspace at Indianapolis, IN. The Docket contained a duplicate airport location, left out an airport radius dimension, and showed an incorrect distance, all contained in the legal description. This action corrects these errors.

Accordingly, pursuant to the authority delegated to me, the errors for the Class E Airspace, Indianapolis, IN, as published in the **Federal Register** Monday, November 25, 2002 (67 FR 70535), (FR Doc. 02–29899), is corrected as follows:

§ 71.1 [Corrected]

1. On page 70535, Column 3, in the legal description:

a. Under ''Indianapolis, Greenwood Municipal Airport, IN'' and its associated lat. and long. Co-ordinates eliminates one of the: ''Indianapolis, Eagle creek Airpark, IN'' airport titles, and its associated lat. and long. Co-ordinates.

b. In the second (2nd) line of the airspace description, after ''That airspace extending upward from 700 feet above the surface,'' insert: ''within a 7.9-mile radius of the Indianapolis International Airport,''

c. In the eighth (8th) line of the airspace description, correct: ''7.4'' to read: ''7.9''.

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1127 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14045; Airspace Docket No. 02–AGL–13]

Modification of Class E Airspace; Dayton, OH

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

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace at Dayton, OH. Area Navigation (RNAV) Standard Instrument Approach Procedures (SIAPS) have been developed for James M Cox Dayton International Airport, Dayton, OH. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action increases the area of existing controlled airspace for James M Cox Dayton International Airport, OH.

EFFECTIVE DATE: 0901 UTC, March 20, 2003.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

History

On Thursday, September 19, 2002, the FAA proposed to amend 14 CFR part 71 to modify Class E airspace at Dayton, OH (67 FR 59032). The proposal was to modify existing Class E airspace at James M Cox Dayton International Airport, OH, in order to protect for several new RNAV SIAPS.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document will be published subsequently in the Order.

The Rule

This amendment to 14 CFR part 71 modifies Class E airspace at Dayton, OH, by increasing the existing area of controlled airspace for James M Cox Dayton International Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area will be depicted on appropriate aeronautical charts.

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

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL OH E5 Dayton, OH [Revised]

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 39°59′00″ N., long. 83°40′00″ W.; to lat 39°55′00″ N., long. 83°37′00″ W.; to lat. 39°45′00″ N., long. 83°43′00″ W.; to lat. 39°39′00″ N., long. 84°07′00″ W.; to lat. 39°45′00″ N., long. 84°24′00″ W.; to lat. 39°49′00″ N., long. 84°27′00″ W.; to lat. 40°04′06″ N., long. 84°17′45″ W.; to the point of beginning.

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1128 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2003–14221; Airspace Docket No. 03–ACE–2]

Modification of Class E Airspace; Sikeston, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends Title 14 Code of Federal Regulations, part 71 (14 CFR 71) by revising Class E airspace at Sikeston, MO. The Nondirectional Radio Beacon (NDB) Runway (RWY) 20, Amendment 8A Standard Instrument Approach Procedure (SIAP) that serves Sikeston Memorial Municipal Airport, Sikeston, MO is cancelled effective March 20, 2003. Controlled airspace extending upward from 700 feet Above Ground Level (AGL) that accommodates this SIAP will no longer be needed.

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

DATES: This direct final rule is effective on 0901 UTC, April 17, 2003.

Comments for inclusion in the Rules Docket must be received on or before February 28, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2003–14221/ Airspace Docket No. 03–ACE–2, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the

public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION: This amendment to 14 CFR part 71 revises the Class E airspace at Sikeston, MO. The NDB RWY 20, Amendment 8A SIAP that serves Sikeston Memorial Municipal Airport, Sikeston, MO is cancelled effective March 20, 2003. Controlled airspace extending upward from 700 feet AGL that accommodates this SIAP will no longer be needed. The amendment to Class E airspace at Sikeston, MO provides controlled airspace at and above 700 feet AGL to contain SIAPs, other than the NDB RWY 20 SIAP, at Sikeston Memorial Municipal Airport. The additional Class E airspace necessary for the NDB RWY 20 SIAP is revoked. The Sikeston NDB and coordinates, and reference to these, are deleted from the legal description of Sikeston, MO Class E5 airspace. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2003–14221/Airspace Docket No. 03–ACE–2'' The postcard will be date/time stamped and returned to the commenter.

Agency Findings

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

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

List of Subjects in CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

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

* * * * *

ACE MO E Sikeston, MO

Sikeston Memorial Municipal Airport, MO
(Lat. 36°53′56″ N., long. 89°33′42″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Sikeston Memorial Municipal Airport.

* * * * *

Issued in Kansas City, MO, on January 10, 2003.

Herman J. Lyons, Jr.

Manager, Air Traffic Division, Central Region.

[FR Doc. 03–1132 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Parts 801 and 803

Premerger Notification; Reporting and Waiting Period Requirements

AGENCY: Federal Trade Commission.

ACTION: Final rules.

SUMMARY: The Federal Trade Commission is amending the premerger notification rules, which require the parties to certain mergers or acquisitions

to file reports with the Commission and with the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice and to wait a specified period of time before consummating such transactions, pursuant to section 7A of the Clayton Act. The filing and waiting period requirements enable these enforcement agencies to determine whether a proposed merger or acquisition may violate the antitrust laws if consummated and, when appropriate, to seek a preliminary injunction in federal court to prevent consummation. The rule amendments are necessary to address public comments regarding the Interim Rules published February 1, 2001, and will increase the clarity and improve the effectiveness of the rules and the Notification and Report Form.

DATES: These final rules are effective January 17, 2003.

FOR FURTHER INFORMATION CONTACT: Marian R. Bruno, Assistant Director, Karen E. Berg, Attorney, or B. Michael Verne, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580. Telephone: (202) 326–3100.

SUPPLEMENTARY INFORMATION: On February 1, 2001, the Commission published Interim and Proposed Rules amending the Hart-Scott-Rodino rules (''HSR rules'') contained in 16 CFR parts 801, 802 and 803. The Interim Rules took effect upon publication and implemented amendments to section 7A of the Clayton Act enacted on December 21, 2000 (''2000 Amendments''). The Proposed Rules set forth other changes improving and updating the HSR rules and were revised and made final effective April 17, 2002 (67 FR 11898). Interim Rule 802.21 was revised and made final in a separate rulemaking effective February 2, 2002 (67 FR 11904).

Both sets of rules invited public comments. The Commission received seventeen public comments addressing the Interim Rules (66 FR 8679) and the Proposed Rules (66 FR 8723). Some comments addressed both sets of rules, others addressed only one or the other. Eight of the public comments pertained to the Interim Rules and are listed below. In response to these eight comments, the Commission, with the concurrence of the Assistant Attorney General, is promulgating additional amendments and revisions to the Interim Rules and Form, as described below. The Commission also received a number of comments that were not relevant to the changes promulgated by either set of rules. These additional comments remain under consideration and may be addressed by future rulemaking.

The following provided public comments on the Interim Rules to the Commission:

1. Baker & McKenzie (Clanton, David A., *et al.*) (3/19/01)
3. Ford Motor Company (Bolerjack, Stephen D.) (3/19/01)
8. National Association of Manufacturers (''NAM'') (3/29/01)
9. O'Melveny and Myers (Beddow, David T.) (3/19/01)
12. Gibson, Dunn & Crutcher (Pfunder, Malcolm R.) (3/19/01)
13. Section of Antitrust Law of the American Bar Association (3/19/01)
15. Skadden, Arps, Slate, Meagher & Flom, LLP (Stoll, Neal R. Esq., *et al.*) (3/19/01)
16. Kirkland & Ellis (Sonda, James and Jachino, Dani) (3/19/01)

Part 801—Coverage Rules

Section 801.1(h): Notification Threshold

The Commission is adopting the Interim Rule as final with an edit for clarification purposes, as described in the following discussion.

Background Information to § 801.1(h)

The Commission received six comments addressing the notification thresholds implemented by the Interim Rules. Comment 3 asserted that the dollar amount thresholds do not reflect levels of competitive significance of an acquisition and recommended their elimination. It also stated that the Statement of Basis and Purpose (''SBP'') accompanying the Interim Rules offered no reason why these dollar amounts might reflect levels of acquisition that deserve agency review. Comments 3 and 8 recommended elimination of the $100 million and $500 million notification thresholds, with retention of the remaining three thresholds. Comments 13 and 15 advocated a return to the 1978 notification thresholds with only a change from $15 million to $50 million as the lowest threshold, citing as justification the same concerns indicated in Comments 3 and 8.

As explained in the SBP accompanying the Interim Rules and below, the Commission believes that these dollar thresholds are an effective solution to administrative problems relating to filing fees that parties and the agencies would otherwise face, and also that these thresholds impose little burden on parties. Thus, the Commission believes that these thresholds are appropriate and should be retained.

The HSR statute provides that an acquisition is reportable if, as a result of the acquisition, the acquirer will hold voting securities of the acquired person valued in excess of $50 million. Under the statute, once an acquirer holds voting securities valued at more than $50 million, any additional purchase of even one voting share is reportable. As the antitrust agencies recognized in the original rulemaking proceeding in 1978, this provision would result in far more filings than are needed for effective antitrust review. At the same time, as the acquirer's holdings in the company continue to increase in size through subsequent transactions, the agencies must have some opportunities to review the later transactions. That is, there must be some points (thresholds) where these additional acquisitions become reportable.

In 1978, the agencies adopted $15 million, 15 percent, 25 percent, and 50 percent as thresholds requiring reporting of acquisitions. The 50 percent threshold is self-evident: it is the point where the acquirer attains control, as defined in the Rules, and at least veto power. The $15 million threshold reflected the basic statutory threshold for filing. The other thresholds were chosen as intermediate points representing substantial additional ownership and, often, additional practical control. At the same time, the agencies also promulgated § 802.21 of the HSR rules to allow additional voting securities acquisitions between these thresholds to go unreported. Intermediate thresholds and § 802.21 thus serve the interests of both the agencies and the parties, enabling the agencies to allow small minority acquisitions to proceed even where the transfer of a more significant minority interest between the parties might be of concern.

In light of the 2000 Amendments, the Commission reconsidered the appropriate § 801.1(h) thresholds, recognizing that $50 million should be the lowest reporting threshold and 50 percent (if valued at greater than $50 million) the highest. The Commission then addressed what additional thresholds, if any, to implement. As with the 1978 Rules, it was readily apparent that intermediate thresholds are desirable. However, as outlined in the SBP that accompanied the Interim Rules, using only percentage notification thresholds would create administrative problems for both filers and the agencies. Section 802.21 allows an acquiring person in a voting securities acquisition—assuming it has crossed the notification threshold for which it filed within a year of the end

of its waiting period—five years to acquire up to the next notification threshold, without another filing obligation. Thus, under § 802.21, an acquiring person could file, indicate the 25 percent threshold, and as long as it crossed that threshold no more than a year after the end of its waiting period, take up to five years to acquire up to 49.9 percent [1] of the same issuer's voting stock without refiling, possibly crossing another post-February 1, 2001 filing fee threshold in the process.

The HSR Act, as amended, requires that an acquiring person pay a certain fee based on the value of the assets and voting securities it holds as a result of an acquisition. This means that, if the prior thresholds were retained, the acquiring person who filed to acquire 25 percent of an issuer's voting securities and paid the fee that corresponds to the value of 25 percent of those securities, could acquire the 25 percent, and acquire up to an additional 24.9 percent within five years, without filing or paying any additional fee. In this example, when acquiring person A plans to acquire 25 percent in year one, but may acquire up to 49 percent, what fee should it pay? Similarly, if, as several comments suggest, the notification thresholds were $50 million, 25 percent, and 50 percent, what fee should A pay if filing for the $50 million threshold where that filing would enable it to buy 24.9 percent, worth well over $500 million? Should the determination turn on A's intent? How would that intent be ascertained? What if its intent later changes?

The following scenario illustrates how retaining the percentage thresholds would lead to inequitable treatment for similarly situated filers. If a person filed notification at the 25 percent notification threshold to make open market purchases but did not know precisely how many shares above that threshold it intended to acquire, its fee would be based on the value of 25 percent of the issuer's voting stock. If that percentage were valued at $90 million, the fee paid would be $45,000, even if ultimately 30 percent, valued at $108 million, were acquired. On the other hand, if a person filed notification based on an agreement to acquire 30 percent of the same issuer's voting stock, valued at $108 million, a filing fee of $125,000 would be required. The substance of the acquisitions is exactly the same, but the structure penalizes the filer that is able to report with greater specificity the amount of voting securities it will hold.

The approach the Commission is adopting in these Final Rules retains § 802.21 and the concept of allowing subsequent acquisitions without repeated filings up to the next threshold. It adopts thresholds that provide for additional review from time to time as the acquirer obtains a substantially larger investment in the acquired company, while exempting smaller additional acquisitions. It assures that notification of all reportable acquisitions and the Congressionally-mandated fee are simultaneously received, without requiring the firms or the agency to examine fine or elusive distinctions in the intent of the acquiring person. A number of informal comments received from affected parties during preparation of the Interim Rules suggested that the approach adopted here would be the most practical and sensible means of providing for intermediate thresholds. While a number of formal comments criticized the dollar thresholds, it is of note that none of them suggested an alternative approach that would also solve the administrative/filing fee questions raised in the SBP to the Interim Rules.

Several of the comments noted that if voting securities already held increase in value to an amount greater than the next dollar notification threshold, even a very small (and presumably insignificant from an antitrust perspective) acquisition of additional shares would trigger a new filing. The Commission carefully considered these comments and it believes, based on its own experience with filings received over the last several fiscal years as well as extensive input from the private bar prior to implementing the new thresholds, that occurrence of such filing scenarios will be rare. Multiple filings would not be required for mergers and consolidations (where 100 percent of the issuer's voting securities are acquired at once), nor for asset acquisitions (where notification thresholds are inapplicable). The only situation in which multiple filings potentially may be required is where an acquiring person makes multiple acquisitions of voting stock of a large issuer and that acquiring person is unable accurately to estimate what the value of its holdings in that issuer ultimately will be. Some filers may prefer in such circumstances to indicate a higher threshold than that which will be exceeded with the initial acquisition and thereby avoid the trouble and expense of preparing another filing. For example, a party making an $80 million acquisition of a small percentage of an issuer's stock but contemplating a subsequent acquisition may opt to file for the $100 million or $500 million threshold and avoid multiple filings. Another party contemplating an $80 million acquisition of a small percentage of an issuer's stock but not expecting to make additional acquisitions would likely opt to file for the $50 million threshold and pay the lowest filing fee.

Comment 16 asserted in addition that the complexity of valuing a transaction to determine which threshold will be crossed creates a significant burden on the parties to the transactions. The acquiring person has always been confronted with accurately determining the value of assets and/or voting securities to be held as a result of an acquisition. This requirement has not changed, although its significance has increased with the creation of a tiered filing fee system based on size of transaction. The comment also noted that while some administrative problems have been solved by using the fee thresholds as filing thresholds, other problems have been created. However, the comment did not outline specific problems other than the multiple filing problem concerning an increase in value of voting securities followed by a small additional purchase—a situation that the agencies believe is both rare and avoidable.

As to the initial reportable transaction itself, where a transaction is determined to be reportable, the acquiring person can make a valuation at the time of filing, using the appropriate methodology specified in the rules, and ''lock in'' the value of assets or voting securities that will be held as a result of the acquisition. This value, as long as it has been determined in good faith, may be relied on for purposes of determining the appropriate filing fee and notification threshold for this acquisition, even if events such as a sharp increase in market price or post-closing adjustments subsequently cause the final acquisition price to exceed a threshold higher than that indicated in the filing. Accordingly, the retention of the multiple dollar thresholds should not impose a substantial additional burden on a significant number of persons filing notification.

Comment 9 asserted that multiple dollar thresholds for asset acquisitions are unnecessary. Notification thresholds are inapplicable to asset acquisitions, and, in order to make that clear, one change is being made to § 801.1(h) of the Interim Rules. The change removes the reference to assets in connection with notification thresholds. The § 801.1(h) notification thresholds, unlike the

[1] For simplicity, decimal percentages are expressed herein in tenths. In reality, by indicating the 25 percent notification threshold, any number of shares representing up to, but not meeting or exceeding 50 percent, could be acquired.

statutory filing fee thresholds, exist solely for the purpose of exempting subsequent acquisitions of voting securities that do not result in the acquiring person holding voting securities meeting or exceeding a higher notification threshold than that met or exceeded in a previous acquisition of voting securities, as provided in Rule 802.21.

The mention of ''assets'' in Interim Rule 801.1(h) could cause some confusion in the application of § 802.21 to acquisitions of voting securities when a previous acquisition of both assets and voting securities has been made and reported. Consider the following example: A acquires voting securities of B valued at $60 million and assets of B valued at $60 million. A would file indicating the $50 million notification threshold since it would hold less than $100 million in B voting securities, but would pay a $125,000 filing fee because it would hold in excess of $100 million in voting securities and assets of B as a result of the acquisition. A now wishes to make an additional acquisition of B voting securities. The § 802.21 exemption, which applies only to voting securities, exempts a subsequent acquisition of voting securities only when a prior notification threshold has been exceeded by an earlier acquisition of voting securities and the subsequent acquisition will not cause the acquiring person to meet or exceed a greater notification threshold. Thus, it is incorrect to conclude that A earlier crossed the $100 million notification threshold; rather, it only crossed the $50 million notification threshold, and whether it must file a new notification depends on whether the additional acquisition results in A holding $100 million or more of B's voting securities. The removal of the reference to assets in § 801.1(h) should clarify this point.

The Notification and Report Form is also being amended to note that Item 2(c), requiring the acquiring person to report the notification threshold which is being filed for, is applicable only to acquisitions of voting securities. Filing persons should be aware that the determination of the appropriate filing fee remains unchanged. The filing fee is still calculated based on the total aggregate value of voting securities and assets that will be held as a result of the acquisition. Additionally, the reference to § 801.1(h)(1) in § 801.21 (securities and cash not considered assets when acquired) is removed as it is no longer applicable.

After careful consideration of the options and of the comments regarding notification thresholds, the Commission has determined that the notification thresholds promulgated by the Interim Rules are appropriate and the Final Rule will be implemented with those thresholds.

Part 803—Transmittal Rules

Section 803.9 Filing Fee

The Commission received three comments concerning § 803.9. Comment 1 objected to the fact that the filing fee for an acquisition of voting securities of a foreign issuer is based on the entire value of the transaction and may reach $280,000, despite the fact that the U.S. portion of the transaction may be relatively small and the issuer's U.S. presence may measure only slightly over $50 million. The comment proposed an amendment to the rule that would limit filing fees for all acquisitions of foreign assets or voting securities to $45,000 unless more than 50 percent of the transaction's value is attributable to either assets located in the U.S. or to sales in or into the U.S.

Amending § 803.9 in this fashion would be in direct conflict with the language of the 2000 Amendments, which clearly specifies that the filing fee is based on the aggregate total value of voting securities and assets held as a result of the acquisition.

Comment 13 suggested that examples 4 and 5 to the rule would be more appropriately paired with other rules; however, the Commission believes that the examples explain how the appropriate filing fee is determined and sees no need to remove them from this rule.

Comment 8 claimed that the language of the rule is unclear. It contended that nowhere does the rule state that filing persons must pay a filing fee each time a threshold is crossed. It further stated that only by extremely careful reading and parsing of sentences can one conclude that the agencies apparently want the full fees for crossing each threshold. As the comment does not specify what language is confusing or unclear, it is difficult for the Commission to determine what portion of the rule might need clarification. The language of the rule in its current form unambiguously lays out the filing fee requirements, and since no other comment indicated that the rule is unclear, the Final Rule will be implemented without change except as noted in the following paragraph. Two additional examples are added to further illustrate the application of the rule.

Section 803.9 is amended in the following way: 803.9(c) provides that for a reportable transaction in which the acquiring entity has two ultimate parent entities, both ultimate parent entities are acquiring persons; however, if the responses for both ultimate parent entities would be the same for Items 5 through 8 of the Notification and Report Form, only one filing fee is required in connection with the transaction. The intent of this paragraph was to require only one filing fee for those transactions where the two acquiring persons would have no significant business activities outside of the jointly-controlled acquisition vehicle. Although no comments were received on this point, we have discovered that in some instances such persons may respond differently to Item 6, *i.e.*, the two ultimate parent entities may have different shareholders. To ensure that the intent of this section is implemented, § 803.9(c) is amended to require only that the response to Item 5 be the same for both acquiring persons in order for the transaction to qualify for one filing fee.

It should also be noted that the SBP accompanying the Interim Rules contained a typographical error which omitted the word ''not'' in the last sentence discussing § 803.9. The sentence should have read: ''It is currently Commission practice to refund filing fees only in such instances, but paragraph (e) is added to codify that practice and give notice that acquiring persons will *not* receive partial reimbursement of their fee in the event they overvalue a transaction.''

Section 803.20 Requests for Additional Information or Documentary Material

Comments 12 and 13 correctly pointed out a discrepancy between the SBP and the Interim Rule. The intent was to amend this section to reflect the fact that a second request to an acquired person in a bankruptcy transaction covered by 11 U.S.C. 363(b) does not extend the waiting period. That section of the Bankruptcy Code provides that subsection (e)(2) of Section 7A of the Clayton Act, which deals with how second requests affect the waiting period, shall apply to such bankruptcy transactions in the same manner as subsection (e)(2) applies to a cash tender offer. This was correctly described in the SBP; however, a drafting error in the Interim Rule effected a different result. The Final Rule has been revised to correspond to the intent stated in the SBP. In addition, the example has been revised to more clearly illustrate the application of the rule in the case of a tender offer.

Part 803—Appendix: Premerger Notification and Report Form

Transactions Subject to Foreign Antitrust Reporting Requirements

The Form was amended by the Interim Rules to include a space for reporting persons to indicate whether the filing is subject to foreign antitrust reporting requirements and requests the voluntary submission of the name(s) of any foreign antitrust or competition authority that, based upon the knowledge or belief of the filing person at the time of the filing, has been or will be notified of the proposed transaction and the date or anticipated date of such notification.

Three comments were received regarding this change. Comment 3 stated that the determination of the countries requiring a premerger report is a substantial burden, frequently completed after HSR filings are made. It further argued that the list would be unnecessary in the great majority of filings, which do not receive more substantive review. Comment 8 argued that the listing is unnecessary, and will likely be incomplete, since the exact identity of countries to be notified is not always known at the time of filing.

Comment 13 also indicated that the burden associated with responding to this item may outweigh the probative value to the agencies. It recommended that the voluntary nature of the item be disclosed on the Form so infrequent filers will know without reference to the Instructions that their response is not mandatory. The comment further remarked that despite the fact that a response to the item is voluntary, the risk is raised that the parties may inadvertently err in their reporting, and that the Commission has given no explanation of the steps that a party must undertake to ensure that the voluntary answer is accurate.

The Commission, as it stated in the SBP accompanying the Interim Rules, believes that early notice of multiple jurisdiction filings will allow the agencies to communicate with foreign counterparts only to the extent that statutorily protected information is not disclosed and, where appropriate, to seek consent of the parties to allow more extensive cooperation between or among antitrust authorities in conducting their investigations. This approach could in many instances reduce the burden that would be placed on the parties in providing duplicative responses to multiple jurisdictions.

The Commission recognizes that numerous foreign jurisdictions may be involved, some of which may not have been identified at the time the parties to a transaction are otherwise prepared to file their notification, and accordingly requests that the filing person voluntarily respond to this item based on its knowledge or belief ''at the time of the filing.'' If a filing person chooses to respond, the obligation to provide accurate information is the same as that for any other item on the Form. If the parties answer to the best of their knowledge at the time of filing, it is highly unlikely that any penalty would result if the response later proves to be inaccurate.

Given the voluntary nature of the item, and the instruction that the person filing respond only based on its knowledge at the time of filing, the Commission believes that the potential benefit to the agencies outweighs what would be a very limited burden to the parties. This item will remain on the Form; however, the word ''voluntary'' in parentheses will be added to the item on the Form itself to ensure that the voluntary nature of the response to this item is clear without reference to the Instructions.

Explanation of Amount Paid/Name of Person Responsible for Fair Market Valuation

The Interim Rules introduced a new item on the Form in which the acquiring person indicates the amount of the fee paid. The acquiring person is further advised that should the fee be based on an amount that differs from the acquisition price, or if the acquisition price is undetermined and may fall within a range that straddles two filing fee thresholds, an explanation of the value reported is required to be submitted with the Form. The explanation should include discussion of adjustments to the acquisition price, a description of any exempt assets and their value, and the valuation method(s) used. In connection with the valuation of the transaction, Item 2(e) was also added, requiring that if the value of the transaction is based in whole or in part on a fair market valuation, the name of the person responsible for that valuation should be provided. The Commission received three comments regarding the attachment of the valuation explanation and the identification of the person responsible for any fair market valuation.

Comment 3 stated that the addition of these items adds additional burden for the parties and asserted that if the agencies have questions about the valuation method, they can always raise them with the reporting person. The comment suggested that there is no need to name the person performing the valuation since an officer of the filing party certifies the accuracy of all of the information in the filing. Comment 8 also noted that the information regarding the method of valuation can be obtained by calling the contact person listed in Item 1(g) of the Form.

Comment 13 asserted that although the agencies might reasonably request an explanation of the valuation to ensure that the proper filing fees are being paid, it is not clear when such disclosure must be provided and how its requirements can be satisfied. It also noted that it is unclear under what circumstances a transaction value might straddle two filing fee thresholds. For example, the comment noted that it is uncertain whether a person filing for a cash tender offer for a minimum condition (*i.e.*, 66⅔ percent) should be able to file based upon a valuation for the minimum condition being satisfied, or based on the assumption that 100 percent of the shares will be tendered (presumably valued at a higher filing fee threshold). The comment also observed that if the agencies are looking for a responsible person to hold accountable for any errors in the valuation, they can look to the officer who signed the certification and do not need an additional person to be identified as accountable on the Form itself.

The Commission recognizes that with the new fee schedule the valuation of transactions must be more precise than was required in the past. It does not, however, believe that the new items on the Form impose any significant burden beyond that already required to calculate the value of the transaction. When it is not apparent from the purchase agreement why a lower filing fee threshold is being indicated, the required explanation need not be lengthy or highly detailed, but merely a concise description of how the acquiring person arrived at the value it is reporting on the Form. In most cases, this explanation will quickly resolve any valuation issues staff may have identified and will eliminate the need to contact the parties for any further discussion.

The issues surrounding valuation are, and have always been, complex. How the rules governing valuation should be applied to determine the appropriate filing fee has been the subject of individual informal interpretations and widely attended public question and answer sessions. Additionally, several examples were included in § 803.9 to illustrate commonly encountered scenarios. More examples are added to the final version of this rule to address other situations which have been identified as problematic.

To address the specific questions raised by Comment 13, an example of when the value of a transaction may straddle two filing fee thresholds is when the agreed price for an acquisition of non-publicly traded voting securities is $99 million, subject to post-closing adjustments of up to plus or minus $2 million. In this situation, if the acquiring person has a reasonable basis for estimating that the adjustments will be minus $1 million, then the acquisition price is determined and the appropriate filing fee threshold is $50 million. However, since the potential acquisition price, subject to adjustments, could have exceeded the $100 million threshold, an explanation of why the lower threshold was indicated should be attached (*see* § 803.9, example 7).

In the case of tender offers, if the offer is for a minimum percentage of the issuer's voting securities, but there is no cap on the offer, the transaction must be valued at the maximum that could be tendered (*i.e.*, 100 percent). If, however, the offer is capped at a fixed amount (*i.e.*, 50 percent plus one share), after which no further shares can be tendered, the value will be that fixed amount, even if the tender offer will be followed by a merger, which will not be reportable under section 7A(c)(3) (*see* § 803.9, example 8).

The requirement to provide the name of an individual responsible for any fair market valuation is not intended to circumvent the contact person identified in Item 1(g) of the Form. It is intended, rather, to ensure that the contact person can quickly and easily locate the appropriate person in the event a question is raised by the agencies concerning the valuation. In the Commission staff's experience, the contact person often is not involved in the detailed compilation of the information on the Form, and may require an extended period of time to determine who within the acquiring person is knowledgeable about the information contained in any particular item. Providing the name of the person responsible for this item will ensure that review of the notification is not unduly delayed by valuation issues.

In summary, the Commission does not believe that any new significant burden has been introduced by the addition of these two items and they will remain on the Form submitted with the Final Rules. The agencies will continue to provide assistance in resolving the complex issues surrounding valuation through informal, and, if appropriate, formal interpretation.

Item 2(c) Notification Threshold

As noted in the SBP for § 801.1(h), the Notification and Report Form is also being amended to clarify that Item 2(c), requiring the acquiring person to report the notification threshold that is being filed for, is applicable only to acquisitions of voting securities.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires that the agency conduct an initial and final regulatory analysis of the anticipated economic impact of the proposed amendments on small businesses, except where the agency head certifies that the regulatory action will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605.

Because of the size of the transactions necessary to invoke a Hart-Scott-Rodino filing, the premerger notification rules rarely, if ever, affect small businesses. Indeed, the recent amendments to section 7A of the Clayton Act, which these rule amendments implement, were intended to reduce the burden of the premerger notification program by exempting all transactions valued at $50 million or less. Further, none of the rule amendments expands the coverage of the premerger notification rules in a way that would affect small business. Accordingly, the Commission certifies that these rules will not have a significant economic impact on a substantial number of small entities. This document serves as the required notice of this certification to the Small Business Administration.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (''PRA''), 44 U.S.C. 3501–3520, requires agencies to seek and obtain Office of Management and Budget (''OMB'') approval before undertaking a ''collection of information'' directed to ten or more persons. Such collections of information include reporting, recordkeeping, or disclosure requirements contained in regulations. The HSR premerger notification rules and Form contain information collection requirements as defined by the PRA that have been reviewed and approved by OMB (preceding these latest HSR rule amendments)[2] under OMB Control No. 3084–0005. The Final Rules implement amendments to section 7A of the Clayton Act, which reduce the burden of the premerger reporting program by exempting all transactions valued at $50 million or less. Because the Final Rules do not affect the information collection requirements of the premerger notification program as implemented by the Interim Rules, they have not been resubmitted to OMB for review. The Supporting Statement that accompanied the Request for OMB Review states that the total burden imposed on the members of the public subject to the requirements of the Act, including the Final Rules, is estimated to be 192,089 hours per year (based on fiscal year 2000 filings). This constitutes an approximate 47 percent reduction from what the burden estimate would be absent the final rules and based on the number of fiscal year 2000 filings.

[2] OMB clearance was received on May 14, 2001 and extends through May 31, 2004.

List of Subjects in 16 CFR Parts 801 and 803

Antitrust, Reporting and recordkeeping requirements.

Accordingly, for the reasons stated in the preamble, the Federal Trade Commission amends 16 CFR parts 801 and 803 as follows:

PART 801—COVERAGE RULES

1. The authority citation for part 801 continues to read as follows:

Authority: 15 U.S.C. 18a(d).

2. Amend § 801.1 by revising paragraph (h) to read as follows:

§ 801.1 Definitions.

* * * * *

(h) *Notification threshold.* The term ''notification threshold'' means:

(1) An aggregate total amount of voting securities of the acquired person valued at greater than $50 million but less than $100 million;

(2) An aggregate total amount of voting securities of the acquired person valued at $100 million or greater but less than $500 million;

(3) An aggregate total amount of voting securities of the acquired person valued at $500 million or greater;

(4) Twenty-five percent of the outstanding voting securities of an issuer if valued at greater than $1 billion; or

(5) Fifty percent of the outstanding voting securities of an issuer if valued at greater than $50 million.

* * * * *

3. Amend § 801.21 by revising the introductory text to read as follows:

§ 801.21 Securities and cash not considered assets when acquired.

For purposes of determining the aggregate total amount of assets under Section 7A(a)(2) and § 801.13(b):

* * * * *

PART 803—TRANSMITTAL RULES

4. The authority citation for part 803 continues to read as follows:

Authority: 15 U.S.C. 18a(d).

5. Amend § 803.9 by adding examples 7 and 8 to paragraph (a) and by revising paragraph (c) to read as follows:

§ 803.9 Filing fee.

* * * * *

(a) * * *

Examples:

* * * * *

7. ''A'' intends to acquire 20 percent of the voting securities of B, a non-publicly traded issuer. The agreed upon acquisition price is $99 million subject to post-closing adjustments of up to plus or minus $2 million. ''A'' estimates that the adjustments will be minus $1 million. In this example, since ''A'' is able in good faith to reasonably estimate the adjustments to the agreed-on price, the acquisition price is deemed to be determined and the appropriate filing fee threshold is $50 million. Even if the post-closing adjustments cause the final price actually paid to exceed $100 million, ''A'' would be deemed to hold $98 million in B voting securities as a result of this acquisition. Note, however, since the potential acquisition price subject to adjustments could have exceeded the $100 million threshold (*e.g.*, ''straddles two filing fee thresholds''), an explanation of why the lower threshold was indicated should be attached. Also note that any additional acquisition by ''A'' of B voting stock (if the value of the stock currently held by ''A'' is $100 million or more) will cause ''A'' to cross the $100 million threshold and another filing and the appropriate fee will be required.

8. ''A'' intends to make a cash tender offer for a minimum of 50 percent plus one share of the voting securities of B, a non-publicly traded issuer, but will accept up to 100 percent of the shares if they are tendered. There are 12 million shares of B voting stock outstanding and the tender offer price is $10 per share. In this instance, since there is no cap on the number of shares that can be tendered, the value of the transaction will be the value of 100 percent of B's voting securities, and ''A'' must pay the $125,000 fee for the $100 million filing fee threshold. Note that if the tender offer had been for a maximum of 50 percent plus one share the value of the transaction would be $60 million, and the appropriate fee would be $45,000, based on the $50 million filing fee threshold. This would be true even if the tender offer were to be followed by a merger which would be exempt under Section 7A(c)(3),

* * * * *

(c) For a reportable transaction in which the acquiring entity has two ultimate parent entities, both ultimate parent entities are acquiring persons; however, if the responses for both ultimate parent entities would be the same for item 5 of the Notification and Report Form, only one filing fee is required in connection with the transaction.

* * * * *

6. Amend § 803.20 by revising paragraph (c) and the example thereto, to read as follows:

§ 803.20 Requests for additional information or documentary material.

* * * * *

(c) *Waiting period extended.* (1) During the time period when a request for additional information or documentary material remains outstanding to any person other than either:

(i) In the case of a tender offer, the person whose voting securities are sought to be acquired by the tender offeror (or any officer, director, partner, agent or employee thereof), or

(ii) In the case of an acquisition covered by 11 U.S.C. 363(b), the acquired person, the waiting period shall remain in effect, even though the waiting period would have expired (see § 803.10(b)) if no such request had been made.

(2) A request for additional information or documentary material to any person other than either:

(i) In the case of a tender offer, the person whose voting securities are being acquired pursuant to the tender offer (or any officer, director, partner, agent or employee thereof), or

(ii) In the case of an acquisition covered by 11 U.S.C. 363(b), the acquired person, shall in every instance extend the waiting period for a period of 30 (or, in the case of a cash tender offer or of an acquisition covered by 11 U.S.C. 363(b), 10) calendar days from the date of receipt (as determined under § 803.10) of the additional information or documentary material requested.

Example: Acquiring person ''A'' makes a non-cash tender offer for voting securities of corporation ''X'', and files notification. Under § 801.30, the waiting period begins upon filing by ''A,'' and ''X'' must file within 15 days thereafter (10 days if it were a cash tender offer). Assume that before the end of the waiting period, the Assistant Attorney General issues a request for additional information to ''A'' and ''X.'' Since the transaction is a non-cash tender offer, the waiting period is extended for 30 days (10 days if it were a cash tender offer) beyond the date on which ''A'' responds. Note that under § 803.21, even though the waiting period is not affected by the second request to ''X'' or by ''X'' supplying the requested information, ''X'' is obliged to respond to the request within a reasonable time. Nevertheless, the Federal Trade Commission and Assistant Attorney General could, notwithstanding the pendency of the request for additional information, terminate the waiting period sua sponte pursuant to § 803.11(c).

* * * * *

7. Revise the Appendix to part 803 to read as follows:

BILLING CODE 6750–01–P

TRANSACTION NUMBER ASSIGNED ☐☐☐☐☐☐☐☐

16 C.F.R. Part 803 - Appendix
NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

Approved by OMB
3084-0005
Expires 08/31/02

THE INFORMATION REQUIRED TO BE SUPPLIED ON THESE ANSWER SHEETS IS SPECIFIED IN THE INSTRUCTIONS

•• Attach the Affidavit required by § 803.5 to this page.

FEE INFORMATION

AMOUNT PAID $_____

In cases where your filing fee would be higher if based on acquisition price or where the acquisition price is undetermined to the extent that it may straddle a filing fee threshold, attach an explanation of how you determined the appropriate fee *(acquiring persons only)*.

Attachment Number _____

TAXPAYER IDENTIFICATION NUMBER _____
or SOCIAL SECURITY NUMBER of payer _____
(acquiring person (and payer if different from acquiring person))

CHECK ATTACHED ☐ MONEY ORDER ATTACHED ☐

WIRE TRANSFER ☐ CONFIRMATION NO._____

FROM: NAME OF INSTITUTION _____

NAME OF PAYER (if different from PERSON FILING) _____

IS THIS A CORRECTIVE FILING? ☐ YES ☐ NO

IS THIS ACQUISITION SUBJECT TO FOREIGN FILING REQUIREMENTS? ☐ YES ☐ NO
If YES, list jurisdictions: *(voluntary)* _____

IS THIS ACQUISITION A CASH TENDER OFFER? ☐ YES ☐ NO | BANKRUPTCY? ☐ YES ☐ NO

DO YOU REQUEST EARLY TERMINATION OF THE WAITING PERIOD? *(Grants of early termination are published in the Federal Register AND on the FTC web site www.ftc.gov)*
☐ YES ☐ NO

ITEM 1 – PERSON FILING

1(a) NAME and
HEADQUARTERS ADDRESS
of PERSON FILING

1(b) PERSON FILING NOTIFICATION IS
☐ an acquiring person ☐ an acquired person ☐ both

1(c) PUT AN "X" IN THE APPROPRIATE BOX TO DESCRIBE PERSON FILING NOTIFICATION
☐ Corporation ☐ Partnership ☐ Other *(Specify):* _____

1(d) DATA FURNISHED BY
☐ calendar year ☐ fiscal year *(specify period)* _____ (month/year) to _____ (month/year)

THIS FORM IS REQUIRED BY LAW and must be filed separately by each person which, by reason of a merger, consolidation or acquisition, is subject to §7A of the Clayton Act, 15 U.S.C. §18a, as added by Section 201 of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, Pub. L. No. 94-435, 90 Stat. 1390, and rules promulgated thereunder (hereinafter referred to as "the rules" or by section number). The statute and rules are set forth in the *Federal Register* at 43 FR 33450; the rules may also be found at 16 CFR Parts 801-03. Failure to file this **Notification and Report Form**, and to observe the required waiting period before consummating the acquisition in accordance with the applicable provisions of 15 U.S.C. §18a and the rules, subjects any "person," as defined in the rules, or any individuals responsible for noncompliance, to liability for a penalty of not more than $11,000 for each day during which such person is in violation of 15 U.S.C. §18a.

All information and documentary material filed in or with this Form is confidential. It is exempt from disclosure under the Freedom of Information Act, and may be made public only in an administrative or judicial proceeding, or disclosed to Congress or to a duly authorized committee or subcommittee of Congress.

Filing - Complete and return *two* copies (with one original affidavit and certification and one set of documentary attachments) of this Notification and Report Form to: Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. *Three* copies (with one set of documentary attachments) should be sent to: Director of Operations and Merger Enforcement, Antitrust Division, Department of Justice, Patrick Henry Building, 601 D Street, N.W., Room #10013, Washington, D.C. 20530. (For FEDEX airbills to the Department of Justice, do not use the 20530 zip code; use zip code 20004.)

DISCLOSURE NOTICE - Public reporting burden for this report is estimated to vary from 8 to 160 hours per response, with an average of 39 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this report, including suggestions for reducing this burden to:

Premerger Notification Office,
H-303
Federal Trade Commission
Washington, DC 20580

Office of Information and
Regulatory Affairs,
Office of Management and Budget
Washington, DC 20503

Under the Paperwork Reduction Act, as amended, 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. That number is 3084-0005, which also appears in the upper right-hand corner of the first page of this form.

NAME OF PERSON FILING NOTIFICATION	DATE

1(e) PUT AN X IN THE APPROPRIATE BOX AND GIVE THE NAME AND ADDRESS OF ENTITY FILING NOTIFICATION (if other than ultimate parent entity)

☐ NA ☐ This report is being filed on behalf of a foreign person pursuant to § 803.4. ☐ This report is being filed on behalf of the ultimate parent entity by another entity within the same person authorized by it to file pursuant to § 803.2(a).

NAME OF ENTITY FILING NOTIFICATION	ADDRESS

1(f) NAME AND ADDRESS OF ENTITY MAKING ACQUISITION OR WHOSE ASSETS OR VOTING SECURITIES ARE BEING ACQUIRED IF DIFFERENT FROM THE ULTIMATE PARENT ENTITY IDENTIFIED IN ITEM 1(a)

PERCENT OF VOTING SECURITIES HELD BY EACH ENTITY IDENTIFIED IN ITEM 1(a)

1(g) IDENTIFICATION OF PERSON TO CONTACT REGARDING THIS REPORT

NAME OF CONTACT PERSON TITLE FIRM NAME BUSINESS ADDRESS TELEPHONE NUMBER FAX NUMBER E-MAIL ADDRESS	

(h) IDENTIFICATION OF AN INDIVIDUAL LOCATED IN THE UNITED STATES DESIGNATED FOR THE LIMITED PURPOSE OF RECEIVING NOTICE OF ISSUANCE OF A REQUEST FOR ADDITIONAL INFORMATION OR DOCUMENTS. (See § 803.20(b)(2)(iii))

NAME OF CONTACT PERSON TITLE FIRM NAME BUSINESS ADDRESS TELEPHONE NUMBER FAX NUMBER E-MAIL ADDRESS	

ITEM 2

2(a) LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRING PERSONS	LIST NAMES OF ULTIMATE PARENT ENTITIES OF ALL ACQUIRED PERSONS

2(b) THIS ACQUISITION IS *(put an X in all the boxes that apply)*

☐ an acquisition of assets
☐ a merger (see § 801.2)
☐ an acquisition subject to § 801.2(e)
☐ a formation of a joint venture of other corporation (see § 801.40)
☐ an acquisition subject to § 801.30 (*specify type*)
☐ other (*specify*) _____
☐ a consolidation (see § 801.2)
☐ an acquisition of voting securities
☐ a secondary acquisition
☐ an acquisition subject to § 801.31

2(c) INDICATE THE HIGHEST NOTIFICATION THRESHOLD IN § 801.1(h) FOR WHICH THIS FORM IS BEING FILED *(acquiring person only in an acquisition of voting securities)*

☐ $50 million ☐ $100 million ☐ $500 million ☐ 25% (see Instructions) ☐ 50%

2(d)(i) VALUE OF VOTING SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION	(ii) PERCENTAGE OF VOTING SECURITIES	(iii) VALUE OF ASSETS TO BE HELD AS A RESULT OF THE ACQUISITION	(iv) AGGREGATE TOTAL VALUE
$	%	$	$

NAME OF PERSON FILING NOTIFICATION	DATE

2(e) If aggregate total value in 2(d)(iv) is based in whole or in part on a fair market valuation pursuant to § 801.10(c)(3), identify the person or persons responsible for making the valuation *(acquiring persons only)*.

ITEM 3

3(a) DESCRIPTION OF ACQUISITION

NAME OF PERSON FILING NOTIFICATION	DATE

3(b)(i) ASSETS TO BE ACQUIRED (to be completed only for asset acquisitions)

3(b)(ii) ASSETS HELD BY ACQUIRING PERSON

3(c) VOTING SECURITIES TO BE ACQUIRED

3(c)(i) LIST AND DESCRIPTION OF VOTING SECURITIES AND LIST OF NON-VOTING SECURITIES:

3(c)(ii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY:

3(c)(iii) TOTAL NUMBER OF SHARES OF EACH CLASS OF SECURITY BEING ACQUIRED:

NAME OF PERSON FILING NOTIFICATION	DATE

3(c)(iv) IDENTITY OF PERSONS ACQUIRING SECURITIES:

3(c)(v) DOLLAR VALUE OF SECURITIES IN EACH CLASS BEING ACQUIRED:

3(c)(vi) TOTAL NUMBER OF EACH CLASS OF SECURITIES TO BE HELD AS A RESULT OF THE ACQUISITION:

3(d) SUBMIT A COPY OF THE MOST RECENT VERSION OF CONTRACT OR AGREEMENT (or letter of intent to merge or acquire)

DO NOT ATTACH THIS DOCUMENT TO THIS PAGE ATTACHMENT OR REFERENCE NUMBER OF CONTRACT OR AGREEMENT _____

NAME OF PERSON FILING NOTIFICATION	DATE

ITEM 4 PERSONS FILING NOTIFICATION MAY PROVIDE BELOW AN OPTIONAL INDEX OF DOCUMENTS REQUIRED TO BE SUBMITTED BY ITEM 4 (See Item by Item instructions). THESE DOCUMENTS SHOULD NOT BE ATTACHED TO THIS PAGE.

4(a) DOCUMENTS FILED WITH THE UNITED STATES SECURITIES AND EXCHANGE COMMISSION	ATTACHMENT OR REFERENCE NUMBER

4(b) ANNUAL REPORTS, ANNUAL AUDIT REPORTS, AND REGULARLY PREPARED BALANCE SHEETS	ATTACHMENT OR REFERENCE NUMBER

4(c) STUDIES, SURVEYS, ANALYSES, AND REPORTS	ATTACHMENT OR REFERENCE NUMBER

NAME OF PERSON FILING NOTIFICATION	DATE

ITEM 5 (See "References" listed in the General Instructions to the Form. Refer to the *North American Industry Classification System-United States, 1997* (*1997 NAICS Manual*) for the 6-digit (NAICS) industry codes. Refer to the *1997 Numerical List of Manufactured and Mineral Products* (EC97M31R-NL) for the 7-digit product class codes and the 10-digit product codes. Report revenues for the 7-digit product class codes and 10-digit product codes using the codes in the columns labeled "Product code." For further information on NAICS-based codes visit the www.census.gov web site.)

5(a) DOLLAR REVENUES BY INDUSTRY

6-DIGIT INDUSTRY CODE	DESCRIPTION	1997 TOTAL DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION	DATE

ITEM 5(b)(i) DOLLAR REVENUES BY MANUFACTURED PRODUCTS

10-DIGIT PRODUCT CODE	DESCRIPTION	1997 TOTAL DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION	DATE

ITEM 5(b)(ii) PRODUCTS ADDED OR DELETED

DESCRIPTION (10-DIGIT PRODUCT CODE)	ADD	DELETE	YEAR OF CHANGE	TOTAL DOLLAR REVENUES

ITEM 5(b)(iii) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS

7-DIGIT PRODUCT CLASS	DESCRIPTION	YEAR _____ TOTAL DOLLAR REVENUES

(Item 5(b)(iii) continued on page 10)

NAME OF PERSON FILING NOTIFICATION	DATE

ITEM 5(b)(iii) DOLLAR REVENUES BY MANUFACTURED PRODUCT CLASS - CONTINUED

7-DIGIT PRODUCT CLASS	DESCRIPTION	YEAR _____ TOTAL DOLLAR REVENUES

ITEM 5(c) DOLLAR REVENUES BY NON-MANUFACTURING INDUSTRY

6-DIGIT INDUSTRY CODE	DESCRIPTION	YEAR _____ TOTAL DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION	DATE

5(d) COMPLETE ONLY IF ACQUISITION IS IN THE FORMATION OF A JOINT VENTURE OR OTHER CORPORATION

5(d)(i) NAME AND ADDRESS OF THE JOINT VENTURE OR OTHER CORPORATION

5(d)(ii)

(A) CONTRIBUTIONS THAT EACH PERSON FORMING THE JOINT VENTURE OR OTHER CORPORATION HAS AGREED TO MAKE

(B) DESCRIPTION OF ANY CONTRACTS OR AGREEMENTS

(C) DESCRIPTION OF ANY CREDIT GUARANTEES OR OBLIGATIONS

(D) DESCRIPTION OF CONSIDERATION WHICH EACH PERSON FORMING THE JOINT VENTURE OR OTHER CORPORATION WILL RECEIVE

5(d)(iii) DESCRIPTION OF THE BUSINESS IN WHICH THE JOINT VENTURE OR OTHER CORPORATION WILL ENGAGE

5(d)(iv) SOURCE OF DOLLAR REVENUES BY 6-DIGIT INDUSTRY CODE (non-manufacturing) AND BY 7-DIGIT PRODUCT CLASS (manufacturing)

NAME OF PERSON FILING NOTIFICATION	DATE

ITEM 6

6(a) ENTITIES WITHIN PERSON FILING NOTIFICATION

6(b) SHAREHOLDERS OF PERSON FILING NOTIFICATION

NAME OF PERSON FILING NOTIFICATION	DATE

6(c) HOLDINGS OF PERSON FILING NOTIFICATION

ITEM 7 DOLLAR REVENUES

7(a) 6-DIGIT NAICS CODE AND DESCRIPTION

7(b) NAME OF EACH PERSON WHICH ALSO DERIVED DOLLAR REVENUES

NAME OF PERSON FILING NOTIFICATION	DATE

7(c) GEOGRAPHIC MARKET INFORMATION

ITEM 8 PRIOR ACQUISITIONS (to be completed by acquiring person only)

NAME OF PERSON FILING NOTIFICATION	DATE

CERTIFICATION

This **NOTIFICATION AND REPORT FORM,** together with any and all appendices and attachments thereto, was prepared and assembled under my supervision in accordance with instructions issued by the Federal Trade Commission. Subject to the recognition that, where so indicated, reasonable estimates have been made because books and records do not provide the required data, the information is, to the best of my knowledge, true, correct, and complete in accordance with the statute and rules.

NAME (Please print or type)	TITLE
SIGNATURE	DATE

Subscribed and sworn to before me at the
City of _____, State of _____

this _____day of _____, the year _____

Signature _____

My Commission expires _____

[SEAL]

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–1078 Filed 1–16–03; 8:45 am]

BILLING CODE 6750–01–C

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

[OK–028–FOR]

Oklahoma Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are approving an amendment to the Oklahoma regulatory program (Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Oklahoma proposed revisions to its regulations concerning employment and financial interests of State employees and members of advisory boards and commissions and remining and reclamation of previously mined and certain inadequately reclaimed lands. Oklahoma intends to revise its program to be consistent with the corresponding Federal regulations and/or statutes. Oklahoma also intends to correct some cross references and typographical and grammatical errors.

EFFECTIVE DATE: January 17, 2003.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office. Telephone: (918) 581–6430. Internet: *mwolfrom@osmre.gov*.

SUPPLEMENTARY INFORMATION:

I. Background on the Oklahoma Program
II. Submission of the Amendment
III. OSM's Findings
IV. Summary and Disposition of Comments
V. OSM's Decision
VI. Procedural Determinations

I. Background on the Oklahoma Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' *See* 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Oklahoma program on January 19, 1981. You can find background information on the Oklahoma program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Oklahoma program in the January 19, 1981, **Federal Register** (46 FR 4902). You can also find later actions concerning Oklahoma's program and program amendments at 30 CFR 936.15 and 936.16.

II. Submission of the Amendment

By letter dated November 1, 2001 (Administrative Record No. OK–993), Oklahoma sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Oklahoma sent the amendment at its own initiative. Oklahoma proposed to amend the Oklahoma Administrative Code, Title 460, Chapter 20.

We announced receipt of the amendment in the December 11, 2001, **Federal Register** (66 FR 63968). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. We did not hold a public hearing or meeting because no one requested one. The public comment period ended on January 10, 2002. We received comments from one Federal agency (Administrative Record No. OK–993.01).

During our review of the amendment, we identified concerns regarding the review of permit applications and employment and financial interests of members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests. We notified Oklahoma of these concerns by letter dated March 25, 2002 (Administrative Record No. OK–993.04).

Oklahoma responded in a letter dated July 3, 2002, by sending us a revised amendment (Administrative Record No. OK–993.05). Based upon Oklahoma's revisions to its amendment, we reopened the public comment period in the August 27, 2002, **Federal Register** (67 FR 54979). The public comment period ended on September 11, 2002. We received comments from one Federal agency (Administrative Record No. OK–993.10).

III. OSM's Findings

Following are the findings we made concerning the amendment under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17. We are approving the amendment as described below. Any revisions that we do not specifically discuss below concern nonsubstantive wording or editorial changes.

A. Revisions to Oklahoma's Regulations That Have the Same Meaning as the Corresponding Federal Provisions

The State regulations listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations and/or statutes.

Topic	State regulation	Federal counterpart regulation and/or statute
Definition of ''Lands eligible for remining''	Section 460:20–3–5(A) through (D), (F), (G), and (I).	30 CFR 701.5; sections 402(g)(4)(A) and (B)(i) through (ii), and 404 of SMCRA.
Definition of ''Unanticipated event or condition''	Section 460:20–3–5	30 CFR 701.5.
Financial interest of State employees—Authority.	Section 460:20–5–3	30 CFR 705.3(a).
Financial interest of State employees—Who shall file.	Section 460:20–5–7(b)	30 CFR 705.11(b)
Review of permit application	Section 460:20–15–6(b)(4) through (b)(5), and (c)(13).	30 CFR 773.13(a) and (b), and 773.15(m).
Lands eligible for remining	Section 460:20–33–12	30 CFR 785.25.
Responsibility period	Section 460:20–43–46(c)(2) and (c)(3)	30 CFR 816.116(c)(2) and (c)(3)
Responsibility time frame	Section 460:20–45–46(c)(2) and (c)(3)	30 CFR 817.116(c)(2) and (c)(3).

Because the above State regulations have the same meaning as the corresponding Federal provisions, we find that they are no less effective than the Federal regulations and/or no less stringent than the Federal statutes. Therefore, we are approving them.

B. Revisions to Oklahoma's Regulations That Are Not Inconsistent With the Corresponding Federal Provisions

The State regulations listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations except that Oklahoma expanded the persons to whom the provisions in the regulations apply to include one or more of the following: members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests.

Topic	State regulation	Federal counterpart regulation and/or statute
Financial interest of State employees—Purpose	Section 460:20–5–1	30 CFR 705.1.
Financial interest of State employees—Objectives.	Section 460:20–5–2	30 CFR 705.2.
Financial interest of State employees—Responsibility.	Section 460:20–5–4(a)(7), (a)(8), and (c)	30 CFR 705.4(a)(7), (a)(8) and (c).
Financial interest of State employees—Penalties.	Section 460:20–5–6(b)	30 CFR 705.6(b).
Financial interest of State employees—Who shall file.	Section 460:20–5–7(a)	30 CFR 705.11(a).
Financial interest of State employees—When to file.	Section 460:20–5–8	30 CFR 705.13.
Financial interest of State employees—Where to file.	Section 460:20–5–9(b)	30 CFR 705.15.
Financial interest of State employees—What to report.	Section 460:20–5–10	30 CFR 705.17.

Because the inclusion of the advisory board members, the Oklahoma Mining Commission, and commissions representing multiple interests in Oklahoma's above regulations are not inconsistent with the counterpart Federal provisions, we find that the proposed State regulations are no less effective than the corresponding Federal regulations and we are approving them.

C. Section 460:20–5–3. Definitions

Paragraph (E) of the definition of ''lands eligible for remining,'' provides that the lands eligible for remining are those lands mined for coal or affected by such mining or other coal mining processes that have been left or abandoned in an inadequate reclamation status between August 4, 1977, and January 19, 1981. The counterpart Federal definition found at 30 CFR 701.5 states that lands eligible for remining means those lands that would otherwise be eligible for expenditures under section 402(g)(4) of the Federal Act. The Federal statute at section 402(g)(4)(B)(i) of SMCRA states that in order to be eligible for remining, the coal mining operation must have occurred during the period beginning on August 4, 1977, and ending on or before the date on which the Secretary approved the State program. The Secretary approved the Oklahoma program on January 19, 1981. Because the lands eligible for remining under the Oklahoma program would also be eligible under the Federal program, we find that the Oklahoma provision is no less effective than the Federal regulation at 30 CFR 701.5 and no less stringent than the Federal statute at section 402(g)(4)(B)(i) of SMCRA. Therefore, we are approving this provision.

Also, paragraph (H) of the definition of ''lands eligible for remining,'' provides that the lands eligible for remining are those lands mined for coal or affected by such mining or other coal mining processes that have been left or abandoned in an inadequate reclamation status between August 4, 1977, and November 5, 1990. The counterpart Federal definition found at 30 CFR 701.5 states that lands eligible for remining means those lands that would otherwise be eligible for expenditures under section 402(g)(4) of the Federal Act. The Federal statute at section 402(g)(4)(B)(ii) of SMCRA states that in order to be eligible for remining, the coal mining operation must have occurred during the period beginning on August 4, 1977, and ending on or before November 5, 1990. Because the lands eligible for remining under the Oklahoma program would also be eligible under the Federal program, we find that the Oklahoma provision is no less effective than the Federal regulation at 30 CFR 701.5 and no less stringent than the Federal statute at section 402(g)(4)(B)(ii) of SMCRA. Therefore, we are also approving this provision.

D. Section 460:20–5–4. Responsibility

Currently at section 460:20–5–4(a), Oklahoma's program contains provisions that pertain to the filing of financial interest statements by employees. Oklahoma proposed to expand the list of persons who are required to file financial interest. Oklahoma proposed to accomplish this by adding new paragraph (b). This new paragraph sets forth the responsibility of the Oklahoma Governor's Office, Director of Appointments pertaining to the filing of financial interest statements by advisory board members, the Oklahoma Mining Commission, and commissions representing multiple interests. With the addition of this paragraph, the Oklahoma Governor's Office, Director of Appointments must (1) provide advice, assistance, and guidance to advisory board members and commissioners required to file the statement, (2) promptly review the statements to determine if prohibited financial interests exist, (3) resolve prohibited financial interest situations, (4) certify on each statement that the review has been made, and (5) report to the Director of OSM any advisory board member's or commissioner's failure to take remedial action to resolve any prohibited financial interest situations. The counterpart Federal regulations for these provisions are found at 30 CFR 705.4(a)(1) through (a)(4) and 705.19(a)(2)(ii) through (a)(3). Oklahoma's provisions have the same meaning as the Federal provisions except that Oklahoma's provisions also include members of advisory boards and commissions representing multiple interests, whereas, the Federal provisions pertain to employees. Because the provisions in Oklahoma's proposed new paragraph (b) are intended to expand the list of persons who must file financial interest statements and the inclusion of these persons is not inconsistent with the Federal provisions, we are approving this amendment.

E. Section 460:20–5–6. Penalties

Oklahoma proposed to revise section 460:20–5–6(a) by including advisory board members and commissioners on the list of persons subject to criminal penalties if they perform any function or duty under the State's program and have a direct or indirect financial interest in any underground or surface coal mining operation. The counterpart Federal regulation for this provision is found at 30 CFR 705.6(a). Oklahoma's proposed provision has the same meaning as the Federal provision except that Oklahoma's provision applies to employees, advisory board members, and commissioners and sets the fine at no more than $5,000 (the dollar amount that we previously approved), whereas, the Federal provision applies only to employees and sets the fine at no more than $2,500. Because the inclusion of the advisory board members and commissioners is not inconsistent with the Federal provision, we find that the above State regulation is no less effective than the corresponding Federal regulation and we are approving it.

F. Section 460:20–5–13. Appeals Procedures

Oklahoma proposed to add new paragraph (b) to provide that members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests should follow any appeals process provided for by the Oklahoma Governor's Office, Director of Appointments. The counterpart Federal regulation at 30 CFR 705.21(a) provides for employees to file their appeal, in writing, through established procedures within their particular State. Because Oklahoma's provision provides appeal rights to members of advisory boards, the Oklahoma Mining Commission, and commissions representing multiple interests, we find that this provision is not inconsistent with the counterpart Federal provision and we are approving it.

G. Section 460:20–15–4. Regulatory Coordination With Requirements Under Other Laws

In this section, Oklahoma proposed to add the phrase ''along with all state, federal, and local permitting and licencing [sic] requirements.'' With the addition of this phrase, the revised paragraph reads as follows:

> Each regulatory program shall, to avoid duplication, provide for the coordination of review and issuance of permits for surface coal mining and reclamation operations with applicable requirements of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*); the Fish and Wildlife Coordination Act, as amended (16 U.S.C. 661 *et seq.*); the Migratory Bird Treaty Act of 1918, as amended (16 U.S.C. 703 *et seq.*); The National Historic Preservation Act of 1966, as amended (16 U.S.C. 470 *et seq.*); the Bald Eagle Protection Act, as amended (16 U.S.C. 668a), along with all state, federal, and local permitting and licencing [sic] requirements; for Federal programs only, the Archeological and Historic Preservation Act of 1974 (16 U.S.C. 469 *et seq.*); and the Archeological Resources Protection Act of 1979 (16 U.S.C. 470a *et seq.*) where Federal and Indian lands covered by that Act are involved.

The counterpart Federal regulation at 30 CFR 773.5 contains all of the same provisions as Oklahoma's regulation except for the phrase that provides coordination of review and issuance of permits with applicable requirements of all State, Federal, and local permitting and licensing requirements. Because Oklahoma's regulation is substantively the same as the counterpart Federal regulation and the phrase added to this section is not inconsistent with the counterpart Federal regulation, we are approving the revision.

H. Section 460:20–43–46. and Section 460:20–45–46. Revegetation: Standards for Success

At the ends of paragraphs (b)(6), Oklahoma proposed to add the phrase ''of approved vegetation species.'' With the addition of this phrase, the revised paragraphs read as follows:

> For areas previously disturbed by mining that were not reclaimed to the requirements of this Chapter and that are remined or otherwise redisturbed by surface coal mining operations, as a minimum, the vegetative ground cover shall be not less than the ground cover existing before redisturbance and shall be adequate to control erosion. In general this is considered to be at least 70% vegetative ground cover of approved vegetation species.

The counterpart Federal regulations at 30 CFR 816.116(b)(5) and 817.116(b)(5) require, at a minimum, that the vegetative ground cover be not less than the ground cover existing before redisturbance and that it be adequate to control erosion. Because Oklahoma's addition of the phrase ''of approved vegetation species'' only serves to clarify that the ground cover must consist of approved vegetation species and because the phrase is not inconsistent with the counterpart Federal regulations, we are approving this revision.

IV. Summary and Disposition of Comments

Public Comments

We asked for public comments on the amendment, but did not receive any.

Federal Agency Comments

On November 19, 2001, under 30 CFR 732.17(h)(11)(i) and section 503(b) of SMCRA, we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Oklahoma program (Administrative Record No. OK–993.03). The U.S. Department of Labor, Mine Safety and Health Administration responded on November 27, 2001 (Administrative Record No. OK–993.01), with a comment regarding the definition for ''auger mining'' found in Section 460:20–3–5. Oklahoma did not propose to amend its definition for ''auger mining.'' We previously found that Oklahoma's definition for ''auger mining'' is no less effective than the counterpart Federal definition at 30 CFR 701.5.

Also, in a letter dated August 5, 2002 (Administrative Record No. OK–993.10), the U.S. Department of the Interior, Fish and Wildlife Service (FWS) commented that it believes that the proposed amendment regarding remining and reclamation of previously mined and certain inadequately reclaimed lands would be protective of the environment and federally threatened and endangered species. In addition, the agency recommended that all proposed remining and reclamation activities of previously mined and certain inadequately reclaimed lands be submitted to them ''for review for the potential to adversely affect threatened and endangered species.'' The State regulation at 460:20–33–12, concerning lands eligible for remining, requires that any application for a remining permit must be made according to all the requirements applicable to surface coal mining and reclamation operations. This includes the State regulations at 460:20–15–5(a)(3)(B) and 460:20–27–9(a), (b), and (c). The State regulation at 460:20–15–5(a)(3)(B) requires the regulatory authority to send a notice of receipt of an application to State and Federal fish and wildlife agencies with an opportunity to comment. The State regulations at 460:20–27–9(a) and (b) require applications to include fish and wildlife resource information, including information on threatened and endangered species. Further, the State regulation at 460:20–27–9(c) requires the regulatory authority to send fish and wildlife application information to the FWS for review within 10 days if requested by the FWS. Because coal operators must have a valid permit before conducting surface coal mining and reclamation operations and these permits must include the above coordination of review with State and

Federal fish and wildlife agencies, the review that the FWS recommended should occur. Additionally, we forwarded the FWS's comments to the State for its consideration.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to obtain the written concurrence of EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the revisions that Oklahoma proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record Nos. OK–993.03 and OK–993.11). The EPA did not respond to our request.

State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On November 19, 2001, and July 16, 2002, we requested comments on Oklahoma's amendment (Administrative Record Nos. OK–993.03 and OK–993.11, respectively), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Oklahoma sent to us on November 1, 2001, as revised on July 3, 2002. We approve the regulations proposed by Oklahoma with the provision that they be fully promulgated in identical form to the regulations submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 936, which codify decisions concerning the Oklahoma program. We find that good cause exists under 5 U.S.C. 553(d)(3) to make this final rule effective immediately. Section 503(a) of SMCRA requires that the State's program demonstrate that the State has the capability of carrying out the provisions of the Act and meeting its purposes. Making this final rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the analysis performed for the counterpart Federal regulation.

Executive Order 12866—Regulatory Planning and Review

This rule is exempted from review by the Office of Management and Budget under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments because each program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

This rule does not have Federalism implications. SMCRA delineates the roles of the Federal and State governments with regard to the regulation of surface coal mining and reclamation operations. One of the purposes of SMCRA is to ''establish a nationwide program to protect society and the environment from the adverse effects of surface coal mining operations.'' Section 503(a)(1) of SMCRA requires that State laws regulating surface coal mining and reclamation operations be ''in accordance with'' the requirements of SMCRA. Section 503(a)(7) requires that State programs contain rules and regulations ''consistent with'' regulations issued by the Secretary pursuant to SMCRA.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, or Use of Energy

On May 18, 2001, the President issued Executive Order 13211 which requires agencies to prepare a Statement of Energy Effects for a rule that is (1) considered significant under Executive Order 12866, and (2) likely to have a significant adverse effect on the supply, distribution, or use of energy. Because this rule is exempt from review under Executive Order 12866 and is not expected to have a significant adverse effect on the supply, distribution, or use of energy, a Statement of Energy Effects is not required.

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior 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.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule: (a) Does not have an annual effect on the economy of $100 million; (b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local governmental agencies or geographic regions; and (c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This determination is based upon the fact

that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation was not considered a major rule.

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the fact that the State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an analysis was prepared and a determination made that the Federal regulation did not impose an unfunded mandate.

List of Subjects in 30 CFR Part 936

Intergovernmental relations, Surface mining, Underground mining.

Dated: November 7, 2002.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR part 936 is amended as follows:

PART 936—OKLAHOMA

1. The authority citation for part 936 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 936.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 936.15 Approval of Oklahoma regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
*	*	*
November 1, 2001	January 17, 2003	Sections 460:20–3–5; 20–5–1; 20–5–2; 20–5–3; 20–5–4(a)(7) through (d); 20–5–6; 20–5–7(a) and (b); 20–5–8; 20–5–9(b); 20–5–10(a), (a)(2), (b)(1) through (c)(4); 20–5–13; 20–15–4; 20–15–6(b)(4), (b)(5), and (c)(13); 20–33–12; 20–43–46(b)(6) and (c)(2) through (c)(3)(B); 20–45–46(b)(6) and (c)(2) through (c)(3)(B).

[FR Doc. 03–977 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP New Orleans–02–022]

RIN 2115—AA97

Safety Zone; Lower Mississippi River, Above Head of Passes, Mile Marker 88.1 to 90.4, New Orleans, LA

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule; change in effective period.

SUMMARY: The Coast Guard is amending the temporary final rule for the safety zone established for the transit of the cruise ship (C/S) CONQUEST beneath the Entergy Corporation power cable at mile marker 89.2 Lower Mississippi River (LMR), published November 22, 2002. These amendments reflect knowledge gained from several transits of the C/S CONQUEST through this area and generally reduce the size and length of time of the zone. We are also extending the effective period of this established rule to June 8, 2003. This temporary rule will continue to prohibit entry into this zone unless specifically authorized by the Captain of the Port, New Orleans or designated representative.

DATES: The amendments to § 165.T08–122 are effective on December 13, 2002. Section 165.T08–122, added at 67 FR 70315, November 22, 2002 effective from 4:30 a.m. November 12, 2002, through 8 p.m. March 2, 2003 is extended and will remain in effect through 11 p.m. on June 8, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket [COTP New Orleans-02–022] and are available for inspection or copying at Marine Safety Office New Orleans, 1615 Poydras Street, New Orleans, Louisiana, 70112 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade (LTJG) Matthew Dooris, Marine Safety Office New Orleans, at (504) 589–4251.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this rule. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM and, under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**.

The original temporary final rule was immediately required to respond to safety concerns associated with the transit of the C/S CONQUEST beneath the power cables at mile marker 89.2 LMR. The Coast Guard has continued to assess the situation after each transit of the vessel and has determined that the size of the zone and length of time the zone is enforced can be reduced, lessening the burden on the public. In addition, the assessments have revealed the need to have a small portion of the New Orleans General Anchorage clear of all vessels while the vessel is transiting beneath the power cables. This practice was initiated by the local pilots, and the Captain of the Port has decided to incorporate it in this rule. Because it is already a customary practice, and it is only applicable one day a week for a short period of time, this change should not create any additional burden for the public. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to continue to protect vessels and mariners from the hazards associated with the weekly upbound and downbound transit of the C/S CONQUEST under the power cable crossing.

Background and Purpose

On November 12, 2002 (67 FR 70313), the Captain of the Port, New Orleans established a temporary safety zone from mile 87.2 to 91.2 LMR extending the entire width of the river for the transit of the C/S CONQUEST beneath the Entergy Corporation power cable located at mile 89.2 LMR. The C/S CONQUEST is home ported in New Orleans at the Julia Street Wharf, mile

marker 95.3 LMR and has an air draft of 208 feet. The lowest cable at Entergy Corporation's Chalmette power cable crossing is 212.6 feet North American Vertical Datum (NAVD) at the center of the Lower Mississippi River and increases in height to a maximum of 366.4 feet NAVD on the East bank and a maximum of 361.1 feet NAVD on the West bank. As the C/S CONQUEST needs an air gap of 14 feet between it and the cable to prevent electrical arcing, the vessel must maneuver within about 400 to 600 feet of the East bank or within about 400 to 700 feet of the West bank to safely transit under Entergy Corporation's Chalmette power cable crossing. Vessels transiting this area may restrict the maneuverability of the C/S CONQUEST through those safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels.

The Coast Guard has continued to assess the safety of the C/S CONQUEST's transit after each visit. The Captain of the Port, New Orleans has had several meetings with the owner of the vessel, Carnival Cruise Lines, as well as Entergy, pilot associations, owner's of facilities impacted by the safety zone, the New Orleans Port Commission, and other representatives of the local maritime industry to evaluate the safe transit of the vessel as well as the impact of the safety zone on other traffic. All interested parties have worked to find short-term solutions to the problems posed by the crossing including de-energizing the lowest cables just prior to the transit. A long-term solution is anticipated to be complete within 18 months.

Based on continued evaluation of the transits, the Captain of the Port, New Orleans is amending the zone to reduce the size from 4 miles in length to 2.3 miles. The safety zone will now begin at mile marker 88.1, which is the location of the lower end of the Algiers Lock fore bay, and end at mile marker 90.4, which is the location of the Chalmette Slip and 350 yards upriver of the Belle Chasse Launch Service's West Bank Dock. The amount of time the zone is enforced is also being reduced from 1 hour prior to the C/S CONQUEST reaching the cable crossing to 30 minutes prior. The safety zone will now be enforced from approximately 3:15 a.m. until 3:45 a.m., which is one half hour before the C/S CONQUEST is scheduled to arrive at the cable crossing on its upriver transit until it safely transits underneath the crossing, and from approximately 6 p.m. until 6:30 p.m., which is one half hour before the C/S CONQUEST is scheduled to arrive at the cable crossing on its down bound transit, until it safely transits underneath the crossing, every Sunday between December 15, 2002 and June 8, 2003. These periods of enforcement are based on the advance cruise schedule for the C/S CONQUEST and are subject to change. Mariners will be advised of changes to the cruise schedule and periods of safety zone enforcement via broadcast notice to mariners.

The rule is also being amended to prohibit vessels from anchoring in the New Orleans Emergency Anchorage or the New Orleans General Anchorage below mile marker 90.4, which is the location of Chalmette Slip and 350 yards upriver of the Belle Chase Launch Service's West Bank Dock. These vessels could restrict the maneuverability of the C/S CONQUEST through safe passage lanes and possibly result in harm to life or damage to the cruise ship, the power cable, or nearby vessels. Vessels anchored within the New Orleans Emergency Anchorage are already required by 33 CFR § 110.195 (a)(16) to obtain permission from the Captain of Port, New Orleans prior to anchoring. The New Orleans General Anchorage is from mile 90.1 to 90.9 LMR with only 0.3 miles of the anchorage affected by this amendment. This prohibition is effective two hours prior to the arrival and departure of the C/S CONQUEST until it safely passes under the crossing.

Except as described in this rule, all vessels are prohibited from entering, anchoring or transiting within the zone during the announced enforcement periods unless authorized by the Captain of the Port New Orleans or his designated representative, the Vessel Traffic Center (VTC). Vessels may request authorization to transit through the safety zone by contacting the VTC. Moored vessels are permitted to remain within the safety zone.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040, February 26, 1979).

The Coast Guard expects the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10(e) of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard has met with members of local maritime industry including Carnival Cruise Lines, Entergy, the New Orleans Port Commission, pilots association, owners of water front facilities located within or adjacent to the zone as well as agents and shipping companies to discuss safety concerns associated with the transit and measures to reduce the impact of the safety zone on the local maritime community. The original rule and these amendments limit the economic impact of the rule.

This rule will only affect maritime traffic for short periods of time. The impact on routine navigation is expected to be minimal as the zone will only be in effect for one half hour, twice each week. Limiting the zone to one half hour ensures that the zone is not enacted before the C/S CONQUEST departs on its downriver voyage. This will help to ensure that a delay in the CONQUEST's departure does not impact the maritime community. Furthermore, the VTC can permit movements within the zone that do not impact the passage of the C/S CONQUEST, further limiting the impact of the zone.

Prior to this amendment, the pilot associations were already limiting anchorage in the lower portion of the New Orleans General Anchorage to vessels that were expected to be underway prior to C/S CONQUEST's transit through this area. Therefore, this amendment should not have a negative impact on vessels desiring to use this anchorage. Vessels desiring to anchor or remain at anchor within this portion of the anchorage may still request permission from the Captain of the Port, New Orleans through the VTC to do so.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605 (b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule will affect the following entities, some of which may be small entities: the owners or operators of vessels intending to transit or remain at anchor within the safety zone from mile marker 88.1, to mile marker 90.4 LMR, while the C/S CONQUEST is transiting this area inbound and outbound. This

safety zone will not have a significant economic impact on a substantial number of small entities because this rule will be in effect for only one half hour, twice each week. Limiting the zone to one half hour ensures that the zone is not enacted before the C/S CONQUEST departs on its downriver voyage. This will ensure that a delay in the CONQUEST's departure does not impact the maritime community. Furthermore, the VTC may permit movements within the zone that do not impact the passage of the C/S CONQUEST, further limiting the impact of the zone.

If you are a small business entity and are significantly affected by this regulation please contact LTJG Matthew Dooris, Marine Safety Office New Orleans, at (504) 589–4251.

Assistance for Small Entities

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

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We have considered the environmental impact of this rule and concluded that under figure 2–1, paragraph (34)(g) of Commandant Instruction M16475.1D, this rule is categorically excluded from further environmental documentation because this rule is not expected to result in any significant adverse environmental impact as described in the National Environmental Policy Act of 1969 (NEPA). A ''Categorical Exclusion Determination'' is available for inspection or copying where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

2. Revise temporary § 165.T08–122 to read as follows:

§ 165.T08–122 Safety Zone; Lower Mississippi River, Mile Marker 88.1 to 90.4, Above Head of Passes, New Orleans, LA.

(a) *Location.* The following area is a safety zone: the entire width of the Lower Mississippi River (LMR), above Head of Passes, beginning at mile marker 88.1, which is the location of the lower end of the Algiers Lock fore bay, and ending at mile marker 90.4, which is the location of the Chalmette Slip and 350 yards upriver of the Belle Chasse Launch Service's West Bank Dock.

(b) *Effective date.* This section is effective from 4:30 a.m. on December 13, 2002 until 11 p.m. on June 8, 2003.

(c) *Periods of enforcement.* This rule will be enforced from 3:15 a.m. until 3:45 a.m. and 6 p.m. to 6:30 p.m. every Sunday between December 15, 2002 and June 8, 2003. These periods of enforcement are based on the predicted cruise schedule for the C/S CONQUEST and are subject to change. The Captain of the Port, New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(d) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, except as described in this rule, entry into this zone is prohibited unless authorized by the Captain of the Port, New Orleans or designated

representative, the Vessel Traffic Center (VTC).

(2) The Captain of the Port New Orleans will inform the public via broadcast notice to mariners of the enforcement periods for the safety zone.

(3) Vessels are prohibited from anchoring in the New Orleans Emergency Anchorage or the New Orleans General Anchorage below mile marker 90.4, which is the location of Chalmette Slip and 350 yards upriver of the Belle Chase Launch Service's West Bank Dock. This prohibition is effective two hours prior to the arrival and departure of the C/S CONQUEST until it safely passes under the crossing.

(4) Moored vessels are permitted to remain within the safety zone.

(5) Vessels requiring entry into or passage through the zone during the enforcement periods must request permission from the Captain of the Port, New Orleans or designated representative, the VTC. They may be contacted via VHF Channel 67 or by telephone at (504) 589–2780.

(6) All persons and vessels shall comply with the instruction of the Captain of the Port, New Orleans and designated representatives including the VTC and designated on-scene U.S. Coast Guard patrol personnel. On-scene U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard.

Dated: December 13, 2002.

R.W. Branch,

Captain, U.S. Coast Guard, Captain of the Port, New Orleans.

[FR Doc. 03–1009 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA037/072/184–4190a; FRL–7421–1]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Sulfur Dioxide Attainment Demonstration for the Warren County Nonattainment Area and Permit Emission Limitations for Two Individual Sources in Warren County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the Pennsylvania Department of Environmental Protection (PADEP). This revision contains enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and an air quality modeling demonstration that indicates that the allowable emission limits will provide for the attainment of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) in the Conewango Township, Pleasant Township, Glade Township, and the City of Warren nonattainment area. The modeling demonstration assumes new SO_2 limits for the Reliant Warren Generating Station and the United Refining Company. This SIP revision replaces all previously submitted SIP revisions for the SO_2 nonattainment areas in Warren County, Pennsylvania. The implementation plan was submitted by Pennsylvania to satisfy the requirements of the Clean Air Act (CAA) pertaining to nonattainment areas.

DATES: This rule is effective on March 18, 2003 without further notice, unless EPA receives adverse written comment by February 18, 2003. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Walter Wilkie, Deputy Branch Chief, Air Quality Planning and Information Services Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 1301 Constitution Avenue, NW., Room B108, Washington, DC 20460, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Denis Lohman, (215) 814–2192 , or Ellen Wentworth, (215) 814–2034 or by e-mail at *lohman.denny@epa.gov,* or *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION:

I. Background

A. Conewango Township

On March 3, 1978, (43 FR 8962) EPA designated Conewango Township, Warren County, Pennsylvania, as nonattainment for SO_2 as part of EPA Region III's initial SO_2 designations. EPA acted on the recommendation of the Commonwealth of Pennsylvania to designate this area as nonattainment for SO_2. Upon designation, part D of the CAA was triggered for Conewango Township. Part D required Pennsylvania to submit to EPA for approval, a plan revision for achieving the SO_2 NAAQS as expeditiously as practicable. The basis of the recommendation was air quality dispersion modeling conducted in 1976. This modeling analysis was later found suspect because EPA determined that the study did not meet modeling guidelines and that meteorological data may have been suspect. On December 27, 1982, the Pennsylvania Department of Environmental Resources (PADER) submitted a request to have Conewango Township reclassifed to ''unclassifiable'', but EPA rejected the request because the statutory attainment date (December 31, 1982) had passed by the time EPA received the request. A March 17, 1983, request to have the area redesignated to ''attainment'' was rejected by EPA because the request did not contain adequate modeling in support of the request.

After Penelec reported monitored exceedances of the SO_2 NAAQS, the EPA on February 24, 1984, notified PADER that it must submit a SIP revision for the area to address the NAAQS nonattainment. In accordance with EPA's request, PADER and Penelec entered into a Consent Order and Agreement (COA) on December 5, 1984. The COA required Penelec to conduct a new air quality and meteorological monitoring study to select a dispersion model to be used to set an allowable emission rate for the Warren plant. This COA was submitted to EPA as a SIP revision on December 28, 1984. EPA proposed approval of this revision on May 9, 1985 (50 FR 19548). Modeling activities and the air quality analyses conducted under the COA indicated that the data from the United Refining Company, located in adjacent Glade Township were necessary to complete the model evaluation study. United began to supply SO_2 emission data necessary to complete the model study. Because of the unforeseen contributions of the United Refining Company, this SIP revision, as proposed, was no longer adequate. In June 1992, EPA notified the Commonwealth that it had failed to

submit the required SIP revision for Conewango Township, Warren County, and that it had 18 months in which to submit a SIP revision or face one of the sanctions detailed under section 179(b). On December 9, 1993, the Commonwealth of Pennsylvania submitted a revision to its SIP for the Conewango Township SO_2 nonattainment area. This SIP revision consisted of a COA entered into by and between the Commonwealth of Pennsylvania and Penelec dated April 1, 1993. The COA established interim and final emission limits for the Warren Generating Station in Conewango Township which would protect the NAAQS for SO_2. On February 15, 1995, EPA published a final rule approving the SIP revision (60 FR 8566).

EPA received adverse comments on this rulemaking and subsequently published a notice in the **Federal Register** on April 13, 1995 formally withdrawing the final rulemaking (60 FR 18750). On September 26, 1995, Pennsylvania submitted a SIP revision to amend the revision submitted on December 9, 1993, pertaining to SO_2 nonattainment in Conewango Township. This SIP revision also addressed the SO_2 nonattainment issues related to Glade Township, Pleasant Township, and the City of Warren, Warren County, Pennsylvania. The EPA reviewed this SIP revision and requested additional modeling. Because of the interaction between the Conewango Township nonattainment area, and the Glade Township, Pleasant Township, and the City of Warren nonattainment area, PADEP has prepared a combined SIP revision addressing both areas.

B. Glade Township, Pleasant Township, City of Warren

On December 21, 1993 (58 FR 67334), EPA designated the Glade and Pleasant Townships, and the City of Warren, Pennsylvania as nonattainment for SO_2. The redesignation of these areas as nonattainment for SO_2 was based upon conservative modeling that showed modeled exceedances of the short-term SO_2 standards at the United Refining Company in Glade Township. This area is adjacent to the Conewango Township nonattainment area. PADEP granted permission to United Refining Company to model the area, which included certain high terrain ''hotspots'' in the immediate vicinity of the facility. The modeling was performed using the EPA Guideline model CTSCREEN and was completed in April 1993. The modeling showed that the high terrain ''hotspots'' were in attainment of the NAAQS for SO_2.

On September 26, 1995, Pennsylvania submitted a SIP revision to amend the revision submitted on December 9, 1993 pertaining to SO_2 nonattainment in Conewango Township. This SIP revision also addressed the SO_2 nonattainment issues related to Glade Township, Pleasant Township, and the City of Warren, Warren County, Pennsylvania. EPA reviewed this SIP revision and requested additional modeling. Because of the interaction between the Conewango Township nonattainment area, and the Glade Township, Pleasant Township, and the City of Warren nonattainment area, PADEP has prepared a combined SIP revision addressing both areas.

II. Summary of SIP Revision

On December 26, 2001, the Commonwealth of Pennsylvania submitted a formal comprehensive SIP revision for the SO_2 nonattainment area of Conewango Township, Pleasant Township, Glade Township, and the City of Warren, in Warren County, Pennsylvania, replacing all previously submitted SIP revisions for the SO_2 nonattainment areas in Warren County. This SIP revision contains enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and an air quality modeling demonstration indicating attainment of the NAAQS for SO_2 for Conewango Township, Pleasant Township, Glade Township, and the City of Warren, Warren County, in the Commonwealth of Pennsylvania. The essential compliance provisions of these permits are presented below.

1. Reliant Energy Mid Atlantic Power Holdings, Warren Generating Station Title V Operating Permit #62–00012

Reliant Energy Mid Atlantic Power Holdings LLC (Reliant), formerly GPU Generation Corporation, and formerly Penelec, owns and operates the Warren Generating Station in Warren County, Pennsylvania. The Station has been in operation since 1948 and consists of four boilers feeding two turbine generators, one gas/oil-fired combustion turbine unit, and one oil-fired emergency diesel. Sulfur dioxide emissions are controlled by fuel specification. Reliant Energy's permit for this SIP revision consists of relevant portions of a Title V operating permit pertaining to SO_2 only. The SO_2 limitations specified for Boilers No. 1, 2, 3, and 4 are: 4.000 lbs per million Btu over a 3-hour period; 3.530 lbs per million Btu over a 24-hour period, and 3.530 lbs per million Btu annual average. Compliance with these limits is determined by using a continuous emission monitor (CEM) required to be installed and operated in the single stack serving all four boilers. The SO_2 limitations for the combustion turbine and emergency diesel generator are 500 parts per million by volume (ppmv). The effective date of the permit is November 21, 2001.

Monitoring requirements stated in the permit require the permittee to install, operate, and maintain a continuous SO_2 monitoring system to monitor SO_2 emissions from the four boilers where all four boilers exhaust into a common stack containing a single CEMS in compliance with 25 PA Code Chapter 139 subchapter C (relating to requirements of continuous in-stack monitoring for stationary sources). Results of emission monitoring shall be submitted to the Department on a regular basis in compliance with 25 PA Code Chapter 139, subchapter C. The Department may use the data from the SO_2 monitoring devices to enforce the emission limitations for SO_2 defined in this permit. The Department may use data from the SO_2 monitoring systems to determine compliance with the applicable emission limitations for SO_2 established in this permit. Reporting requirements require the permittee to submit to the Department the sulfur content (% by weight) of the fuel oil and CEM data reports on a quarterly basis.

2. United Refining Company, SO_2 Permit #l 62–017E

United Refining Company owns and operates an oil refinery which processes fuels and asphalt from crude oil. This facility is located in the City of Warren, Warren County, that adjoins Conewango Township. Glade Township, Pleasant Township, and the City of Warren, PA were designated as nonattainment for SO_2 by EPA on December 21, 1993 (58 FR 67334). The United Refining Company operating permit is a Plan Approval permit and contains the SO_2 emission limitations specified in the following table:

EMISSION RATES FOR UNITED REFINING COMPANY SOURCES

Source	Emissions in pounds per hour	Emissions in tons per year
Boiler house (boiler #1, 2, and 3)	195.10	854.50
No. 4 Boiler	24.30	106.40
FCC Charge Heater	1.10	0.40
DHT1 Heater	0.10	0.40
Prefractionator Reboiler	18.00	78.80
Old Reformer Heater (East Reformer Heater)	91.30	399.90
Crude Heater (Wheco)	207.70	909.70
Vacuum Heater	0.80	3.50
Pretreater Heater	28.00	122.60
New Reformer Heater (West Reformer Heater)	2.20	9.60
Sat Gas Reboiler	0.40	1.80
Fluid Catalytic Cracking Unit (FCC Regenerator)	285.00	1248.30
Combo Flare	0.40	1.80
FCC Flare	0.10	0.40
No. 5 Boiler	1.20	5.30
Sat Gas KVG Compressor Engine	0.10	0.40
T–241 Heater (Volcanic Heater)	0.30	1.30
Distillate Hydrotreater Heater (DHT2)	33.40	146.30
Sulfur Recovery Unit 2 (SRU2) Incinerator	12.00	52.60
SRU2 Hot Oil Heater	0.10	0.40
Old FCC Unit (Only to be used when new FCC Charge Heater is not in use).		
West FCC KVG Compressor Engine (Standby basis only).		
Middle FCC KVG Compressor Engine	0.14	0.60
East FCC KVG Compressor	0.14	0.60
VCU Unit	0.81	0.76
Total Allowable	902.69	3946.36

Monitoring and reporting requirements require the sources listed in the table above (except the SRU2 incinerator, and the FCC Regenerator) to monitor the hydrogen sulfide (H_2S) concentration in the refinery fuel for the source. The H_2S monitors for these sources shall be installed, calibrated, maintained, and operated by the owner or operator of the facility in compliance with the requirements of the Department Continuous Emission Monitor (CEM) Manual.

The SRU2 Incinerator and the FCC Regenerator shall monitor SO_2 emissions from the Sulfur Recovery Unit (SRU2) and the Fluid Catalytic Cracking Unit respectively. The SO_2 emissions from the SRU2 shall not exceed 0.025% by volume of sulfur dioxide at 0% oxygen on a dry basis. A CEM system shall be installed and concentrations of SO_2 in the gases discharged into the atmosphere from the tail gas treating unit shall be recorded. The span of the CEM shall be set at 500 ppm. The SO_2 monitors for these sources shall be installed, calibrated, maintained, and operated by the owner or operator of the facility in compliance with the requirements of the Department CEM Manual.

This permit applies to the emissions of SO_2 only. Emissions of other pollutants, including criteria pollutants, shall be governed by the existing Plan Approvals, Operating Permits, and applicable requirements and other rules and regulations of the Department. This permit does not require testing and monitoring beyond what is already required under the facility's Plan Approvals, Operating Permits, and the rules and regulations of the Department.

3. Dispersion Modeling

A dispersion modeling analysis was performed to demonstrate compliance with the SO_2 NAAQS. A summary of the analysis is available in the technical support document (TSD) for this rulemaking. The final dispersion modeling, based upon the SO_2 emission limits of sources amended through operating permits in addition to a representative background, demonstrates that the maximum SO_2 impacts do not violate the SO_2 NAAQS. The modeled impacts, including background concentrations, are as follows:

PREDICTED SULFUR DIOXIDE IMPACTS

[Micrograms per cubic meter]

Period	LAPPES	NAAQS	Percent of NAAQS
3-Hour	1241.	1300	95.46
24-Hour	364.7	365	99.92
Annual	75.6	80	94.50

4. Air Quality

The modeling demonstration shows that the extreme (highest second-high 3-hour and 24-hour) concentrations approach but do not exceed the NAAQS. The maximum modeled annual concentration is about 95 percent of the NAAQS. All of these concentrations include an estimate of background SO_2. The monitored values

are summarized in the TSD for this rulemaking.

III. Evaluation of State Submittal

The CAA requires states to submit implementation plans that indicate how each state intends to attain and maintain the NAAQS. The 1977 Amendments established specific requirements for implementation plans in nonattainment areas in part D, section 171–178. With respect to SO_2, the 1990 Amendments did not change these requirements in any significant way and existing guidance remains valid. On April 16, 1992 (57 FR 13498), EPA issued ''General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' describing EPA's preliminary views on how it intends to interpret various provisions of Title I, primarily those concerning revisions required for nonattainment areas.

In order to approve the SIP revision, all of the part D requirements must be evaluated and they must ensure that: (1) The revised allowable emission limitation demonstrates attainment and maintenance of the NAAQS for SO_2 in the nonattainment area; (2) the emission limitation is clearly enforceable; and (3) that all applicable procedural and substantive requirements of 40 CFR part 51 are met. The following is an evaluation of the part D requirements as described in the ''General Preamble.''

1. Reasonably Available Control Measures (RACT)

Pennsylvania's SIP revision provides for reasonably available control technology (RACT). The SIP revision complies with the requirements to implement RACT by providing for immediate attainment of the SO_2 NAAQS through the emission limits and operating restrictions imposed on the culpable sources by their permits.

2. Reasonable Further Progress (RFP)

Reasonable further progress is achieved due to the immediate effect of the emission limits required by the plan.

3. Inventory

The modeling demonstration submitted with the SIP revision contained a detailed emissions inventory of the allowable emissions for all of the sources of SO_2 in the receptor grid. That inventory of the SO_2 emissions in the Conewango Township, Pleasant Township, Glade Township, and the City of Warren, Warren County, Pennsylvania nonattainment area was found to be acceptable.

4. Identification and Quantification

There are no new sources identified as being constructed in this area.

5. Permits for New and Modified Major Stationary Sources

Any new or modified sources constructed in the area must comply with a state submitted and federally approved New Source Review program. There are no new sources involved with this submittal. The existing Pennsylvania regulation 25 PA Code Chapter 127, '' Construction, Modification, Reactivation and Operation of Sources,'' adequately provides for review and permitting of new sources. This regulation applies statewide.

6. Other Measures

The plan provides for immediate attainment of the SO_2 NAAQS through the emission limitations, operating requirements, and compliance schedules that are set forth within the permits.

7. Compliance with section 110(a)(2)

This submission complies with section 110(a)(2). All of the applicable provisions of section 110(a)(2) are already required by the statutory provisions discussed in this plan, or have already been met by Pennsylvania's original May 31, 1972 (37 FR 10842) SIP submission to EPA.

8. Equivalent Techniques

A dispersion modeling analysis was performed to demonstrate compliance with the sulfur dioxide NAAQS. The models used in the compliance analysis included the LAPPES model, the RTDM, and the Multiple Point with Terrain (MPTER) model. Regulatory approval to use the LAPPES model for the Warren Generating Station was obtained as the result of a model performance comparison study which showed that LAPPES is superior to RTDM for determining air quality impacts from the Warren Generating Station in terrain above stack top. At the time of the model performance study, RTDM was specified by EPA's Guideline on Air Quality Models (GAQM) as the preferred model for complex terrain. The MPTER model was, at the time, the screening model preferred by GAQM for simple terrain.

The final dispersion modeling consisted of a combination of modeling results with the model selected according to the source and the relative terrain. For the Warren Station, the LAPPES model was used for receptors in all terrain above stack top. The MPTER model was used for all receptors in terrain below stack top (simple terrain). For the sources at United Refining, the RTDM model was used for all receptors above the calculated plume height. The MPTER model was used for all simple terrain. For receptors above stack top but below plume height estimates were made with both RTDM and MPTER and the higher result, on a receptor-by-receptor basis, was selected as the estimate for that receptor.

9. Contingency Measures

Section 172(c)(9) of the CAA defines contingency measures as measures in a SIP which are to be implemented if an area fails to make RFP or fails to attain the NAAQS by the applicable attainment date, and shall consist of other control measures that are not included in the control strategy. However, the General Preamble for the Implementation of Title I of the CAA Amendments of 1990, (57 FR 13498), states that SO_2 measures present special considerations because they are based upon what is necessary to attain the NAAQS. Because SO_2 control measures are well established and understood, they are far less prone to uncertainty. It would be unlikely for an area to implement the necessary emissions control yet fail to attain the SO_2 NAAQS. Therefore, for SO_2 programs, contingency measures mean that the state agency has the ability to identify sources of violations of the SO_2 NAAQS and to undertake an aggressive followup for compliance and enforcement. This SIP revision requires the collection of continuous emission monitoring (CEM) data at the Reliant Energy and United Refining facilities. Therefore, PADEP has the necessary enforcement and compliance programs, as well as the means to identify violators, thus satisfying the contingency measures requirement.

IV. Final Action

EPA is approving the Pennsylvania SIP revision for the Conewango Township, Pleasant Township, Glade Township, and the City of Warren, Warren County, Pennsylvania nonattainment area submitted on December 26, 2001. This revision contains enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and is supported by a modeling analysis which demonstrates the adequacy of emission limits in providing for the attainment and maintenance of the NAAQS for SO_2 in and around this nonattainment area. This SIP revision satisfies the procedural and substantive requirements of 40 CFR part 51, and

replaces all previously submitted SIP revisions for the SO_2 nonattainment areas in Warren County.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment given the fact that the affected sources have all agreed to the SIP revision's provisions. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 18, 2003 without further notice unless EPA receives adverse comment by February 18, 2003. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

V. Administrative Requirements

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

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

B. Submission to Congress and the Comptroller General

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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

C. Petitions for Judicial Review

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 March 18, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action approving a revision to the Commonwealth of Pennsylvania SIP for SO_2 for nonattainment areas in Warren County may not be challenged later in proceedings to enforce its requirements. (*See* section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: December 4, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 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 NN—Pennsylvania

2. Section 52.2020 is amended by adding paragraph (c)(190) to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(190) Revision to the Pennsylvania Regulations to attain and maintain National Ambient Air Quality Standards (NAAQS) for sulfur dioxide in Warren County, Pennsylvania, submitted on December 26, 2001, by the Pennsylvania Department of Environmental Protection:

(i) Incorporation by reference.

(A) Letter of December 26, 2001 from the Pennsylvania Department of Environmental Protection transmitting a revision to the State Implementation Plan (SIP) for attainment and maintenance of sulfur dioxide NAAQS for Warren County.

(B) Letter of August 20, 2002, transmitting a revised Reliant Energy Mid-Atlantic Power Holdings LLC Warren Generating Station Title V permit.

(C) The following Companies' Plan Approval and Operating Permits:

(*1*) Reliant Energy Mid-Atlantic Power Holdings LLC (Reliant) Warren Generating Station, Title V Operating Permit TV 62–00012, effective November 21, 2001.

(*2*) United Refining Company, PA 62–017E, effective June 11, 2001, except for the expiration date.

(ii) Additional Material.—Remainder of the State submittal pertaining to the revision listed in paragraph (c)(190)(i) of this section.

3. Section 52.2033 is amended by adding paragraph (b) to read as follows:

§ 52.2033 Control strategy: Sulfur oxides.

* * * * *

(b) EPA approves the attainment demonstration State Implementation Plan for the Conewango Township, Pleasant Township, Glade Township, and City of Warren area submitted by the Pennsylvania Department of Environmental Protection on December 26, 2001.

[FR Doc. 03–731 Filed 1–16–03; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 68, No. 12
Friday, January 17, 2003

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14044; Airspace Docket No. 02–AGL–22]

Proposed Establishment of Class E Airspace; Cavelier, ND

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish Class E airspace at Cavelier, ND. A Standard Instrument Approach Procedure (SIAP) has been developed for Cavelier Municipal Airport, Cavelier, ND. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action would establish a radius of controlled airspace for Cavelier Muncipal Airport.

DATES: Comments must be received on or before March 14, 2003.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2002–14044/ Airspace Docket No. 02–AGL–22, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov*. You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate in the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2002–14044/Airspace Docket No. 02–AGL–22.'' 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 in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Cavelier, ND, for Cavelier Municipal Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter than will only affect air traffic procedures and air navigation, it is certified that this proposed rule 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

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2003, and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL ND E5 Cavelier, ND [New]

Cavelier, Cavelier Municipal Airport, ND
(Lat. 48°47′02″ N., long. 97°37′55″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of the Cavelier Municipal Airport.

* * * * *

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1129 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14047; Airspace Docket No. 02–AGL–20]

Proposed Establishment of Class E Airspace; Berrien Springs, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to establish Class E airspace at Berrien Springs, MI. A Standard Instrument Approach Procedure (SIAP) has been developed for Andrews University Airpark, Berrien Springs, MI. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing this approach. This action would establish a radius of controlled airspace for Andrews University Airpark.

DATES: Comments must be received on or before March 14, 2003.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2002–14047/ Airspace Docket No. 02–AGL–20, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2002–14047/Airspace Docket No. 02–AGL–20.'' 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 in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to establish Class E airspace at Berrien Springs, MI, for Andrews University Airpark. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective

September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule 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

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002 and effective September 16, 2002, is amended as follows:

* * * * *

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

* * * * *

AGL MI E5 Berien Springs, MI [New]

Berrien Springs, Andrews University Airpark, MI
(Lat. 41°57′06″ N., long. 86°22′04″ W.)

That airspace extending upward from 700 feet above the surface within a 8.1-mile radius of Andrews University Airpark, excluding that airspace within the South Bend, IN, Benton Harbor, MI, and Dowagiac, MI, Class E airspace areas.

* * * * *

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1130 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14129; Airspace Docket No. 02–ACE–14]

Proposed Establishment of Class E Surface Area Airspace and Modification of Class E Airspace; Jefferson City, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to create a Class E surface area at Jefferson City, MO for those times when the air traffic control tower (ATCT) is closed. It also proposes to make editorial changes to the descriptions of Class E airspace designated as an extension to the Class D surface area and to Class E airspace extending upward from 700 feet above the surface of the earth at Jefferson City, MO.

DATES: Comments for inclusion in the Rules Docket must be received on or before February 28, 2003.

ADDRESSES: Send comments on this proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2002–14129/Airspace Docket No. 02–ACE–14, at the beginning of your comments. You may also submit comments on the Internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2002–14129/Airspace Docket No. 02–ACE–14.'' The postcard will be date/time stamped and returned to the commenter.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace designated as a surface area for an airport at Jefferson City, MO. Controlled airspace extending upward from the surface of the earth is

needed to contain aircraft executing instrument approach procedures. This airspace would be in effect during those times when the ATCT is closed. Weather observations would be provided by an Automated Surface Observing System (ASOS) and communications would be through the Columbia Automated Flight Service Station. The area would be depicted on appropriate aeronautical charts. The FAA is also considering changing the descriptions of Class E airspace designated as an extension to the Class D surface area and to Class E airspace extending upward from 700 feet above the surface of the earth at Jefferson City, MO. These changes would be editorial only, would not alter existing airspace dimensions and would more clearly define these airspace areas.

Class E airspace areas designated as surface areas are published in Paragraph 6002 of FAA Order 7400.9K, dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. Class E airspace areas designated as an extension to the Class D surface area and Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in Paragraphs 6004 and 6005, respectively, of the same FAA 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 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (Air).

The Proposed Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ACE MO E2 Jefferson City, MO

Jefferson City Memorial Airport, MO
(Lat. 38°35′28″ N., long. 92°09′22″ W.)
Jefferson City Memorial Airport ILS
(Lat. 38°35′47″ N., long. 92°09′55″ W.)

That airspace extending upward from the surface within a 4.1-mile radius of Jefferson City Memorial Airport and within 2.6 miles each side of the Jefferson City Memorial Airport localizer back course extending from the 4.1-mile radius of Jefferson City Memorial Airport to 5 miles northwest of the airport. This Class E airspace area is effective during the specific dates and time established in advance by a Notice of Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ACE MO E4 Jefferson City, MO

Jefferson City Memorial Airport, MO
(Lat. 38°35′28″ N., long. 92°09′22″ W.)
Jefferson City Memorial Airport ILS
(Lat. 38°35′47″ N., long. 92°09′55″ W.)

That airspace extending upward from the surface within 2.6 miles each side of the Jefferson City Memorial Airport localizer back course extending from the 4.1-mile radius of Jefferson City Memorial Airport to 5 miles northwest of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet Or More Above The Surface Of The Earth

* * * * *

ACE MO E5 Jefferson City, MO

Jefferson City Memorial Airport, MO
(Lat 38°38′28″ N., long. 92°09′22″W.)
NOAH NDB
(Lat. 38°38′14″ N., long 92°14′41″ W.)
Jefferson City Memorial Airport ILS
(Lat. 38°35′47″ N., long. 92°09′55″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Jefferson City Memorial Airport; and within 3.1 miles each side of the NOAH NDB 303° bearing extending from the 6.6-mile radius to 14.3 miles northwest of the airport; and within 4 miles each side of the Jefferson City Memorial Airport ILS localizer course extending from the 6.6-mile radius to 11.8 miles southwest of the airport.

* * * * *

Issued in Kansas City, MO, on December 31, 2002.

Paul J. Sheridan,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 03–1133 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2002–14180; Airspace Docket No. 02–AGL–17]

Proposed Modification of Class E Airspace; Saginaw, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to modify Class E airspace at Saginaw, MI, Standard Instrument Approach Procedures (SIAPS) have been developed for Jack Barstow Airport, Midland, MI. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing these approaches. This action would increase the area of the existing controlled airspace for Jack Barstow Airport.

DATES: Comments must be received on or before March 14, 2003.

ADDRESSES: Send comments on the proposal to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket Number FAA–2002–14180/ Airspace Docket No. 02–AGL–17, at the beginning of your comments. You may also submit comments on the internet at *http://dms.dot.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m.,

Monday through Friday, except Federal holidays. The Docket Office Telephone 1–800–647–5527) is on the plaza level of the Department of Transportation NASSIF Building at the above address.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Denis C. Burke, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this document must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2002–14180/Airspace Docket No. AGL–02–17.'' 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 in the Rules Docket, FAA, Great Lakes Region, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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

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

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Saginaw, MI, for Jack Barstow Airport. Controlled airspace extending upward from 700 feet or more above the surface of the earth is needed to contain aircraft executing instrument approach procedures. The area would be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9K dated August 30, 2002, and effective September 16, 2002, which is incorporated by reference in 14 CFR 71.1. The Class E designations listed in this document would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an establishment body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore this, proposed regulation—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule 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

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9K, Airspace Designations and Reporting Points, dated August 30, 2002, and effective September 16, 2002, is amended is follows:

* * * * *

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

* * * * *

AGL MI E5 Saginaw, MI [Revised]

MBS International Airport, MI
(Lat. 43°31′58″ N., long. 84°04′47″ W.
Saginaw County H.W. Browne Airport, MI
(Lat. 43°26′00″ N., long. 83°51′45″ W.)
Bay City, James Clements Municipal Airport, MI
(Lat. 43°32′49″ N., long. 83°53′44″ W.)
Midland, Jack Barstow Airport, MI
(Lat. 43°39′46″ N., long. 84°15′41″ W.)
Saint Mary's Hospital, MI
Point in Space Coordinates
(Lat. 43°24′54″ N., long. 83°56′27″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of MBS International Airport, within a 6.5-mile radius of Saginaw County H.W. Browne Airport, within a 6.4-mile radius of James Clements Municipal Airport, within a 6.4-mile radius of Jack Barstow Airport, and within a 6-mile radius of the Point in Space serving Saint Mary's Hospital.

* * * * *

Issued in Des Plaines, Illinois on January 3, 2003.

Nancy B. Shelton,

Manager, Air Traffic Division, Great Lakes Region.

[FR Doc. 03–1122 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Ch. I

Notice of Intent To Request Public Comments

AGENCY: Federal Trade Commission.

ACTION: Notice of intent to request public comments.

SUMMARY: As part of its ongoing systematic review of all Federal Trade Commission (''Commission'') rules and guides, the Commission gives notice that it intends to request public comments on the rule, guides, and statements of policy listed below during 2003. The Commission will request comments on, among other things, the economic impact of, and the continuing need for, the rule, guides, and statements of policy; possible conflict between the rule, guides, and statements of policy and state, local, or other Federal laws or regulations; and the effect on the rule, guides, and statements of policy of any technological, economic, or other industry changes. No Commission determination on the need for or the substance of the rule, guides, and statements of policy should be inferred from the intent to publish requests for comments.

FOR FURTHER INFORMATION CONTACT: Further details may be obtained from the contact person listed for the particular item.

SUPPLEMENTARY INFORMATION: The Commission intends to initiate a review of and solicit public comments on the following rule, guides, and statements of policy during 2003:

(1) Rules and Regulations under the Hobby Protection Act, 16 CFR 304. Agency Contact: Neil Blickman, Federal Trade Commission, Bureau of Consumer Protection, Division of Enforcement, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3038.

(2) Tire Advertising and labeling Guides, 16 CFR 228. Agency Contact: David Plottner, Federal Trade Commission, East Central Region, Eaton Center, Suite 200, 1111 Superior Ave., Cleveland, OH 44114, (216) 263–3409.

(3) Guides Concerning Use of Endorsements and Testimonials in Advertising, 16 CFR 255. Agency Contact: Michael Ostheimer, Federal Trade Commission, Bureau of Consumer Protection, Division of Advertising Practices, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–2699.

(4) Statements of General Policy or Interpretations under the Fair Credit Reporting Act, 16 CFR part 600. Agency Contact: Clarke Brinckerhoff, Federal Trade Commission, Bureau of Consumer Protection, Division of Financial Practices, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3208.

Authority: 15 U.S.C. 41–58.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–1076 Filed 1–16–03; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Chapter I, Subchapter E

Negotiated Rulemaking, No Child Left Behind Act of 2001, Public Law 107–110

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Extension of time for submitting nominations for tribal representatives for the No Child Left Behind Negotiated Rulemaking Committee.

SUMMARY: The Secretary of the Interior is extending the deadline from January 9, 2003, to January 24, 2003, for nominations for tribal representatives for the No Child Left Behind Negotiated Rulemaking Committee. This committee will work with the Department of the Interior to develop regulations to implement the No Child Left Behind Act.

DATES: Nominations for tribal committee members and comments on the establishment of this committee must be received by mail or fax by January 24, 2003.

ADDRESSES: Send nominations and comments to: No Child Left Behind Negotiated Rulemaking Committee Nominations, c/o Starr Penland, Office of Indian Education Programs, Bureau of Indian Affairs, U.S. Department of the Interior, MS 3512–MIB, 1849 C Street NW., Washington, DC 20240, or FAX to Starr Penland at 202–273–0030. Nominations and comments received will be available for inspection at the address listed above from 7:45 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Catherine Freels, Designated Federal Official, No Child Left Behind Negotiated Rulemaking, U.S. Department of the Interior, Office of the Regional Solicitor, Southwest Region, 505 Marquette Avenue NW., Albuquerque, New Mexico, 87102, FAX 505–248–5623.

SUPPLEMENTARY INFORMATION: On December 10, 2002, we published a notice requesting nominations for a negotiated rulemaking committee that will develop regulations to implement the No Child Left Behind Act. (The notice appeared at 67 FR 75828 and is available on our Web site at *http://www.OIEP.bia.edu* under ''Negotiated Rulemaking.'') In this notice we invited representatives of tribal schools (both contract and grant) and tribally operated schools to nominate representatives and alternates to serve on the committee. In order to have an adequate pool of nominations, we are extending the deadline for tribes and tribal organizations to submit nominations.

Because committee membership should reflect the diversity of tribal interests, tribal schools and tribally operated schools should nominate representatives who will:

1. Represent the interests of students, parents, teachers, school board members, and school administrators they are nominated to represent;

2. Reflect the spectrum of grant/tribally-controlled schools, off-reservation boarding schools, various size schools, and alternative schools in the geographic regions;

3. Communicate with the constituencies they represent; and

4. Participate fully in the committee's activities.

We will consider nominations for tribal committee representatives only if they are nominated through the process identified in this notice and in the notice that we published on December 10, 2002. We will not consider any nominations that we receive in any other manner. We will also not consider nominations for Federal representatives. Only the Secretary may nominate Federal employees to the committee.

Nominations must include the following information about each nominee for tribal committee member:

(1) The nominee's name, business address, telephone and fax number (and e-mail address, if applicable);

(2) The tribal interest(s) to be represented by the nominee (teacher, parent, school administrators, or school board member) and whether the nominee will represent the interest of grant/tribally-controlled school, off-reservation boarding school, small or large school or alternative school in a specific geographic region or other interest related to this rulemaking, as the tribe may designate; and

(3) The nominee's qualifications and experience in Indian education (including being a parent of a student attending a Bureau-funded school) to

adequately represent the interest(s) identified above.

To be considered, we must receive nominations by the close of business on January 24, 2003, at the location indicated in the **ADDRESSES** section.

Dated: January 10, 2003.

Aurene M. Martin,

Assistant Secretary—Indian Affairs.

[FR Doc. 03–1061 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–6W–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–209500–86 and REG–164464–02]

RIN 1545–BA10, 1545–BB79

Reductions of Accruals and Allocations Because of the Attainment of Any Age; Application of Nondiscrimination Cross-Testing Rules to Cash Balance Plans; Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Change of date and location for public hearing on proposed rulemaking.

SUMMARY: This document provides notice of a change of date and location for the public hearing on proposed regulations under sections 401 and 411 regarding the requirements that accruals or allocations under certain retirement plans not cease or be reduced because of the attainment of any age.

DATES: The public hearing is being held on Wednesday, April 9, 2003, at 10 a.m. Outlines of oral comment must be received by Thursday, March 13, 2003.

ADDRESSES: The public hearing is being held in the auditorium, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Send submissions to: CC:PA:RU (REG–209500–86 and REG–164464–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–209500–86 and REG–164464–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, DC. Alternatively, taxpayers may submit outlines of oral comment electronically directly to the IRS Internet site at *http://www.irs.gov/regs*.

FOR FURTHER INFORMATION: Concerning the regulations, Linda Marshall (202) 622–6090; concerning submissions, Sonya M. Cruse (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

A notice of proposed rulemaking and notice of public hearing, appearing in the **Federal Register** on Wednesday, December 11, 2002 (67 FR 76123), announced that a public hearing on proposed regulations relating to the requirements that accruals or allocations under certain retirement plans not cease or be reduced because of the attainment of any age would be held on Thursday, April 10, 2003, in room 4718, Internal Revenue Building 1111 Constitution Avenue, NW., Washington, DC. Subsequently, the date and location of the public hearing has been changed to Wednesday, April 9, 2003 in the auditorium. Outlines of oral comment must be received by Thursday, March 13, 2003.

Cynthia E. Grigsby,

Chief, Regulations Unit, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 03–1159 Filed 1–16–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC90

Special Regulations; Areas of the National Park System

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service has proposed this rule to designate areas where personal watercraft (PWC) may be used in Glen Canyon National Recreation Area, Utah and Arizona. This rule implements the provisions of the National Park Service (NPS) general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. The NPS Management Policies 2001 require individual parks to determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, overall management objectives, and consistent with the criteria of the NPS for managing visitor use.

DATES: Comments must be received by March 18, 2003.

ADDRESSES: Comments should be sent to, Glen Canyon National Recreation Area, PWC Rule-Making, Box 1507, Page, Arizona 86040. Email: *glca_pwc@nps.gov.* FAX: (928) 608–6259.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Regulations Program Manager, National Park Service, 1849 C Street, NW, Room 7248, Washington, DC 20240. Phone: (202) 208–4206. Email: *Kym_Hall@nps.gov.* Fax: (202) 219–8835.

SUPPLEMENTARY INFORMATION:

Additional Alternatives

The information contained in this proposed rule supports implementation of the preferred alternative in the Draft Environmental Impact Statement for Personal Watercraft Rule-Making published September 13, 2002. The public should be aware that two other alternatives were presented in the Draft EIS, including a no-PWC alternative, and those alternatives should also be reviewed and considered when making comments on this proposed rule.

Purposes of the Recreation Area

National Park System units are established by Congress, and the enabling legislation usually identifies specific purposes for the unit. A unit's purpose, as established by Congress, is the foundation on which management decisions are based. The purpose and significance of Glen Canyon National Recreation Area and its broad mission goals are derived from its enabling legislation and are summarized in the national recreation area's General Management Plan (NPS 1979) and Strategic Plan (NPS 2000–2005).

Glen Canyon National Recreation Area was established in 1972 (Public Law 92–593) ''to provide for public outdoor recreation use and enjoyment of Lake Powell and lands adjacent thereto * * * , and to preserve scenic, scientific, and historic features contributing to public enjoyment of the area (16 U.S.C. 460dd).'' The recreation area's primary management objective, as established in the General Management Plan (NPS 1979), is ''to manage the recreation area so that it provides maximal recreational enjoyment to the American public and their guests.''

The national recreation area's enabling legislation states ''The Secretary shall administer, protect, and develop the recreation area in accordance with the provisions of [the Organic Act] * * * and with any other statutory authority available to him for the conservation and management of natural resources (16 U.S.C. 460dd–3). This act also specifies that ''nothing * * * shall affect or interfere with the authority of the Secretary * * * to operate Glen Canyon dam and

reservoir'' for the purposes of the Colorado River Storage Project Act, administered by the Bureau of Reclamation.

As stated in the General Management Plan and Strategic Plan, Glen Canyon National Recreation Area is significant because it offers a tremendous diversity of both water-based and land-based recreational opportunities. It contains Lake Powell, the second largest man-made lake in North America, which provides both a unique opportunity for recreation in a natural environment and a transportation corridor to remote backcountry areas of Glen Canyon National Recreation Area. It is in the heart of the Colorado Plateau region, which offers a unique combination of water and desert environments. It offers a natural diversity of rugged water and wind carved canyons, buttes, mesas, and other outstanding physiographic features. The climate and physical features have created local environments favorable to the preservation of scientifically important objects, sites, populations, habitats, or communities that are significant in and of themselves or provide opportunities to add to our understanding of past or ongoing events. It possesses evidence of 10,000 years of human occupation and use of resources, which provides a continuing story of the prehistoric, historic, and present-day affiliation of humans and their environments. It constitutes a significant part of the outstanding public lands of the Colorado Plateau.

The recreation area offers a tremendous diversity of land and water-based recreational opportunities. The area's major recreational resource is Lake Powell, a 186-mile-long reservoir at full pool that was created when the Colorado River was dammed. Boating is very popular on the lake, including the use of PWC, houseboats, powerboats, fishing boats, tour boats, canoes, kayaks, and sailboats. Other popular activities include fishing, camping, water skiing, hiking, photography, and driving for pleasure.

Description of the Recreation Area

Glen Canyon National Recreation Area encompasses 1,254,306 acres of land and water in northern Arizona and southeastern Utah. Its southern boundary is contiguous with the Navajo Nation. Other boundaries adjoin Grand Canyon National Park, Capitol Reef National Park, Canyonlands National Park, and Rainbow Bridge National Monument, all managed by the National Park Service. The recreation area also adjoins areas administered by the Bureau of Land Management that include Grand Staircase—Escalante National Monument, Vermillion Cliffs National Monument, and Paria Canyon Wilderness. Lake Powell is the predominant physical feature and at full pool (3700 feet elevation), occupies about 163,000 surface acres, storing approximately 27 million acre feet of water, and providing about 1,960 miles of shoreline. More than 2 million people visit Glen Canyon National Recreation Area each year.

Motorized Watercraft

Motorboats and other motorized watercraft such as houseboats, ski boats, fishing boats, and powerboats have been used in Glen Canyon National Recreation Area since its establishment in 1972. PWC use has emerged at the recreation area with the introduction of this type of vessel in the 1980s. Prior to 2000, PWC use was allowed throughout Glen Canyon National Recreation Area except in the waters of the Colorado River between the Glen Canyon Dam and the downstream river boundary of Glen Canyon National Recreation Area where it adjoins Grand Canyon National Park near Lees Ferry. The waters of the recreation area above the dam where PWC use could occur, as identified in the superintendent's compendium, are within the scope of this proposed rule.

The 15-mile corridor of the Colorado River below Glen Canyon Dam was closed to PWC use in the superintendent's compendium for the protection of environmental values and the avoidance of conflict among traditional visitor use activities. This stretch of river is a nationally significant resource known for its scenery and ''blue-ribbon'' trout fishery. The historical recreational uses include fly-fishing and rafting trips. In March 2000, provisions of the National Park Service PWC rule closed the waters below the dam to PWC use. These waters continue to be an inappropriate area for PWC use and are not considered within the environmental impact statement (NPS, September 2002) or this proposed rule.

Glen Canyon National Recreation Area is located within the states of Arizona and Utah. Both states enforce their laws on Lake Powell within their respective state jurisdictions. The National Park Service manages these regulations in concert with the federal boating regulations that are addressed within Title 36 of the Code of Federal Regulations, and the United States Coast Guard Regulations pursuant to Title 36.

Resource Impact Topics

The following summarizes the predominant natural resources, cultural resources, and public use concerns and issues associated with PWC use at Glen Canyon National Recreation Area. Each of these issues is discussed in greater detail in the environmental impact statement.

Wildlife and Wildlife Habitat

Shoreline areas that typically are exposed to PWC uses provide limited habitats for the large, highly mobile mammals of the recreation area. Although areas are typically unvegetated and steep, shoreline areas may occasionally be briefly occupied by several species of mammals while searching for food or water or while moving through the area. These species include desert bighorn sheep, mule deer, antelope, feral horse, bobcat, mountain lion, gray fox, badger, kit fox, and coyote. However, they spend most of the time in adjacent upland areas and are not affected by motorized watercraft, including PWC.

Vegetation and corresponding habitat conditions are different in the tributaries and upper river reaches of the recreation area where water level fluctuations generally follow normal seasonal patterns. Such reaches provide riparian vegetation complexes that support different wildlife species assemblages than those encountered along main lake shorelines. Therefore, management actions should be consistent with protecting these resources.

Shore birds, waterfowl, and other water-associated bird species frequently use Lake Powell and its surrounding shoreline during migration for resting, security, and foraging purposes. Groups commonly observed on the lake and near shoreline areas include several species of grebes, cormorants, herons, egrets, coots, and ducks. Waterfowl, shorebirds, wading birds, and other water-associated bird species tend to concentrate in highest number and greatest diversity at Lake Powell in the late fall, winter, and the early spring months during peak migration periods. PWC use is minimal or not existent during this time of year; therefore, there is not a significant impact upon bird species associated with PWC operation.

The recreation area currently supports an assemblage of fish species that includes those adapted to either lake (lacustrine) or flowing-water (riverine) environments. Most of the lake-adapted species have been introduced intentionally or unintentionally by man through past fish-stocking programs or bait release. These species are more abundant because of the larger abundance of suitable aquatic habitat.

The flowing-water or riverine fish species tend to be native species that are

restricted to the flowing portions of the main tributary streams and rivers that flow into the lake. These species are relatively less abundant and more restricted in distribution than the lake-associated fish species.

The creation of Lake Powell changed the riverine habitat formerly found on this stretch of the Colorado River to such an extent that native fish species have been virtually eliminated from the resulting lake environment. As a result of habitat modification and competition by introduced species, some native species are now classified as endangered or threatened.

The large seasonal and annual variations in water surface elevation resulting from reservoir operations and management impose substantial environmental constraints on the types of habitats that can develop and persist at near-shore locations. Wildlife species typically associated with the water fluctuation zone are highly adapted to using food, cover, and shelter conditions that may develop and disappear quickly. In many main lake locations, especially where the inundation frequency is high and prolonged, shoreline and near-shore areas consist primarily of unvegetated or sparsely vegetated rock, sand, cobbles, and boulders.

Wetlands and riparian areas are typically considered to be important wildlife concentration areas for several reasons. These include the availability of good foraging conditions resulting from the high degree of vegetation, water interfaces and interspersion (or edge), and structural diversity typically associated with vegetation conditions in such areas. General wildlife habitat values and uses generally increase as wetland and riparian area size increases. Because of the physical shoreline conditions and the operational characteristics of the reservoir, wetland sites are limited in number and small in size. Wetlands are typically associated with the upstream reaches of tributary or secondary side canyons where water levels fluctuate less.

Riparian areas are typically found along the shorelines of the four major rivers flowing into the reservoir. However, even in these locations, riparian corridors are generally scarce in number and small in size.

The perennial tributary rivers flowing into Lake Powell represent examples of the river systems and aquatic environments that existed prior to lake impoundment. These areas are of particular scientific and resource preservation values because of their general scarcity and because they preserve populations and community relationships of previous riverine ecosystem conditions. Relict native fish species still survive within the rivers in limited numbers. Major examples include reaches of the Colorado, San Juan, Escalante, and Dirty Devil Rivers. Therefore, management actions should be consistent with the protection of these wildlife habitats.

Threatened and Endangered Species

In accordance with threatened or endangered species consultation and coordination activities, the U.S. Fish and Wildlife Service identified 13 listed, 1 proposed, and 1 candidate species for portions of Coconino County, Arizona and Kane and San Juan Counties, Utah (U.S. Fish and Wildlife Service letter dated May 9, 2002). Of these species identified, Glen Canyon NRA resource specialists confirm that habitat for 12 federally listed endangered, threatened and candidate species may occur in the lake or near its shoreline. The area addressed for this resource characterization includes Lake Powell up to the 3700-foot water surface elevation, the shoreline zone, and uplands within 500 feet of Lake Powell's 3700-foot water surface elevation.

Razorback sucker (Xyrauchen texanus) is native to the Colorado River and once occupied the entire range of the river basin. San Juan, Dirty Devil and Colorado River inflow areas continue to produce some razorback suckers. Eleven adult razorbacks were caught at the San Juan Inflow (USGS *et al.* open file report). Adult razorback suckers are considered to be the products of native fish recovery programs conducted further upstream of Glen Canyon National Recreation Area. Fish tracking studies conducted in Lake Powell from 1995 to 1997 indicated this species primarily used vegetated habitats less than 1.5 feet deep in side canyons and backwaters covering sandy or cobble bottoms and open waters in upper portions of the river inlets. These areas represent less than 1 percent of the habitat in Lake Powell (Karp and Mueller, 2002).

Colorado pikeminnow (Ptychocheilus lucius) is a native migratory species of the Colorado River that once was present basin wide. It is no longer present in the lower basin and is considered rare in the upper basin. It is only found upstream of Glen Canyon Dam. Juvenile pikeminnow have been found in off-channel and backwater habitats adjacent to lower reaches of the river inflows into Lake Powell (UDWR, M. Gustaveson, pers. com. 2002). Some have been found in the San Juan River near Mexican Hat (National Park Service, 1986). The Colorado pikeminnow has not been reported captured in the lake since 1977. Limiting factors include loss of habitat.

Humpback chub (Gila cypha) is a native migratory species that was once more abundant throughout the Colorado River. The species has been found to exist near the confluence of the Colorado and Little Colorado Rivers within Grand Canyon National Park. The humpback chub has not been captured in Lake Powell since the early 1970s. It is assumed to no longer be present in the lake. Habitat preferences include river channels with deep fast-moving water and large boulders that are often conditions created in river channels bounded by steep cliffs. Adults typically live in eddy currents of whitewater canyons. Threats to this species include habitat modification and fluctuating water discharges that eliminate preferred conditions.

Bonytail (Gia elegans) is a native species that has a historic range that includes the Colorado River and its main tributaries. The bonytail is no longer present in the upper basin and is believed to be the most endangered of the four fish species. Prior to 1996 less than 10 bonytails were captured in Lake Powell. No individual fish have been observed during annual gill-net surveys in the last 20 years. Some populations may be present in Utah but their relative abundance is unknown. The species prefers pools and eddies of warm, often heavily silted, swift moving rivers.

Mexican Spotted Owl (Strix occidentalis lucidia) utilizes a variety of habitats including old growth forests, mixed conifer, Ponderosa pine, deciduous riparian, and steep canyons with rocky cliffs. Timber harvesting is the main threat to the Mexican spotted owl. Small populations roost in abandoned nests, tree cavities, or caves along canyon walls. Steep canyon habitats and drainages adjacent to Lake Powell and adjoining rivers may occasionally be utilized by this bird species. A juvenile was observed in Cataract Canyon several years ago but none have been sighted in Glen Canyon National Recreation Area since. There are no potential areas of concern located within the analysis area. Known occupied territories are located more than 4 miles from the Lake Powell shoreline (Glen Canyon NRA, Spence pers. com. 2002).

Southwestern Willow Flycatcher (Empidonax traillii extimus) is associated with low-elevation dense willow, cottonwood and saltcedar communities along streams and rivers. This species has been sighted about 30 miles from Lake Powell up the Escalante

River and the San Juan River near Clay Hills Crossing but there is no confirmed nesting or breeding habitat present in the national recreation area. (Glen Canyon NRA, Henderson and Spence pers. com. 2002). In Arizona more than 110 pairs occupy 160 territories including breeding territory along the Colorado River. Smaller populations are known to exist in Utah. Breeding habitat is present along the Colorado River and some lake shorelines at low elevations in areas of dense willow, cottonwood and saltcedar or other woodlands along streams and rivers. Destruction and loss of native riparian habitat combined with natural predation and brown-headed cowbird parasitism have reduced species populations.

California Condor (Gymnogyps californianus) was reintroduced into the wild by the U.S. Fish and Wildlife Service in Arizona in 1996. There is some evidence that the condor was present in Utah at one time and its range may extend into Utah. These birds were released on the Vermilion Cliffs in Coconino County near Page, Arizona approximately 20 miles from the Utah border. Roosting habitat includes cliffs, tall evergreens and snags. Their population decline is thought to be related to ingestion of lead or cyanide poisoning of dead carcasses. Possible shootings, removal from wild of eggs, young, and adults for captive breeding, and unknown causes may also be a contributor. This species is known to forage for food more than 100 miles from their home territory. No breeding or nesting habitat is present in the recreation area, but individual birds may infrequently move across the area. A few individuals have been observed at Lake Powell within the last five years (Glen Canyon NRA, Spence pers. com. 2002).

Bald Eagle (Haliaeetus leucocephalus) habitat is present along the larger rivers in the southern part of Utah. The bald eagle winters in small numbers throughout the Lake Powell area and is observed in areas of the San Juan River and around Bullfrog (Glen Canyon National Recreation Area, 1986). Of the three nesting sites located in southeastern Utah, two nests are located along the Colorado River corridor. No nest sites have been observed or recorded along Lake Powell's shorelines. Potentially favorable bald eagle roosting sites along the rivers and shorelines of reservoirs such as Lake Powell are monitored for winter and breeding season uses (Spence et al 2002). There are no known consistently used winter roosting locations in the recreation area. Bald eagles have been observed feeding at Antelope Island and other portions of Lake Powell during the winter months (National Park Service 2002).

Western Yellow-billed Cuckoo (Coccyzus americanus) populations have declined throughout its range in the western states due to habitat loss. It is a candidate species currently under study by the U.S. Fish and Wildlife. Habitat for this neo-tropical species consists of cottonwood-willow riparian forests. Its presence and breeding habitat is well documented in Arizona. The bird has been sighted in Utah but its presence is not well documented. Western yellow-billed cuckoo have been observed on the Colorado River near Lees Ferry below the Glen Canyon Dam and at Clay Hills Crossing on the San Juan River. This bird species has not been observed at Lake Powell (Spence 2002).

American Peregrine Falcon (Falco peregrinus anatum) was removed from the federal list of endangered and threatened species on August 25, 1999 (64 **Federal Register** 46542). It is still listed as an Arizona special status species. The peregrine falcon nests on cliffs next to riparian and wetland habitats. It is occasionally observed on cliff faces in the recreation area. Foraging activity does occur within close proximity to the lake shoreline. Threats to this species include loss of habitat and environmental contaminants. There are over 80 known peregrine falcon nesting sites in the recreation area. These nest sites are located along cliffs at higher elevations on the canyon walls far above the water surface of the lake (Glen Canyon NRA, Spence pers. com.2002).

Navajo Sedge (Carex specuicola), grows in small pockets of sandy to silty moist soil in cool and shady seeps or spring alcoves in the San Juan River Canyon at elevations ranging from 4301 to 6004 feet. No designated critical habitat for the Navajo sedge is located in Glen Canyon National Recreation Area (Glen Canyon NRA, Henderson, pers. com., 2002).

Ute Ladies-tresses (Spiranthes diluvialis) is a small native orchid that is associated with wet meadows that may occur along streams, at spring or seep discharges and rarely along lakeshores at elevations ranging from about 4300 to 7000 feet. It typically flowers between late July through August, which is the best time to determine its presence. This species is threatened by loss of habitat, agriculture, fluctuating water levels and urban stream channelization. This species is known to occur in Garfield County, and other counties in Utah (FWS letter June 14, 2001) but it has not been observed or identified on the shoreline or riparian areas along either Lake Powell or any of the river corridors joining the lake (Glen Canyon NRA, Spence, pers. com. 2002).

Under current use conditions, there have been no documented incident reports of known conflicts of federally endangered fish or other species with watercraft or PWC users (Glen Canyon NRA, Spence, pers. com. 2002). Current motorized watercraft use of any type is not considered to affect any endangered fish species in Lake Powell (UDWR, M. Gustaveson, pers. com. 2002).

Shoreline Vegetation

More than 730 species of plants have been identified in the recreation area. Shoreline vegetation is considered to include several types of vegetation communities, including submerged aquatic beds, wetlands, riparian areas or zones, beach dunes, and upland vegetation that grows near the shoreline. The EIS defines the shoreline zone as areas within 500 horizontal feet from the lake's waterline at full pool. The area physically included in this zone will change as reservoir water levels change. The waterline can fluctuate as much as 50 feet vertically and 1,000 feet horizontally during a calendar year.

Areas of submerged aquatic vegetation are generally scarce and poorly developed at the recreation area. Reasons for this condition include unstable water levels associated with reservoir operations for water supply, power generation, and flood storage; poor plant rooting conditions along the lake's shorelines; very steep shoreline slopes; limited availability of low-gradient shorelines; and lack of suitable bottom conditions. Shoreline vegetation includes upland, beach dune, wetland, hanging-garden, and riparian locations near the land-water interface. Shoreline vegetation occurs along the main reservoir shoreline and along the tributary streams and rivers that flow into the reservoir. The same water fluctuation and difficult rooting conditions combined with the desert climate severely restrict development of shoreline and riparian vegetation. Consequently, most shorelines are bare rock, unvegetated sand, gravel, or cobbles.

PWC use has limited impact upon the recreation area shoreline vegetation. The areas where disturbance could occur should be considered and consistent within the protection of these resources.

Water Quality

During the summer of 2001, the Glen Canyon National Recreation Area conducted a water quality testing to

determine the presence of hydrocarbons in Lake Powell. Samples were taken over a 4-day period from June 29th through July 2nd. This period was selected because it represents a high-use period by watercraft, including PWC.

The persistence of gasoline and oil in lake waters depends on the temperature of the water and the amount of mixing. Fuel components volatilize (evaporate) more quickly at warmer temperatures. High rates of mixing increase exposure to the air and accelerate volatilization. The greatest amount of boat use on Lake Powell generally occurs during the hot summer months. The lake's water temperature reaches up to 80 degrees Fahrenheit during the summer and high rates of mixing is proportional to the high rate of visitation on the lake. Therefore, gasoline volatilizes quickly on Lake Powell.

Emissions of gasoline and exhaust associated with PWC operation were compared to existing water quality conditions and to state water quality standards to determine their effects. The method used to evaluate the water quality used basic steps to determine the degree of impact a waterbody would experience based on the exceedence of water quality standards/toxicity benchmarks for PWC and outboard engine-related contaminants.

Analyses were performed by the State of Utah, The Woods Hole Group, Inc., and the U.S. Geologic Survey research laboratories. Samples were tested for benzene, toluene, ethyl benzene, and xylenes; five gasoline additives, including methyl tertiary butyl ether (MTBE), ethyl tertiary butyl ether (ETBE), tertiary amyl methyl ether (TAME), diisopropyl ether (DIPE), and tertiary butyl alcohol (TBA); and 24 polycyclic aromatic hydrocarbon (PAH) compounds. These test results are included within the environmental impact statement.

The maximum concentrations detected from the most heavily used test site, Bullfrog Marina, were below the treated drinking water standard or advisory level for all three compounds (benzene, benzo(a)pyrene, methyl teriary-butyl ether) for which a standard exists as determined by the U.S. Environmental Protection Agency. Based on this information the impacts associated with PWC on water quality were found to be not significant.

Based on the estimated Glen Canyon National Recreation Area boating hour statistics for 2001, PWC represented 17 percent of the total boating hours on Lake Powell. Of the PWC using Lake Powell; 87 percent were carbureted, 2-cycle engines, 6.5 percent were direct injection, 2-cycle engines, and 6.5 percent were 4-cycle engines.

The remaining 83 percent of boating hours on the lake for 2001 involved all other watercraft; house boats, powerboats, and fishing boats. Of the other vessels using Lake Powell, 78.6 percent were 4-cycle engines, 12.6 percent were carbureted, 2-cycle engines, 6.4 percent were fuel-injected 2-cycle engines, and 2.4 percent were diesel or sail powered vessels.

Of all the vessels using Lake Powell in 2001, 75 percent of the motorized vessels on Lake Powell were 4-cycle engines or fuel-injected, 2-cycle engines. It is estimated that these engines have emission rates that are 75 to 90 percent lower and thus emit about one-tenth the pollutants of carbureted, 2-cycle engines.

On October 4, 1996, the U.S. Environmental Protection Agency (EPA) issued a final rule to regulate emissions for new spark-ignition gasoline marine engines, including outboard engines, PWC engines, and jet boat engines. The rulemaking was conducted under Section 213 of the Clean Air Act. The EPA had determined that these engines contributed to ozone air pollution, and that the technology was available to manufacture cleaner operating engines. The rule stipulates that by the 2006 model year, the entire fleet of marine engines produced by each manufacturer, including those for PWC, must have a 75 percent reduction in hydrocarbon emissions compared to the average for the fleet produced by that manufacturer prior to the rule. It also established intermediate target dates for emission reductions.

In contrast to outboard engines that are used on boats, the average useful ''life'' of a 2-cycle PWC is 9 years (California Air Resources Board 1998b). As a result, by around 2015, most of the PWC used on Lake Powell will have low-emission engines. By 2005, the emissions from the fleet of watercraft using Lake Powell would be reduced by 25 percent compared to emissions in 1996; and in 2012, the emissions from the fleet of watercraft using the lake would be reduced by 50 percent compared to emissions in 1996. Therefore, water quality conditions associated with the use of PWC and other watercraft will improve, regardless of the management actions identified within this proposed rule.

Air Quality

Glen Canyon NRA is designated as a class II air quality area under the Prevention of Significant Deterioration provisions of the Clean Air Act and meets or exceeds all EPA standards for ambient air quality. The air quality of the Glen Canyon region is in attainment of the national ambient air quality standards. The sources of air pollutants come primarily from outside the park and can concentrate, especially during periods of atmospheric inversion, in the park, causing visible smog on occasion. There are sources of air pollutants that are generated within the park, including pollutants contained in the exhaust of motorized vessels. The combustion process of motorized vessels results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_X), particulate matter (PM), and carbon monoxide (CO) (EPA).

Although there is existing data showing that carbureted 2-cycle engines emit pollutants into the air, there is little data that shows specifically what impacts PWC emissions have on air quality. On Lake Powell, the current impacts from carbureted 2-cycle engines, including PWC, occur intermittently in high-use areas such as marinas, primarily between May and October. These impacts include visible smoke and the smell of exhaust and gasoline fumes. These impacts are considered moderate and have not been shown to exceed the national ambient air quality standards under the Clean Air Act or the EPA air quality index. The PWC industry reports that the highest volume selling models today are the cleaner-burning PWC (PWIA 2002, www.pwia.org); therefore, there is expected to be some beneficial impacts through 2012 as older models are replaced by the newer models. Once the proposed 2006 requirement is in place, air quality is expected to improve in the high use areas where carbureted two-cycle engines are currently heavily used. The EPA expects a 50% reduction in hydrocarbon emissions from marine engines from present levels by 2020, and a 75% reduction by 2025 (EPA 1996).

Soundscapes

Most visitors to Lake Powell have expectations of some noise from motorized vessels. Noise is generally considered appropriate if it is generated from activities consistent with park purposes and at levels consistent with those purposes. Engines are a primary source of human-caused sound at the recreation area. These include engines on PWC and other vessels, cars and trucks, off-road vehicles, aircraft, generators, and other miscellaneous sounds from electronic devices and humans. However, the opportunity to experience the natural soundscape is an important part of a positive park

experience for some visitors. During the high use season, the sound of all boats can be continuous in the high use zones, marinas and main channel. Boat noise is noticeable in the Natural and Cultural zones during periods of high boating activity, but there are extended periods when boating noise is not noticeable.

Noise from watercraft operating in excess of the noise decibel requirements could negatively impact visitors. Noise abatement is regulated by the NPS within Glen Canyon NRA and other units of the National Park System (36 CFR, part 3.7). ''Operating a vessel in or upon inland waters so as to exceed a noise level of 82 decibels measured at a distance of 82 feet (25 meters) from the vessel is prohibited.'' The NPS is proposing to amend 36 CFR 3.7 to a different SAE testing standard in order to make enforcement of our existing decibel level easier.

Boating noise is also regulated by the States of Utah and Arizona. The respective states have developed standards relative to boat noise and these standards are enforced by state law enforcement officers on Lake Powell. Glen Canyon is working with the States of Arizona and Utah to address inconsistencies in boating laws, including noise regulations.

The nature of the noise generated from PWC may be more disturbing than other watercraft operating at similar decibels due to rapid changes in acceleration and direction typical of the operation of PWC. Although within the federal and state noise standards described previously, the changes in pitch can be annoying to some visitors. Where legislation allows for specific noise-making activities, such as motorized boating in parks, the soundscape management goal is to reduce the noise to the level consistent with the best technology available and consistent with park purposes and operations in order to mitigate the noise impact.

Manufacturers of PWC are aware of the concerns of the public related to the noise of their operation and have taken steps to reduce the noise by using more rubber in construction and eliminating vibrations. It is anticipated the PWC manufacturers will continue to reduce the noise associated with PWC. As the existing fleet is converted to the newer engine technology by the year 2012, it is expected noise will also be significantly reduced. Noise levels generated by watercraft on Lake Powell, including PWC, is consistent with park purposes and within the standards established by NPS. No additional restrictions are proposed.

Visitor Use, Conflicts, and Safety

Boat days were used as a basic unit of analyzing the intensity and impact of watercraft use upon Lake Powell. A 'boating day' equals one watercraft on the lake sometime during a 24-hour period. Total annual boating days on Lake Powell were estimated by multiplying the total number of boats estimated to enter the recreation area by the average length of time boats spend on the lake during a visit. The average amount of time each watercraft spent on the lake was estimated by a University of Minnesota 2000 visitor survey, in which watercraft users were asked how many nights they spent on the lake during their stay (Visitor Use at Glen Canyon National Recreation Area, Comparison of Personal Watercraft Users and Nonusers, James 1999–2001).

The total number of boats was estimated using boat rental, boat slip, and boat buoy data obtained from ARAMARK (the national recreation area concession operator), and from the recreation area's monthly entry and trailer counts gathered at the Wahweap, Lone Rock, Antelope Point, Bullfrog, Halls Crossing, and Hite launch areas.

Total annual Glen Canyon National Recreation Area watercraft use in 2001 was 823,148 boating days. This was the only year that all factors necessary for calculating boating days were recorded and available for analysis. There are several important characteristics of this use. PWC use accounted for 27 percent of the boating days estimated in 2001.

The visitor survey identified that, typically, many watercraft are used by a large group of friends or family, and groups often include more than one boat type. Generally one boat type in the group is the primary watercraft. The most common primary watercraft are powerboats. The second most common primary watercraft are houseboats.

It is common for houseboat and powerboat groups on Lake Powell to bring PWC on their trips. Of all groups traveling on Lake Powell with houseboats, 39 percent also included at least one PWC. Twenty-five percent of all powerboat groups included at least one PWC.

Half of all respondents to the summer survey stated that they operated a PWC during their visit. Visitors have and use multiple types of watercraft, including PWC, during a recreation trip, and PWC use is not restricted to a specific user or age group.

Watercraft use peaks in the months of June through September. About 79.5 percent of the total boating days in 2001 occurred during this peak use period. PWC use accounted for 30 percent of the boating days. Because PWC sales have actually decreased over the last several years, based on information provided by the Personal Watercraft Industry Association, the NPS has assumed that PWC use levels will likely remain constant over the next several years. Should PWC sales increase in the near future, use numbers could increase as well.

Over the course of the year, PWC use will vary in proportion to other watercraft. Watercraft use of the lake originates primarily from the four marinas with launch ramps at Wahweap, Bullfrog, Halls Crossing and Hite. From marinas, watercraft users distribute themselves on the lake to popular destinations. Some visitors remain in the vicinity of the marina. Because of the distribution of marinas with fueling stations along the length of the lake, houseboats and powerboats have access to and may travel to any point on the lake.

PWC use correlates with other watercraft use in remote areas of the lake because of the association of PWC with houseboat and powerboat groups. However, PWC operators were more likely to recreate in the Wahweap, Bullfrog, and Halls Crossing portal areas than other areas based on the fuel holding capacity of these vessels.

Boating use originates from outside of Glen Canyon on the San Juan and Colorado Rivers. The Bureau of Land Management issues permits for trips that originate typically from BLM's Sand Island Recreation Site (river mile 0) or Mexican Hat (river mile 27) on the San Juan River and terminate at Clay Hills Crossing (river mile 84) within Glen Canyon (personal communications, Berkenfield, BLM). Canyonlands National Park issues permits for trips that originate within Canyonlands on the Colorado River and terminate within Glen Canyon at Hite (personal communications, Henderson, NPS). PWC are prohibited within Canyonlands.

PWC users and other watercraft users come to Glen Canyon with motives for and expectations about their visit. These reflect the visitor's desired experiences and indicate the basis for a satisfactory visit.

Respondents to the University of Minnesota summer 2000 watercraft survey (James, 2001) described their motives for visiting the recreation area. Little difference exists between the desired experiences of PWC and other watercraft users. Among the most important were ''to enjoy the scenery of Lake Powell,'' ''to do something with my family,'' ''to get away from the usual demands of life,'' ''to be with members

of my group,'' ''to be with people who enjoy the same things I do,'' and ''to experience nature.''

Most desired experiences were reported by PWC and other watercraft users as being attained, indicating that, overall, visitors were very satisfied with their visit to Glen Canyon National Recreation Area. Among the experiences receiving only a moderate level of attainment were, ''to experience solitude,'' ''to be away from other people,'' and ''to be on my own'' indicating that overall use levels on the lake tends to be adequate for most visitors. There were no significant differences in experience attainment found between PWC operators and other watercraft operators.

Non-safety situations that were rated as most problematic included ''litter on beaches and shoreline,'' ''people being inconsiderate,'' ''too many PWC on the lake,'' ''finding a beach campsite,'' and ''finding an unoccupied site.'' The study noted that although these were the most problematic, the mean rating on a scale of 1 (No problem) to 5 (very serious problem) was 2.1 or lower (slight to no problem). There was no difference between PWC and other watercraft users in their perception of ''conflicts with PWC operators on the lake.'' The mean response was 1.7 (no problem to slight problem).

The relatively low perception of conflict with PWC was reflected in attitudes towards potential management actions. Respondents generally opposed management actions that would prohibit, limit, or zone watercraft uses. Respondents evaluated potential actions on a scale of 1 (strongly oppose) to 5 (strongly support) with a rating of 3 meaning neither support nor opposition. Both PWC and other vessel users expressed general opposition to ''zoning the waters to provide specific uses at specific places,'' ''limit number of PWC allowed on the lake at one time,'' and ''prohibit PWC on the lake.'' To manage conditions on the lake, watercraft users were generally supportive of actions that would ''provide more information about appropriate behavior,'' ''aggressively enforce safety rules and regulations on the lake,'' and ''use management control to prevent damage to the environment by visitors.''

The overall conclusion was that the differences in perceptions of experience and conflict between PWC and other watercraft users were very small. There appears to be little conflict between groups and high satisfaction during the visit.

The number of overall boating accidents on the lake changed little from 1999 to 2001. There were 811 reported accidents over the three-year period from 1999–2001. Other vessels accounted for approximately 86 percent and PWC accounted for 14 percent of accidents respectively during this 3-year period. When PWC were involved in accidents there was a higher percentage involved in accidents with personal injury (14.7 percent; 3-year average) as compared to property damage only (4.5 percent-3-year average).

The results of the summer 2000 visitor survey addressed visitors' perceptions of safety and identification of safety problems. Overall, respondents did not experience many problematic situations during their visit.

Cultural Resources

The recreation area contains evidence of human occupation from over 10,000 years ago. Cultural resources within the recreation area include archeological resources, cultural landscapes, ethnographic resources and historic resources, including features listed on the National Register of Historic Places. No museum collections or National Historic Landmark properties exist within the project area or its general vicinity. PWC use was analyzed in terms of whether the use would impact the archeological resources, historic resources, cultural landscapes and ethnographic resources within 0.5 miles (horizontally) from the full pool line at 3700 feet above sea level. These categories of cultural resources are defined within the environmental impact statement, affected environment section.

Visitors access areas of the park in numerous different ways—they arrive in motor vehicles and airplanes, in boats of all types, by hiking, and by PWC. Given this diversity of modes of access, the impacts on archeological and historic cultural resources directly attributable to PWC users are very difficult to define. Most PWC users, like most recreation area visitors, are conscientious about protecting the cultural resources and do not engage in deliberate disturbance of the sites. Disturbance to sites occurs by the frequency of trampling, graffiti, vandalism, and illegal collection of objects. Access to side canyons to Lake Powell varies with lake levels. PWC may be able to access narrow, steep-walled canyons that are inaccessible to most visitors.

This proposed rule would, in effect, close the upper canyons of the Dirty Devil, Escalante, San Juan, and Colorado Rivers to use by all PWC. This action would make archeological sites, ethnographic sites, and cultural landscapes along approximately 113 miles of river less vulnerable to damage and vandalism and illegal collection. The rule will also include new flat wake zones along a total of about 17 miles of the Dirty Devil and Escalante Rivers. Restrictions on PWC use would provide long-term benefits for cultural resources in these areas. These benefits would be negligible to minor because impacts from other types of visitor use (hikers and other vessel use, etc.) would continue, and some isolated sites could be more vulnerable to damage due to the lack of contact with other visitors.

These restrictions on PWC use in selected canyon areas could help focus more of the PWC activity to developed areas containing fewer ethnographic resources. To help reduce impacts on cultural resources all across the recreation area, resources would continue to be monitored on a regular basis. Glen Canyon National Recreation Area staff would continue to educate visitors regarding archeological and ethnographic site etiquette to provide long-term protection for surface artifacts, architectural features, and traditional activities.

Authorizing PWC Use

Under the Preferred Alternative (Alternative B) of the ''Draft Environmental Impact Statement'' the National Park Service is issuing a proposed rule to specifically authorize the continued use of PWC in portions of Glen Canyon National Recreation Area.

This proposed rule will impose additional geographic restrictions on PWC use and define additional flat wake zones. It also includes management actions to enhance the protection of park resources, improve visitor safety, and reduce recreational use conflicts. The specific section descriptions are outlined as follows:

Section 7.70(g)(1) states that PWC may operate, transit and launch in park water or beach on park land except in the areas and conditions as described in the following subsections. Under the proposed rule, about 24 miles of the Colorado River upstream from Sheep Canyon would be closed to all PWC use. It would prohibit PWC use on the Dirty Devil River upstream from that point where measurable downstream current is encountered. (The exact location will change depending upon lake level). PWC would be prohibited on the Escalante River above the confluence of Coyote Creek and on the San Juan River upstream of the Clay Hills pullout. PWC would also be prohibited on the Colorado River between Glen Canyon Dam and the downstream river boundary of Glen Canyon NRA where it adjoins Grand Canyon National Park. All of these actions would increase the

protection of environmental values and reduce conflict among visitor use activities.

Section 7.70(g)(1)(i) addresses the Colorado River between Glen Canyon Dam and the downstream river boundary of Glen Canyon NRA where it adjoins Grand Canyon National Park. The restriction pertaining to PWC use contained in the current Superintendent's Compendium (36 CFR, Sections 1.7(b) and 1.5), would be added to this proposed rule. The compendium prohibits PWC use between the Glen Canyon Dam and the downstream river boundary of Glen Canyon NRA where it adjoins Grand Canyon National Park. This closure went into effect in 1998 to eliminate possible conflicts between the traditional fishing and scenic float trips and conflicting PWC use.

Section 7.70(g)(1)(ii) addresses the Colorado River upstream of Sheep Canyon. The proposed rule would prohibit PWC use on the Colorado River upstream from Sheep Canyon. This action would have two benefits. Cataract Canyon upstream of Sheep Canyon is a popular white-water rafting destination that provides a recreational experience that is not available in other parts of Glen Canyon National Recreation Area. Closure of the Colorado River upstream from Sheep Canyon would preserve this locally unique visitor experience for Colorado River white-water river runners.

Because of the transition from lake to river conditions, PWC operation upstream from Sheep Canyon is substantially different than operation below this point. Beginning in Cataract Canyon, conditions become increasingly hazardous because of conflicts between traditional rafting uses and use of PWC. The river's uncertain currents and shifting sandbars can force both groups to use a common river channel. The presence of standing waves also produces a high potential for collision. Closing this area to PWC use would help protect the safety of visitors. Implementing these closures to all PWC use would strengthen the NPS' intent to maintain areas of quiet and solitude on portions of the rivers and to reduce the potential for conflict between motorized and non-motorized users. Closing the areas in both directions of travel would provide for consistency within the regulations. This limitation will be applied to all motorized vessels in the Superintendent's Compendium, except for permitted activities.

Section 7.70(g)(1)(iii) addresses the San Juan River upstream of Clay Hills pullout. The intent of the PWC closure on the San Juan River would be to provide an opportunity for visitors to enjoy quiet and solitude. Establishing the closure at the Clay Hills pullout would allow continued opportunity to access the lake from this remote site when the lake level is above an elevation of 3675 feet. At the same time, it would protect a rare visitor experience for San Juan River travelers upstream from this point. This limitation will be applied to all motorized vessels in the Superintendent's Compendium.

Section 7.70(g)(1)(iv) addresses the Escalante River upstream of Coyote Gulch. The proposed rule would prohibit PWC use on Escalante River upstream of Coyote Gulch. Implementing this closure to all PWC use would strengthen the NPS's intent to maintain areas of quiet and solitude on portions of the rivers and to reduce the potential for conflict between motorized and non-motorized users, thus enhancing the traditional river experience. This limitation will be applied to all motorized vessels in the Superintendent's Compendium.

Section 7.70(g)(1)(v) addresses the Dirty Devil River at the point where measurable downstream current is encountered. The operation of PWC upstream from where noticeable current is encountered is significantly different than operation below this point. The Dirty Devil Canyon is very narrow with tight, blind bends, and becomes increasingly hazardous upstream because of shallow and murky water, floating debris, uncertain currents, and shifting sandbars because of the transition from lake to river conditions.

Section 7.70(g)(2) has two subsections that outline additional wake restrictions. To further reduce visitor conflict, enhance visitor safety and experience, and protect soundscapes, the proposed rule would prohibit operation of PWC above flat wake speed on portions of the Dirty Devil and Escalante Rivers. PWC are required to comply with existing wake restrictions in the current Superintendent's Compendium (36 CFR Sections 1.7(b) and 3.6) that apply to all motorized vessels. These include requirements that watercraft operators cannot operate at speeds in excess of 5 miles per hour or create a wake when operating within harbors, mooring areas, flat wake areas, and other ''no wake'' buoyed areas.

When PWC operate at flat wake speeds many of the impacts they cause are greatly reduced. Visitor conflicts are virtually eliminated due to their reduced speed and noise. Although at flat wake speed, access may still be obtained by PWC users. Flat wake areas were considered to be prime access areas that all types of visitors seek out, but also areas within a river corridor that supports traditional rafting and river experiences.

Section 7.70(g)(2)(i) addresses the Escalante River from Cow Canyon to Coyote Gulch. The 4.4-river-mile stretch of the Escalante River between Cow Canyon and the confluence of Coyote Creek would be designated as flat wake for PWC. This stretch of the Escalante River is a popular float stream and hiking area. In most years, travel upstream by PWC from Cow Canyon is precluded by low water levels and insufficient stream flow. However, when lake levels are sufficiently high, the natural quiet of this area is often disturbed by noise from PWC. Limiting PWC use to flat wake speeds upstream from Cow Canyon would help maintain a more natural sound quality in this portion of the Escalante River and Coyote Gulch area. This limitation will be applied to all motorized vessels in the Superintendent's Compendium.

Section 7.70(g)(2)(ii) addresses the Dirty Devil River upstream from the Utah Highway 95 bridge until measurable downstream current is encountered. PWC would have to operate at flat wake speed on the Dirty Devil River upstream from Utah Highway 95 bridge to the point where measurable downstream flow is encountered. Flat wake speed requirements would help protect the safety of visitors. The Dirty Devil River is a popular destination for fishing, including both trolling and fishing from stationary boats. High-speed maneuvering with PWC is inconsistent and disruptive to this traditional visitor activity. Visitor conflicts would be reduced with flat wake speed of PWC. This limitation will be applied to all motorized vessels in the Superintendent's Compendium.

Section 7.70(g)(3) addresses the temporary limits and restrictions on PWC use within areas of the recreation area. The recreation area may consider other location restrictions, which would be implemented as part of the lake management plan that is discussed in the DEIS in the description of Alternative B. To support the decision to implement other restrictions, a 3-year pilot study would be conducted. The study would examine the effectiveness of location restrictions and other management actions in reducing visitor conflicts associated with motorized vessels, including PWC, in the recreation area.

History of Public Involvement

Public meetings were initiated in August 2001 to solicit early input into

the scope and range of issues to be analyzed related to the management of PWC within Glen Canyon NRA. A notice of intent to prepare the Environmental Impact Statement was published in the **Federal Register** (66 FR 39789) on August 1, 2001. Scoping comments continued to be accepted and considered within the planning process. During this comment period, the NPS facilitated several hundred discussions and briefings to park staff, congressional delegations, elected officials, tribal representatives, public service organizations, educational institutions, and other interested members of the public.

Over 3500 letters and e-mail messages concerning PWC use on Lake Powell were received. A mailing list of interested parties was compiled from attendees at the meetings and from any written comments received at the recreation area.

During this first comment period, Glen Canyon NRA received 503 individual written letters of concern, 270 petition form letters originating from the American Watercraft Association requesting that PWC be regulated just as any other type of watercraft and access should not be denied, 325 petition postcards originating from the American Watercraft Association requesting that Glen Canyon NRA adopt reasonable regulations to support continued access by all boaters versus implementing discriminatory regulations, and 523 e-mail letters. *Lake Powell Magazine* obtained 533 signatures from boating shows supporting continued rights for PWC use on Lake Powell. Glen Canyon NRA received over 1100 electronic form letters: 152 titled 'Jet Skis at Glen Canyon!' supporting the elimination of PWC, 926 titled 'End Jet Ski Pollution at Glen Canyon' supporting the elimination of PWC on Lake Powell and 109 titled 'Free Glen Canyon National Recreation Area of Jet Skis' also supporting PWC elimination. During the public workshops, 146 written comments regarding issues, concerns, and alternatives for management were received. These comments ranged from the support of the continued use of PWC throughout the recreation area (over 80%), to a total ban on PWC use, to restrictions in selected areas of the recreation area. Issues generated during the comment period included visitor safety concerns related to illegal and reckless operation of PWC, conflicts among different user groups, educational requirements for all boaters, potential resource impacts, and questions concerning the impacts of PWC use related to other motorized vessels.

The Glen Canyon NRA ''Draft Environmental Impact Statement'' was made available for public review on September 13, 2002 (67 FR 58071). The document is available in hard copy, on computer disk, and on the park's Web site at *http://www.nps.gov/glca/plan.htm*. Public meetings were held with the release of the Draft Environmental Impact Statement. These meetings were held at various locations to discuss the components of the document and solicit public response related to all aspects of the statement. Public comments on the statement were accepted for 60 days from the Notice of Availability published in the **Federal Register**.

Compliance with Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This determination is based upon the findings in a report prepared by the National Park Service entitled ''Economic Analyses of Personal Watercraft Regulations in Glen Canyon National Recreation Area'' (Law Engineering and Environmental Services, Inc. 2002). The focus of this study was to document the potential impact of the alternatives listed within the environmental impact statement on a variety of small entities including PWC dealerships and repair shops, PWC rental business, and other local businesses that provide services to PWC users.

This rule would continue PWC use with restrictions in some narrow canyon areas and other management restrictions. Some localized ecosystem protection and noise reductions benefits are anticipated. However, because the vast majority of Lake Powell, including the most popular areas for PWC use, will remain open to PWCs under this rule, the NPS anticipates no significant effects on the visiting public or local businesses.

Should this proposed rule not be instituted, PWC use would be completely banned under this alternative, affecting the approximately 40 percent of visitors that use PWCs. The estimated reduction in producer surplus (a measure closely related to business profit) in the local community would be between $505,000 and $3,076,100 annually. The economic effect on the visiting public was not quantified due to limited data availability; however, the 40 percent of visitors that currently use PWCs would lose all the value they receive from PWC use. Beneficiaries of this rule would include the remaining portion of visitors that do not use PWCs. Additionally, ''nonusers'' may significantly benefit from knowing that resources in the National Recreation Area will be better protected into the future.

Over a ten-year horizon, an annual reduction in producer surplus of $505,000 has a present value of $4.3 million when discounted at 3 percent per year. A 3 percent discount rate is widely recognized in the economics literature and Federal rulemakings as an appropriate discount rate for valuing natural amenities and other non-market resources and services. When discounted at 7 percent per year (OMB Circular A–94), the present value of a $505,000 annual reduction in producer surplus over ten years is $3.5 million. The present value of an annual loss of $3,076,100 in producer is $26.2 million when discounted at 3 percent per year, or $21.6 million when discounted at 7 percent per year.

This analysis clearly indicates that this proposed rule is expected to avoid significant losses to local business. However, the net effect of this rule on the visiting public and nonusers has not been quantitatively determined. This rule would yield a positive net benefit if the benefits of not implementing this rule did not exceed the avoided business losses of implementing this rule.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule raises novel legal or policy issues. This rule is among the first of its kind for managing PWC use in National Park Units. The National

Park Service published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirements of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Based on a report entitled *Economic Analysis of Personal Watercraft Regulations in Glen Canyon National Recreation Area* (Law Engineering and Environmental Services, Inc. 2002). The focus of this study was to document the impact of this rule on two types of small entities, PWC dealerships and PWC rental outlets. This report found that there was no potential loss for these types of businesses as a result of this rule since PWC use would remain substantially the same as it has been over the last several years.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The National Park Service has completed an economic analysis to make this determination. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector.This rule is an agency specific rule and imposes no other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared a Draft Environmental Impact Statement (EIS). The draft EIS was made available for public review and comment on September 13, 2002 (67 FR 58071). A copy of the Draft EIS is available by contacting the Superintendent, Glen Canyon National Recreation Area, or by downloading the document at *http://www.nps.gov/glca/plan.htm.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2: We have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects.

During May 2002, the NPS consulted with tribes in the surrounding area in writing and/or in person about the development of this proposed rule and the supporting Environmental Impact Statement. Those tribes include the Hopi, Navajo, San Juan Southern Paiute, and Kaibab Paiute Tribes as well as several tribal historic preservation programs and cultural and natural resources divisions of the tribes. None of the tribes have expressed concern or dissent with the planning process or development of the alternatives for the EIS or this proposed rule. The tribes will continue to be consulted as the rulemaking process continues.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§'' and a numbered heading; for example § 7.70 Glen Canyon National Recreation Area). (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also email the comments to this address: *Exsec@ios.doi.gov*.

Drafting Information: The primary authors of this regulation were Suzy Schulman, Environmental Specialist, and Brian Wright, Outdoor Recreation Planner, Glen Canyon National Recreation Area.

Public Participation: If you wish to comment, you may submit your comments by any one of several methods. You may mail written comments to: Glen Canyon National Recreation Area, PWC Rule-Making, Box 1507, Page, Arizona 86040. Fax: (928) 608–6259. You may also comment via the Internet to *glca_pwc@nps.gov*. Please also include ''PWC Rule'' in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to the Glen Canyon NRA Headquarters Building Receptionist at 691 Scenic View Drive, Page, Arizona.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR Part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority citation for Part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. Code 40–721 (1981).

2. Section 7.70 is amended by adding paragraph (g) to read as follows:

§ 7.70 Glen Canyon National Recreation Area.

* * * * *

(g) *Personal watercraft* (1) Personal watercraft may operate, transit and launch in park water or beach on park land except in the areas and under the conditions described as follows:

(i) On the Colorado River between Glen Canyon Dam and the downstream river boundary of Glen Canyon NRA where it adjoins Grand Canyon National Park.

(ii) On the Colorado River upstream of Sheep Canyon.

(iii) On the San Juan River upstream of Clay Hills Pullout.

(iv) On the Escalante River upstream of Coyote Gulch.

(v) On the Dirty Devil River at the point where measurable downstream current is encountered.

(2) Personal Watercraft must travel at flat wake speed:

(i) On the Escalante River from Cow Canyon to Coyote Gulch.

(ii) On the Dirty Devil River upstream of the Utah Highway 95 bridge until measurable downstream current is encountered.

(3) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: January 10, 2003.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 03–1157 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900–AK03, et al.

Withdrawal of Proposed Rules

AGENCY: Department of Veterans Affairs.

ACTION: Withdrawal of proposed rules.

SUMMARY: This document withdraws five proposed rules that would have amended the adjudication regulations. The proposals were previously published in the **Federal Register** by the Plain Language Regulations Project. The five proposals that are being withdrawn are: (1) State Department as Agent of Department of Veterans Affairs (RIN 2900–AK03) which was published in the **Federal Register** on August 22, 2001 (66 FR 44095); (2) Finality of Decisions (RIN 2900–AK18) which was published in the **Federal Register** on October 23, 2001 (66 FR 53565); (3) Renouncement of Benefits (RIN 2900–AK23) which was published in the **Federal Register** on September 24, 2001 (66 FR 48845); (4) Independent Medical Opinions (RIN 2900–AK31) which was published in the **Federal Register** on December 7, 2001 (66 FR 64174); and (5) Evidence from Foreign Countries (RIN 2900–AK37) which was published in the **Federal Register** on October 19, 2001 (66 FR 53139).

A new organization is being created in the Department of Veterans Affairs to manage the regulatory process, and one of its top priorities is the restructuring and rewriting of the adjudication regulations in plain language. Since it is not clear where and how the above noted proposals will fit into the restructured regulations, they are being withdrawn at this time. When the new organization for regulatory management is established, these proposed rules will likely be republished for notice and comment.

FOR FURTHER INFORMATION CONTACT: Bob White, Team Leader, Plain Language Regulations Project, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–7228. This is not a toll-free number.

Approved: January 6, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–1094 Filed 1–16–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[PA037/072/184–4190b; FRL–7421–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Sulfur Dioxide Attainment Demonstration for the Warren County Nonattainment Area, and Permit Emission Limitations for Two Individual Sources in Warren County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve a State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania. This revision contains enforceable operating permit emission limitations for the Reliant Warren Generating Station and the United Refining Company, and an air quality modeling demonstration that indicates that the allowable emission limits will provide for the attainment of the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide (SO_2) in the Conewango Township, Pleasant Township, Glade Township, and the City of Warren nonattainment area. The modeling demonstration assumes new SO_2 limits for the Reliant Warren Generating Station and the United Refining Company. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If 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. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 18, 2003.

ADDRESSES: Written comments should be addressed to Walter Wilkie, Acting Branch Chief, Air Quality Planning and Information Services Branch, 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103, and the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, PO Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Denis Lohman, (215) 814–2192, or Ellen Wentworth, (215) 814–2034, or by e-mail at *lohman.denny@epa.gov* or *wentworth.ellen@epa.gov.* Please note that while questions may be posed via telephone and e-mail, formal comments must be submitted in writing, as indicated in the **ADDRESSES** section of this document.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action pertaining to the SO_2 attainment demonstration for the Warren County nonattainment areas, and permit emission limitations for two individual sources in Warren County, Pennsylvania, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

Dated: December 4, 2002.

Thomas C. Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 03–732 Filed 1–16–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA–D–7552]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed base (1% annual chance) flood elevations and proposed base flood elevation modifications for the communities listed below. The base flood elevations are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is 90 days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed base flood elevations for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Michael M. Grimm, Acting Chief, Hazard Study Branch, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, 500 C Street, SW., Washington, DC 20472, (202) 646–2878, or (email) *mike.grimm@fema.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA or Agency) proposes to make determinations of base flood elevations and modified base flood elevations for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed base flood and modified base flood elevations, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration, certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified base flood elevations are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. As a result, a regulatory flexibility analysis has not been prepared.

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

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, flood insurance, reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

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

§ 67.4 [Amended]

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD) • Elevation in feet (NAVD)		Communities affected
		Existing	Modified	
North Carolina Carteret County (Unincorporated Areas)				
Cedar Swamp Creek	At the confluence with Newport River	None	• 9	Town of Newport, Carteret
	Approximately 800 feet upstream of Forest Route #154	None	• 26	County (Unincorporated Areas)
Cypress Drain	At the conference with Newport River	None	• 17	Carteret County (Unincorporated Areas)
	Approximately 1,400 feet upstream of Lake Road	None	• 21	
Hadnot Creek	Approximately 350 feet upstream of Old Church Road	None	• 9	Carteret County (Unincorporated Areas)
	Approximately 2.0 miles upstream of Forest Route $176.	None	• 33	
Hadnot Creek Tributary	At the Confluence with Hadnot Creek	None	• 14	Carteret County (Unincorporated Areas)
	Approximately 1.3 miles upstream of confluence with Hadnot Creek.	None	• 30	
Hunters Creek	At the confluence with White Oak River	None	• 9	Carteret County (Unincorporated Areas)
	Approximately 750 feet upstream of confluence of Wolf Swamp.	None	• 24	
Juniper Branch	At the confluence with Southwest Prong Newport River	None	• 23	Carteret County (Unincorporated Areas)
	Approximately 0.4 mile upstream of Forest Route #177	None	• 30	
Main Prong	At the confluence with Black Creek	None	• 9	Carteret County (Unincorporated Areas)
	Approximately 2.0 miles upstream of confluence with Black Creek.	None	• 23	
Newport River	At upstream side of Highway 70	None	• 9	Town of Newport, Carteret
	Approximately 800 feet upstream of confluence of Cypress Drain.	None	• 18	County (Unincorporated Areas)
Pettiford Creek	At the confluence with Pettiford Creek Bay	None	• 7	Carteret County (Unincorporated Areas)
	Approximately 2.0 miles upstream of Millis Road	None	• 35	
Pettiford Creek Tributary 1	At the confluence with Pettiford	None	• 13	Carteret County (Unincorporated Areas)
	Creek Approximately 1.8 miles upstream of confluence with Pettiford Creek.	None	• 26	
Shoe Branch	At the confluence with Newport River	None	• 10	Town of Newport, Carteret
	Approximately 0.8 mile upstream of Tom Mann Road	None	• 27	County (Unincorporated Areas)
Southwest Prong of Newport River.	At the confluence with Newport River	None	• 11	Town of Newport, Carteret County (Unincorporated Areas)
	Approximately 1,050 feet upstream of confluence of Millis Swamp.	None	• 26	
Wolf Swamp	At the confluence with Hunters Creek	None	• 23	Carteret County (Unincorporated Areas)
	Approximately 430 feet upstream of Forest Route #174	None	• 34	

Town of Newport

Maps available for inspection at the Newport Town Hall, 200 Howard Boulevard, Newport, North Carolina.
Send comments to The Honorable Derryl Garner, Mayor of the Town of Newport, P.O. Box 1869, 200 Howard Boulevard, Newport, North Carolina 28570.

Carteret County (Unincorporated Areas)

Maps available for inspection at the Carteret County Planning and Inspection, Court House Square, Beaufort, North Carolina.
Send comments to Mr. Pete Allen, Carteret County Manager, County Manager's Office, Courthouse Square, Beaufort, North Carolina 28516.

Dated: January 10, 2003.

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance'')

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–1085 Filed 1–16–03; 8:45 am]

BILLING CODE 6718–04–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA—B–7433]

Proposed Flood Elevation Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Proposed rule.

SUMMARY: Technical information or comments are requested on the proposed Base (1% annual chance) Flood Elevations (BFEs) and proposed BFE modifications for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The comment period is 90 days following the second publication of this proposed rule in a newspaper of local circulation in each community.

ADDRESSES: The proposed BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the following table.

FOR FURTHER INFORMATION CONTACT: Mike M. Grimm, Acting, Chief, Hazards Study Branch, Federal Insurance and Mitigation Administration, FEMA, 500 C Street, SW., Washington, DC 20472, (202) 646–3461, or (e-mail) *mike.grimm@fema.gov*

SUPPLEMENTARY INFORMATION: FEMA proposes to make determinations of BFEs and modified BFEs for each community listed below, in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR 67.4(a).

These proposed BFEs and modified BFEs, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations are used to meet the floodplain management requirements of the NFIP and are also used to calculate the appropriate flood insurance premium rates for new buildings built after these elevations are made final, and for the contents in these buildings.

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

Regulatory Flexibility Act. The Administrator, Federal Insurance and Mitigation Administration certifies that this proposed rule is exempt from the requirements of the Regulatory Flexibility Act because proposed or modified BFEs are required by the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and are required to establish and maintain community eligibility in the NFIP. No regulatory flexibility analysis has been prepared.

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

Executive Order 12612, Federalism. This proposed rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform. This proposed rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 67

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Accordingly, 44 CFR part 67 is proposed to be amended as follows:

PART 67—[AMENDED]

1. The authority citation for part 67 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376, § *67.4.*

2. The tables published under the authority of § 67.4 are proposed to be amended as follows:

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
California	Lake Elsinore (City), Riverside County.	Lake Elsinore	At Lake Elsinore	*1,267	*1,263
		San Jacinto River	Approximately 1,400 feet downstream of Lakeshore Drive.	*1,275	*1,274
			Just above U.S. Route 15	*1,275	*1,274
			Approximately 1.6 miles upstream of Summerhill Drive.	*1,309	*1,309
		Tenescal Wash	Just downstream of Riverside Drive	*1,258	*1,258
			At Tenth Street	*1,258	*1,259
			Just downstream of Chaney Street	*1,265	*1,262
Depth in feet above ground					
Maps are available for inspection at City Hall, City Engineers Office, c/o Mr. Richard A. Hess, 130 South Main Street, Lake Elsinore, California 92530.					
Send comments to The Honorable Genie Kelly, Mayor, City of Lake Elsionore, 130 South Main Street, Lake Elsionore, California 92530.					
California	Riverside County	Lakeland Village Channel	Approximately 460 feet downstream of Grand Avenue.	*1,267	*1,265
			Just upstream of Ralley Avenue	*1,293	*1,293

State	City/town/county	Source of flooding	Location	Depth in feet above ground. *Elevation in feet. (NGVD)	
				Existing	Modified
			At Nelson Avenue	*1,351	*1,351
		Lake Elsinore	At Lake Elsinore	*1,267	*1,263
Depth in feet above ground					
Maps are available for inspection at Riverside County Flood Control and Water Conservation District, 1995 Market Street, Riverside, California 92501.					
Send comments to The Honorable Jim Venable, Chairman, Riverside County Board of Supervisors, 4080 Lemon Street, 14th Floor, Riverside, California 92501.					
Oregon	Portland (City), Multnomah County.	Crystal Springs Creek	Just downstream of SE Sherret Street at confluence with Johnson Creek.	*51	*48
			Approximately 1,150 feet upstream of 28th Avenue.	None	*77
		Johnson Creek	Just upstream of SE Ochoco Street	*45	*44
			Just downstream of Circle Avenue	*254	*252
Depth in feet above ground					
Maps are available for inspection at the Planning and Development Review, 1900 SW Fourth Avenue, Room 50, Portland, Oregon 97204.					
Send comments to The Honorable Vera Katz, Mayor, City or Portland, 1221 SW Fourth Avenue, Room 340, Portland, Oregon 97204.					
Wyoming	Lincoln County	Salt River	Approximately 2,500 feet downstream of McCox Road.	None	*5,623
			Just upstream of Secondary Highway 239	None	*5,775
			Approximately 9,000 feet upstream of U.S. Highway 89.	None	*5,987
Depth in feet above ground					
Maps are available for inspection at the Emergency Management Office, 520 Topaz Street, Kemmerer, Wyoming 83101.					
Send comments to The Honorable Kathleen Davison, Chairperson, Lincoln County, Board of Commissioners, County Courthouse, 925 Sage Avenue, Kemmerer, Wyoming 83101.					

(Catalog of Federal Domestic Assistance No. 83.100, ''Flood Insurance.'')

Dated: January 7, 2003.

Anthony S. Lowe,

Administrator, Federal Insurance and Mitigation Administration.

[FR Doc. 03–1086 Filed 1–16–03; 8:45 am]

BILLING CODE 6718–04–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 02–13954; Notice 1]

RIN 2127–AI36

Federal Motor Vehicle Safety Standards; Occupant Crash Protection, Seat Belt Assemblies

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Termination of rulemaking; denial of petition for rulemaking.

SUMMARY: In April 2000, NHTSA received a petition for rulemaking requesting that the agency amend its safety standards to require that vehicle manufacturers either offer consumers the option of longer seat belts on new vehicles or make seat belt extenders available for purchase. The purpose of the petition was to accommodate individuals who, because of their size, cannot use the seat belts in the vehicle of their choice. The agency granted the petition on February 28, 2001 and began to gather data on the availability of longer belts and to estimate the underserved population. In August 2002, the agency received a second petition for rulemaking requesting the same amendments.

Based on its analysis of available data, NHTSA is terminating rulemaking on the April 2000 petition, and is denying the August 2002 petition for rulemaking.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Sanjay Patel, Office of Crashworthiness Standards. Telephone: (202) 366–4583, Facsimile: (202) 366–4329.

For legal issues, you may contact Otto Matheke, Office of the Chief Counsel. Telephone: (202) 366–5263, Facsimile: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

I. Background

On April 18, 2000, Ms. Elizabeth Fisher petitioned the agency to amend Federal Motor Vehicle Standard (FMVSS) No. 209, *Seat belt assemblies,* to require vehicle manufacturers to provide seat belts that fit all passengers (Docket No. NHTSA–2000–7580–01). Ms. Fisher's petition stated that the existing provisions of FMVSS No. 209 only require belts to fit adult males weighing up to 97.5 kg (215 lbs.) and requested that NHTSA initiate a rulemaking action to require vehicle manufacturers to provide a means for any passenger who fits inside the vehicle to be able to fasten the seat belt. The petition suggested that this could be accomplished either by requiring manufacturers to make longer seat belts available as a vehicle option or by requiring that all vehicle manufacturers make seat belt extenders available to those who wish to purchase them.

FMVSS No. 208, *Occupant crash protection,* and FMVSS No. 209 require that seat belt assemblies shall be capable of adjustment to fit occupants up to the size of the 95th percentile male, as defined by these standards. These standards define the mass of the 95th percentile male as 97.5 kg (215 lbs.). However, Ms. Fisher, using Body Mass Index (BMI) data from the Third National Health and Nutrition Examination Survey (NHANES III) of the National Center for Health Statistics, argued that more than 22 percent of the U.S. adult population is larger than a

person who is 1.83 meter (6 ft) tall and weighs 97.5 kg (215 lbs.).[1] She believes that belts that just meet the requirements of FMVSS No. 209 would not accommodate these larger Americans.

The agency granted the petition on February 28, 2001, and began to gather data on the availability of longer belts and on the size of the population who cannot currently buckle up. The result of this effort is contained in a NHTSA Technical Report [2] that is available in the Docket for this notice. Another research report upon which we relied in making the decision to terminate rulemaking is ''FMVSS 208 Belt Fit Evaluation, Possible Modification to Accommodate Larger People,'' Vehicle Research and Test Center (VRTC), 1988. It is also available in the Docket for this notice.

On August 19, 2002, the agency received a second petition for rulemaking on this issue from Mr. Jay Levy. Mr. Levy petitioned for the same amendments to FMVSS No. 209 as those cited in Ms. Fisher's petition. Mr. Levy's petition duplicated the exact arguments stated in Ms. Fisher's petition and did not provide any new information.

II. Reasons for Termination

Both Ms. Fisher's and Mr. Levy's petitions contend that if a person can physically ''fit'' in a vehicle, the person should also be able to fasten his or her seat belt. However, in establishing minimum performance requirements for seat belts, including the size of these belts, the agency cannot base the applicability of those requirements on such an imprecise guideline. It would be difficult for the agency or vehicle manufacturers to determine what size person can ''fit'' in each particular vehicle. It would also be difficult, near the outer limits of known dimensions for the vehicle using population, to determine how much longer seat belts would have to be. In order for the agency to develop an objective and reasonable regulation, we would have to know or estimate the dimensions of the largest vehicle users. Therefore, the agency went about determining what would be required to formulate requirements to serve the population that the petitioner believes is not currently served.

In determining the required seat belt length for a particular size person, the most critical measurement is seated hip circumference. The seated hip circumference of an occupant determines the length the belt must travel to come across the occupant to the latch. The seated hip circumference of the 95th percentile adult male referred to in FMVSS No. 209 is 1199 mm (47 in.). The estimated seated hip circumference of the 99th percentile adult person (including male and female) in the U.S. population is 1509 mm (59 in.).[3]

From this seated hip circumference, the agency estimated, using geometric approximation, the additional belt length needed to go around the hips of occupants larger than the 95th percentile male. We determined that a person with the 99th percentile hip circumference from the NHANES III data would need 254 mm (10.0 in.) additional belt length above that needed for a FMVSS No. 209 95th percentile male. Adding an assumption that the 99th percentile person would be wearing bulky winter clothing (which the standard does not require), the agency concluded that the additional belt length needed increases to 348 mm (13.7 in.).

Next, we estimated how many people cannot use their seat belts because the belts are too short to buckle. This involved examining three elements: (1) How many people have a hip circumference larger than the 95th percentile male, but not larger than that of the 99th percentile person from NHANES III, (2) how many vehicle make/models have standard belts that will not accommodate a person larger than the NHANES III 99th percentile male, and (3) how many of these vehicles do not have seat belt extenders or longer belts available.

We estimated from the NHANES III data that the total U.S. population older than 13 years with a hip circumference between that of the 95th percentile male and that of the NHANES III 99th percentile person is 38,191,527 persons or 19 percent. The agency also estimated that 1,980,744 persons, or 1 percent of the population 13 years and older, are larger than the NHANES III 99th percentile person.

Having determined the numbers of people likely to need additional belt length if all belts were no longer than the minimum length required by our standards, the agency then considered the question of how these larger people are currently being accommodated by vehicles now on the market. For many reasons, manufacturers provide additional belt length beyond the minimum required by NHTSA. In response to our inquiry, General Motors, Ford, DaimlerChrysler, and Honda provided extra belt length information about their respective model year 2003 vehicle make/models. The information provided by these four manufacturers covers 136 vehicle models.[4] These manufacturers each provide an average of 18 to 20 inches of extra belt length for the driver and right front passenger positions in their respective model year 2003 vehicles. This extra belt length is more than enough to accommodate our estimate of what is needed for a 99th percentile person, including any additional length to go around the torso of the person. A detailed summary of the additional belt length information by specific make/model from these manufacturers, and all others we contacted, is provided in the Docket for this notice. Based on the available data, it appears that most vehicles can fit all but the largest users with the original belts.

To determine the availability of extra measures beyond standard belts, NHTSA contacted major vehicle manufacturers, to determine if they provide seat belt extenders, optional longer seat belts, or have other means for accommodating large users. A summary of this information is provided in Table 1. From this information, NHTSA calculated that 87.5 percent of vehicle make/models available today offer consumers either seat belt extenders or longer belts as an option. The remaining 12.5 percent do not offer longer belts or extenders but may already offer belts longer than the minimum length required by FMVSS No. 209.

[1] As discussed below, NHTSA does not agree that BMI is the appropriate measure for determining dimensions for seat belt fit.

[2] ''Accommodation of Larger Occupants in Current Seat Belt Assemblies,'' NHTSA Technical Report, July 2002.

[3] This dimension is estimated from the standing hip circumference measured in the NHANES III using a calculation described in the NHTSA Technical Report.

[4] NHTSA does not routinely collect information from manufacturers on belt length beyond what is required for the 95th percentile male, but beginning with model year 2003, the agency does collect information for consumers on whether or not longer belts are available with vehicle make/models in our ''Buying a Safer Car'' program. NHTSA intends to make this information available on our Web site at *http://www.nhtsa.dot.gov/cars/testing/ncap/* by selecting the vehicle of interest and clicking on ''safety features.''

TABLE 1.—AVAILABILITY OF SEAT BELT EXTENDER OR LONGER BELTS

Company	Extender available	Length of extender (in)	Linkable? (2 or more)	Optional longer seat belts?	Vehicle sales* (2000)
Hyundai	No				244,391
Jaguar	No				43,728
Kia	No			No	160,606
Porsche	No			No	22,410
Subaru	No			No	172,216
Honda, Acura	No			No	1,158,860
Volkswagen, Audi	No	No			435,851
Subtotal—NO					2,238,062
Land Rover	No			Yes	27,148
BMW	No			Yes	189,423
Mercedes Benz	No			Yes, case-by-case	205,614
Chrysler	Yes	6, 8	Yes		2,522,695
Mazda	Yes	8, 9, 12			255,526
Toyota, Lexus	Yes	6, 9, 12, 15, 18			1,619,206
Volvo	Yes				123,178
GM	Yes	9, 15	No	Cadillac Catera, 12″ only	4,883,040
Ford	Yes	8	Yes	No	4,010,148
Nissan, Infinity	Yes	8	Yes	No	752,088
Isuzu	Yes	6, 9, 12, 15, 18	Yes	No	98,066
Saab	Yes	6		No	39,479
Mitsubishi	Yes	6–7	Yes	No	314,417
Suzuki	Yes	9, 15	Yes	No	60,845
Subtotal of vehicles with oversize provisions					15,100,873
Total					17,338,935

*The vehicle manufacturers identified the models for which they offer belt extenders or extra webbing. The vehicle sales data from Automotive News were used to quantify the number of vehicles in the fleet.

Given that many vehicles have belts long enough to fit almost all users and that optional longer belts or seat belt extenders are available for 87.5 percent of the fleet, the agency believes that a requirement to increase the belt length in all vehicles is unnecessary. NHTSA's analysis indicates that for almost all of these large individuals, there are few practical obstacles to obtaining that benefit, although they may find it more difficult to do so in some vehicles when compared to others.

Another factor in our decision is a concern that requiring manufacturers to provide either longer belts or belt extenders may have negative safety consequences. In the case of longer belts, the previously mentioned 1988 VRTC report described sled tests conducted with up to 254 mm (10 in.) of extra webbing in the restraint system. All tests were run at a 48 km/h (30 mph) change in velocity using a 50th percentile Hybrid III dummy in the front passenger seating position of a 1982 Chevrolet Celebrity. The amount of belt webbing spool-out increased from 41 mm to 76 mm (1.6 to 3.0 in.) with the increased belt length. Peak head, chest, and pelvic accelerations showed very little change with increased belt length. However, Head Injury Criterion did show an increase of about 12 percent. The greatest change appeared to be an increase of 17 percent in the neck flexion moment. The results of the sled tests also indicated an increase in dummy excursion relative to the vehicle with increasing belt length. The maximum resultant excursion of the head varied from the baseline by 76 mm (3 in.). A linear regression through the data showed a 26 mm (1.02 in.) increase in resultant head excursion for each additional 100 mm (3.98 in.) of belt length. Thus, an addition of 254 mm (10 in.) in belt length translates to 65 mm (2.6 in.) greater head excursion than the baseline.

The results of the VRTC study were obtained from the front passenger seat of a single vehicle without an air bag or seat belt pretensioner. Since belt webbing properties have not changed substantively since the 1980s, these estimates would appear to be reasonable for current belt systems with added webbing on the retractor. Seat belt pretensioners may prevent extra belt spool-out associated with longer belts. However, where pretensioners are not used, increased excursion values due to longer belts may significantly increase the risk of injury due to contact with the vehicle interior.

Belts may also be made longer by the use of belt extenders. Belt extenders, which would only be used by persons needing additional webbing length, would avoid some of the risks of increased spool-out and excursion associated with longer belts. However, as described in the NHTSA Technical Report, proper fit is necessary when using belt extenders. If the location of the extender places the buckle a distance of no more than 152 mm (6 in.) from the occupant's vertical center-line, the shoulder belt will not provide proper torso restraint and may pull the lap belt up onto the abdomen during a frontal impact, possibly leading to greater excursion and/or internal injury. The risks of belt extenders would be accentuated where the extender is not properly sized for the user or where a person of more average size inadvertently used a belt with an extender attached.

III. Options for Larger Persons

NHTSA's decision to terminate this rulemaking does not foreclose opportunities for larger persons to use seat belts that fit. Both vehicles and vehicle occupants are found in a variety of shapes and sizes. A given vehicle may not be able to accommodate all persons. For reasons other than girth, a vehicle may be unsuitable for some users. For example, very tall persons

may need a vehicle with a high roof to afford sufficient visibility and comfort. Particularly short statured persons may need to avoid purchasing vehicles whose design places them in close proximity to the driver's air bag.

Vehicle buyers should take care to be sure that the vehicle they choose is suitable for their needs, including having belts that fit. If the original belts in a vehicle do not fit, it may be possible to obtain longer belts or belt extenders from the vehicle manufacturer. Vehicles with optional longer belts are available as listed in Table 1. Although dealers may not always be aware that longer optional belts or belt extenders are available, vehicle purchasers can and should insist that dealers check with the manufacturer. If available, the purchaser should make their inclusion in the vehicle a condition of the sale.

In those instances in which longer belts or belt extenders are needed and are not available from the vehicle manufacturer, there are means available for modifying the vehicle to accommodate the physical needs of a particular buyer. One option is to purchase belt extenders from an aftermarket supplier or to have belt extenders made. Also, some businesses that modify vehicles to accommodate people with disabilities will modify seat belts.

Another alternative is to have more extensive modifications made on the vehicle itself.[5] Seat positioning can also influence the seat belt fit. For vehicles with at least one end of the belt anchored to the vehicle and not to the seat, an additional 51 mm (2 in.) to 76 mm (3 in.) in belt length is gained for every 25 mm (inch) of rearward seat movement. If a seat position is found that allows the seat belt to fit, but causes the pedals to be out of reach, adjustable pedals may be available as optional equipment. Alternatively, pedal extenders can be obtained.

The agency believes that additional regulatory requirements are not needed to enable larger size persons to find a vehicle that will accommodate their needs and allow them to buckle up. Publication of information on the availability of longer belts as standard equipment[6] and longer belts or belt extenders as options, should allow larger persons to choose models from vehicle manufacturers who are responsive to their needs. Finally, if an individual cannot find a vehicle fitting their needs with a belt that fits, or an available OEM belt extender, a vehicle modifier may be able to fashion a suitable belt extender, produce and install a longer belt, or move the original seat to provide additional belt length.

[5] Vehicles are often modified for people with disabilities. NHTSA is not suggesting that large individuals are disabled. However, modifiers are experienced at fitting vehicles to the unique physical characteristics of certain users. The process is described in *Adapting Motor Vehicles for People with Disabilities,* DOT HS 809 014, and also available at *http://www.nhtsa.dot.gov/cars/rules/adaptive/brochure/index.html.*

[6] NHTSA currently provide information about the availability of seat belt extenders on our Web site at *http://www.nhtsa.dot.gov/cars/testing/ncap/.*

IV. Conclusion

In accordance with 49 CFR part 552, this completes the agency's review of the petitions for rulemaking. In view of the considerations discussed above, the agency has concluded that there is no reasonable possibility that the amendments requested by the petitioners would be issued at the conclusion of the rulemaking proceeding. Accordingly, rulemaking on the petition from Ms. Fisher is terminated, and the petition for rulemaking submitted by Mr. Levy is denied.

Authority: 49 U.S.C. 30103, 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: January 13, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–1134 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–59–P

Notices

Federal Register
Vol. 68, No. 12
Friday, January 17, 2003

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Emerging Markets Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation is inviting private sector proposals for the 2003 Emerging Markets Program.

DATES: All proposals must be received by 5 p.m. Eastern Standard Time, March 10, 2003. Announcements of funding decisions for the EMP are anticipated in early July 2003.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932 South, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, phone: (202) 720–4327, fax: (202) 720–9361, e-mail: *emo@fas.usda.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals are being accepted for participation in the 2003 Emerging Markets Program (EMP). The purpose of the EMP is to assist U.S. organizations, public and private, to improve market access and to develop and promote U.S. agricultural products and/or processes in low to middle income countries that offer promise of emerging market opportunities. This is to be accomplished by providing, or paying the costs of, approved technical assistance activities in those emerging markets. The EMP is administered by the Foreign Agricultural Service (FAS).

The Act defines an emerging market as any country that the Secretary of Agriculture determines:

(1) Is taking steps toward a market-oriented economy through the food, agriculture, or rural business sectors of the economy of the country; and

(2) Has the potential to provide a viable and significant market for United States agricultural commodities or products of United States agricultural commodities.

Because funds are limited and the range of potential emerging market countries is worldwide, proposals for technical assistance activities will be considered which target those countries with: (1) Per capita income less than $9,265 (the current ceiling on upper middle income economies as determined by the World Bank [World Development Indicators]); and (2) population greater than 1 million. Proposals may address suitable regional groupings, *e.g.*, the islands of the Caribbean Basin.

Authority

The EMP is authorized by section 1542 of the Food, Agriculture, Conservation and Trade Act of 1990, as amended.

Eligible Applicants, Commodities, and Activities

Any United States agricultural or agribusiness organization, university, or state department of agriculture is eligible to participate in the EMP. Proposals from research and consulting organizations will be considered if they provide evidence of substantial participation by the U.S. industry. U.S. market development cooperators may seek funding to address priority, market specific issues and to undertake activities not suitable for funding under other FAS marketing programs, *e.g.*, the Foreign Market Development Cooperator (Cooperator) Program and the Market Access Program (MAP).

All agricultural products, except tobacco, are eligible for consideration. Proposals which include multiple commodities are also eligible.

Only technical assistance activities are eligible for reimbursement. Following are examples of the types of activities that may be funded:

—Projects designed specifically to improve market access in emerging foreign markets. Examples: activities intended to mitigate the impact of sudden political events or economic and currency crises in order to maintain U.S. market share; responses to time-sensitive market opportunities;

—Marketing and distribution of value-added products, including new products or uses. Examples: food service development; market research on potential for consumer-ready foods or new uses of a product;

—Studies of food distribution channels in emerging markets, including infrastructural impediments to U.S. exports; such studies should be specific in their focus and may include cross-commodity activities which address specific problems. Examples: grain storage handling and inventory systems development; distribution infrastructure development;

—Projects that specifically address various constraints to U.S. exports, including sanitary and phytosanitary issues and other non-tariff barriers. Examples: seminars on U.S. food safety standards and regulations; assessing and addressing pest and disease problems that inhibit U.S. exports;

—Assessments and follow up activities designed to improve country-wide food and business systems, to reduce trade barriers, to increase prospects for U.S. trade and investment in emerging markets, and to determine the potential use for general export credit guarantees for commodities, facilities and services. Examples: product needs assessments and market analysis; assessments for using facilities credits to address infrastructural impediments;

—Projects that help foreign governments collect and use market information and develop free trade policies that benefit American exporters as well as the target country or countries. Examples: agricultural statistical analysis; development of market information systems; policy analysis; and,

—Short-term training in broad aspects of agriculture and agribusiness trade that will benefit U.S. exporters, including seminars and training at trade shows designed to expand the potential for U.S. agricultural exports by focusing on the trading system. Examples: retail training; marketing seminars; transportation seminars; training on opening new or expanding existing markets.

The program funds technical assistance activities on a project-by-project basis. EMP funds may not be

used to support normal operating costs of individual organizations, nor as a source by which to recover prior expenses from previous or ongoing projects. Ineligible activities include restaurant promotions; branded product promotions (including labeling and supplementing normal company sales activities intended to increase awareness and stimulate sales of branded products); advertising; administrative and operational expenses for trade shows; and the preparation and printing of brochures, flyers, posters, etc., except in connection with specific technical assistance activities such as training seminars. Other items excluded from funding are contained in the 2003 Program Guidelines.

Project Suitability and Qualification Requirements

The underlying premise of the EMP is that there are distinctive characteristics of emerging agricultural markets that necessitate or benefit significantly from U.S. governmental assistance before the private sector begins to develop these markets through normal corporate or trade promotional activities. The emphasis is on marketing opportunities where there are risks that the private sector would not normally undertake alone. The EMP is intended to supplement, not supplant, the efforts of the U.S. private sector, and it complements the efforts of other FAS marketing programs. Once a market access issue has been addressed by the EMP, further market development activities may be considered under other programs such as GSM–102 or GSM–103 Export Credit Guarantee programs, the Facility Guarantee Program, the Supplier Credit Guarantee Program, the MAP, or the Cooperator Program.

The following marketing criteria will be used to determine the suitability of projects for funding under the EMP:

1. Low U.S. market share and significant market potential.

- Is there a significant lag in U.S. market share of a specific commodity in a given country or countries?
- Is there an identifiable obstacle or competitive disadvantage facing U.S. exporters (*e.g.*, competitor financing, subsidy, competitor market development activity) or a systemic obstacle to imports of U.S. products (*e.g.*, inadequate distribution, infrastructure impediments, insufficient information, lack of financing options or resources)?
- What is the potential of a project to generate a significant increase in U.S. agricultural exports in the near- to medium-term? (Estimates or projections of trade benefits to commodity exports, and the basis for evaluating such, must be included in EMP proposals.)

2. Recent change in a market.

- Is there, for example, a change in a sanitary or phytosanitary trade barrier; a change in an import regime or the lifting of a trade embargo; or a shift in the political or financial situation in a country?

Application Requirements and Process

It is highly recommended that any organization considering applying to the program first obtain a copy of the 2003 Program Guidelines. These guidelines contain information on requirements that a proposal must include in order to be considered for funding under the program, along with other important information.

Requests for the 2003 Program Guidelines and additional information may be obtained from the Marketing Operations Staff at the address above. The guidelines are also available at the following URL address: *http://www.fas.usda.gov/mos/em-markets/em-markets.html*. To assist FAS in making determinations regarding funding, applications should be no longer than ten (10) pages and include the following information: (a) Date of proposal; (b) name of organization submitting proposal; (c) organization address, telephone and fax numbers, and tax ID number; (d) primary contact person; (e) full title of proposal; (f) target market(s); (g) description of problem(s), *i.e.*, constraint(s), to be addressed by the project such as inadequate knowledge of the market; insufficient trade contacts; lack of awareness by foreign officials of U.S. products and business practices; infrastructure, financing, and regulatory impediments or other non-tariff barriers; (h) project objectives; (i) performance measures—benchmarks for quantifying progress in meeting the objectives; (j) rationale—explanation of the underlying reasons for the project proposal and its approach, the anticipated benefits, the current conditions in the target market(s) affecting the intended commodity or product, and any additional pertinent analysis; (k) clear demonstration that successful implementation will benefit a particular industry as a whole, not just the applicant(s); (l) explanation as to what specifically could not be accomplished without federal funding assistance and why participating organization(s) are unlikely to carry out the project without such assistance; (m) specific description of activity(ies) to be undertaken; (n) time line(s) for implementation of the project, including start and end dates (start dates should be after July 15, 2003); (o) information on whether similar activities are or have previously been funded with USDA sources in target country/countries (*e.g.*, under MAP and/or Cooperator Program); (p) detailed line item activity budget. Regarding the budget, cost items should be allocated separately to each participating organization. Expense items constituting a proposed activity's overall budget (*e.g.*, salaries, travel expenses, consultant fees, administrative costs, *etc.*), with a line item cost for each, should be listed, clearly indicating which items are to be covered by EMP funding, which by the participating U.S. organization(s), and which by third parties (if applicable). Cost items for individual consultant fees should show calculation of daily rate and number of days. Cost items for travel expenses should show number of trips, destinations, cost, and objective for each trip.

Qualifications of applicant(s) should be included as an attachment.

This notice is complemented by concurrent notices announcing other foreign market development programs administered by the FAS including the MAP, the Cooperator Program, the Section 108 Foreign Currency Program, and the Quality Samples Program. For 2003, EMP applicants have the opportunity to utilize the Unified Export Strategy (UES) application process, an online system which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Applicants are not required to use the UES, but are strongly encouraged to do so because it reduces paperwork and expedites the FAS processing and review cycle.

Applicants planning to use the on-line system must contact the Marketing Operations Staff at (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html*. A ''Help'' file is available to assist applicants with the process. Applicants using the online system are strongly urged to provide a printed or diskette version of each proposal (using Word or compatible format) to one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, etc.): Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–

South, 1400 Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Allocation of Funds

In general, all qualified proposals received before the application deadline will compete for EMP funding. The limited funds and the range of emerging markets worldwide in which the funds may be used preclude CCC from approving large budgets for individual projects. While there is no minimum or maximum amount set for EMP-funded projects, most are funded at a level of less than $500,000 and for a duration of one year or less. Multi-year proposals may be considered in the context of a strategic detailed plan of implementation. Funding in such cases is normally provided one year at a time, with commitments beyond the first year subject to interim evaluations.

In general, priority consideration will be given to proposals that identify and seek to address specific problems or constraints in rural business systems or food and agribusiness systems in emerging markets through technical assistance activities to expand or maintain U.S. agricultural exports. Priority will also be given to those proposals that include the willingness of the applicant to commit its own funds, or those of the U.S. industry, to seek export opportunities in an emerging market. The percentage of private funding proposed for a project will, therefore, be a critical factor in determining which proposals are funded under the EMP. Proposals will also be judged on their ability to provide benefits to the organization receiving EMP funds and to the broader industry which that organization represents.

A performance report detailing the results of each project supported with EMP funds must be submitted to the Marketing Operations Staff at the address above. Because public funds are used to support EMP projects, these reports will be made available to the public. Complete final financial reports are to accompany performance reports.

Closing Date for Applications

The deadline for all applications to the EMP is 5 p.m. Eastern Standard Time, March 10, 2003. Announcements of funding decisions for the EMP are anticipated in early July 2003.

Signed at Washington, DC, on January 8, 2003.

Kenneth J. Roberts,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 03–1120 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the 2003/2004 Market Access Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation is inviting proposals for the 2003/2004 Market Access Program.

DATES: All applications must be received by 5 p.m. eastern standard time, March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that applications are being accepted for participation in the 2003/2004 Market Access Program (MAP). The MAP is designed to create, expand and maintain foreign markets for United States' agricultural commodities and products through cost-share assistance. Financial assistance under the MAP will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. The MAP is administered by the Foreign Agricultural Service (FAS).

Under the MAP, the CCC enters into agreements with eligible participants to share the costs of certain overseas marketing and promotion activities. MAP participants may receive assistance for either generic or brand promotion activities. The program generally operates on a reimbursement basis.

Authority

The MAP is authorized under section 203 of the Agricultural Trade Act of 1978, as amended. MAP regulations appear at 7 CFR part 1485.

Eligible Applicants

To participate in the MAP, an applicant must be: a nonprofit U.S. agricultural trade organization, a nonprofit state regional trade group (*i.e.*, an association of State Departments of Agriculture), a U.S. agricultural cooperative, a State agency, or a small-sized U.S. commercial entity (other than a cooperative or producer association).

Application Process

To be considered for the MAP, an applicant must submit to the FAS information required by the MAP regulations set forth in 7 CFR part 1485. Incomplete applications and applications which do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs including the Foreign Market Development Cooperator (Cooperator) Program, Cochran Fellowships, the Emerging Markets Program (EMP), the Quality Samples Program (QSP), the Section 108 Foreign Currency Program, the Technical Assistance for Specialty Crops (TASC) program and several Export Credit Guarantee programs. Organizations which are interested in applying for MAP funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. The UES allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade which they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to the FAS through the UES application Internet Web site. The FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to the FAS on diskette.

Applicants planning to use the Internet-based system must contact the

FAS Marketing Operations Staff at (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, may be found at the following URL address: *http://www.fas.usda.gov/cooperators.html.*

Applicants who choose to submit applications on diskette can obtain an application format by contacting the Marketing Operations Staff at (202) 720–4327.

All MAP applicants, whether applying via the Internet or diskette, also must submit by March 10, 2003, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR 1485.13(a)(2)(i)(G).

Any organization that is not interested in applying for the MAP but would like to request assistance through one of the other programs mentioned should contact the Marketing Operations Staff on (202) 720–4327.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available MAP funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear at § 1485.12 and § 1485.13 of the MAP regulations. Applications which meet the requirements then will be further evaluated by the proper FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1485.14 of the MAP regulations. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor):

(a) Applicant's Contribution Level (40)

- The applicant's 4-year average share (2000–2003) of all contributions (cash and goods and services provided by U.S. entities in support of overseas marketing and promotion activities) compared to
- The applicant's 4-year average share (2000–2003) of the funding level for all MAP participants.

(b) Past Performance (30)

- The 3-year average share (2000–2002) of the value of exports promoted by the applicant compared to
- The applicant's 2-year average share (2001–2002) of the funding level for all MAP applicants plus, for those groups participating in the Cooperator program, the 2-year average share (2002–2003) of Cooperator marketing plan budgets, and the 2-year average share (2001–2002) of foreign overhead provided for co-location within a U.S. agricultural office;

(c) Projected Export Goals (15)

- The total dollar value of projected exports promoted by the applicant for 2003 compared to
- The applicant's requested funding level;

(d) Accuracy of Past Projections (15)

- Actual exports for 2001 as reported in the 2003 MAP application compared to
- Past projections of exports for 2001 as specified in the 2001 MAP application.

The Commodity Divisions' recommended funding levels for each applicant are converted to percentages of the total MAP funds available then multiplied by the total weight factor as described above to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5 p.m. eastern standard time, March 10, 2003. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5 p.m. eastern standard time, March 10, 2003, at one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, *etc.*): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed in Washington, DC on January 8, 2003.

Kenneth J. Roberts,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 03–1116 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Announcement of the Quality Samples Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Commodity Credit Corporation is inviting proposals for the Quality Samples Program.

DATES: All proposals must be received by 5 p.m. eastern standard time, March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Commodity Credit Corporation (CCC) announces that proposals may be submitted for participation in the Quality Samples Program (QSP). The QSP is designed to encourage the development and expansion of export markets for U.S. agricultural commodities by assisting U.S. entities in providing commodity samples to potential foreign importers to promote a better understanding and appreciation for the high quality of U.S. agricultural commodities. All proposals will be reviewed against the evaluation criteria

contained herein and funds will be awarded on a competitive basis. Financial assistance will be made available on a reimbursement basis. The QSP is administered by the Foreign Agricultural Service (FAS).

Under the QSP, CCC enters into agreements with those entities whose proposals have been accepted. The QSP agreement between CCC and the participant will include the maximum amount of CCC funds that may be used to reimburse certain activity costs that have been approved by CCC and paid by the QSP participant. QSP participants will be responsible for procuring (or arranging for the procurement of) commodity samples, exporting the samples, and providing the technical assistance necessary to facilitate successful use of the samples by importers. Participants that are funded under this announcement may seek reimbursement for the sample purchase price and the costs of transporting the samples domestically to the port of export and then to the foreign port of entry. Transportation costs from the foreign port, or point, of entry to the final destination will not be eligible for reimbursement. CCC will not reimburse the costs incidental to purchasing and transporting samples, for example, inspection or documentation fees. Although providing technical assistance is required for all projects, CCC will not reimburse the costs of providing technical assistance. A QSP participant will be reimbursed after CCC reviews its reimbursement claim and determines that the claim is complete.

QSP agreements are subject to review and verification by the FAS Compliance Review Staff. Upon request, a QSP participant shall provide to CCC the original documents which support the participant's reimbursement claims. CCC may deny a claim for reimbursement if the claim is not supported by adequate documentation. Cash advances will not be made available to any QSP participant.

This notice supercedes any prior notices concerning the QSP.

Authority

The QSP is authorized under section 5(f) of the CCC Charter Act, 15 U.S.C. 714c(f).

General Scope of QSP Projects

QSP projects are the activities undertaken by a QSP participant to provide an appropriate sample of a U.S. agricultural commodity to a foreign importer, or a group of foreign importers, in a given market. The purpose of the project is to provide information to an appropriate target audience regarding the attributes, characteristics, and proper use of the U.S. commodity. A QSP project addresses a single market/commodity combination. As a general matter, QSP projects should conform to the following guidelines:

- Projects should benefit the represented U.S. industry and not a specific company or brand;
- Projects should develop a new market for a U.S. product, promote a new U.S. product, or promote a new use for a U.S. product, rather than promote the substitution of one established U.S. product for another;
- Sample commodities provided under a QSP project must be in sufficient supply and available on a commercial basis;
- The QSP project must either subject the commodity sample to further processing or substantial transformation in the importing country, or the sample must be used in technical seminars designed to demonstrate to an appropriate target audience the proper preparation or use of the sample in the creation of an end product;
- Samples provided in a QSP project shall not be directly used as part of a retail promotion or supplied directly to consumers. However, the end product, that is, the product resulting from further processing, substantial transformation, or a technical seminar, may be provided to end use consumers to demonstrate to importers consumer preference for that end product; and
- Samples shall be in quantities less than a typical commercial sale and limited to the amount sufficient to achieve the project goal (*e.g.*, not more than a full commercial mill run in the destination country).

QSP projects shall target foreign importers and target audiences who:

- Have not previously purchased the U.S. commodity which will be transported under the QSP;
- Are unfamiliar with the variety, quality attribute, or end-use characteristic of the U.S. commodity which will be transported under the QSP;
- Have been unsuccessful in previous attempts to import, process, and market the U.S. commodity which will be transported under the QSP (*e.g.*, because of improper specification, blending, or formulation; or sanitary or phytosanitary (SPS) issues);
- Are interested in testing or demonstrating the benefits of the U.S. commodity which will be transported under the QSP; or
- Need technical assistance in processing or using the U.S. commodity that will be transported under the QSP.

Under this announcement, the number of projects per participant will not be limited. However, individual projects will be limited to $75,000 of QSP reimbursement. Projects comprised of technical preparation seminars, that is, projects that do not include further processing or substantial transformation, will be limited to $15,000 of QSP reimbursement as these projects require smaller samples.

Proposal Process

In order to be considered for participation in the QSP, interested parties should submit proposals to FAS as described in this notice. QSP proposals must contain complete information about the proposed projects. This notice is complemented by concurrent notices announcing four other foreign market development programs administered by FAS, including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Emerging Markets Program, the Technical Assistance for Specialty Crops Program, and the Section 108 Foreign Currency Program.

The MAP and Cooperator Program notices detail a Unified Export Strategy (UES) application process which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Some applicants to the QSP, particularly those who also are applying for funding under the MAP or Cooperator Program, are encouraged to use the UES application process. The Internet-based UES application, including step-by-step instructions for its use, is located at the following URL address: http://www.fas.usda.gov/cooperators.html. Other applicants should follow the application procedures contained in this notice.

Entities interested in participating in the QSP are not required to submit proposals in any specific format; however, FAS recommends that proposals contain, at a minimum, the following:

(a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);
- Type of organization;
- Name, telephone number, fax number, and e-mail address of the primary contact person;
- A description of the organization and its membership;

• A description of the organization's prior export promotion experience; and

• A description of the organization's experience in implementing an appropriate trade/technical assistance component;

(b) Market information, including:

• An assessment of the market;

• A long-term strategy in the market; and

• U.S. export value/volume and market share (historic and goals) for 1999–2004;

(c) Project information, including:

• A brief project title;

• Amount of funding requested;

• A brief description of the specific market development trade constraint or opportunity to be addressed by the project, performance measures for the years 2003–2005 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2002, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;

• A description of the activities planned to address the constraint or opportunity, including how the sample will be used in the end-use performance trial, the attributes of the sample to be demonstrated and their end-use benefit, and details of the trade/technical servicing component (including who will provide and who will fund this component);

• A sample description (*i.e.*, commodity, quantity, quality, type, and grade), including a justification for selecting a sample with such characteristics (this justification should explain in detail why the project could not be effective with a smaller sample);

• An itemized list of all estimated costs associated with the project for which reimbursement will be sought; and

• The importer's role in the project regarding handling and processing the commodity sample;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, CCC, FAS, or other Federal agencies. Contributed resources may include cash or goods and services.

Review Process

Proposals will be evaluated by the applicable FAS commodity division. The divisions will review each proposal against the factors described below. The purpose of this review is to identify meritorious proposals, recommend an appropriate funding level for each proposal based upon these factors, and submit the proposals and funding recommendations to the Deputy Administrator, Commodity and Marketing Programs.

FAS will use the following criteria in evaluating proposals:

• The ability of the organization to provide an experienced staff with the requisite technical and trade experience to execute the proposal;

• The extent to which the proposal is targeted to a market in which the United States is generally competitive;

• The potential for expanding commercial sales in the proposed market;

• The nature of the specific market constraint or opportunity involved and how well it is addressed by the proposal;

• The extent to which the importer's contribution in terms of handling and processing enhances the potential outcome of the project;

• The amount of reimbursement requested and the organization's willingness to contribute resources, including cash and goods and services of the U.S. industry and foreign third parties; and

• How well the proposed technical assistance component assures that performance trials will effectively demonstrate the intended end-use benefit.

Highest priority for funding under this announcement will be given to meritorious proposals which target countries which meet either of the following criteria:

• Per capita income less than $9,265 (the ceiling on upper middle income economies as determined by the World Bank [World Development Indicators 2001]); and population greater than 1 million. Proposals may address suitable regional groupings, for example, the islands of the Caribbean Basin; or

• U.S. market share of imports of the commodity identified in the proposal of 10 percent or less.

Agreements

Following approval of a proposal, CCC will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the details of each project as approved by FAS. Each agreement will identify terms and conditions pursuant to which CCC will reimburse certain costs of each project. Agreements will also outline the responsibilities of the participant, including, but not limited to, procurement (or arranging for procurement) of the commodity sample at a fair market price, arranging for transportation of the commodity sample within the time limit specified in the agreement (organizations should endeavor to ship commodities within 6 months of effective date of agreement), compliance with cargo preference requirements (shipment on United States flag vessels, as required), compliance with the Fly America Act requirements (shipment on United States air carriers, as required), timely and effective implementation of technical assistance, and submission of a written evaluation report within 90 days of expiration of the agreement. Evaluation reports should address all performance measures which were presented in the proposal.

Closing Date for Proposals

All Internet-based applications must be properly submitted by 5 p.m. Eastern Standard Time, March 10, 2003. All paper copy proposals must be submitted in duplicate and received by 5 p.m. Eastern Standard Time, March 10, 2003, at one of the following addresses:

Hand Delivery (including FedEx, UPS, etc.): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed at Washington, DC, on January 8, 2003.

Kenneth J. Roberts,

Acting Administrator, Foreign Agricultural Service, and Vice President, Commodity Credit Corporation.

[FR Doc. 03–1118 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Announcement of the Foreign Market Development Cooperator Program

AGENCY: Foreign Agricultural Service.

ACTION: Notice.

SUMMARY: The Foreign Agricultural Service is inviting proposals for the fiscal year 2004 Foreign Market Development Cooperator Program.

DATES: All applications must be received by 5 p.m. eastern standard time on March 10, 2003.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Foreign Agricultural Service (FAS) announces that applications are being accepted for participation in the fiscal year 2004 Foreign Market Development Cooperator (Cooperator) Program. The program is designed to create, expand, and maintain foreign markets for U.S. agricultural commodities and products through cost-share assistance. Financial assistance under the Cooperator Program will be made available on a competitive basis and applications will be reviewed against the evaluation criteria contained herein.

Under the Cooperator Program, FAS enters into agreements with nonprofit U.S. trade organizations which have the broadest possible producer representation of the commodity being promoted and gives priority to those organizations which are nationwide in membership and scope. Cooperators may receive assistance only for the promotion of generic activities which do not involve promotions targeted directly to consumers. The program generally operates on a reimbursement basis.

Authority

The Cooperator Program is authorized by title VII of the Agricultural Trade Act of 1978, as amended. Cooperator Program regulations appear at 7 CFR part 1484.

Eligible Applicants

To participate in the Cooperator Program an applicant must be a nonprofit U.S. agricultural trade organization.

Application Process

To be considered for the Cooperator Program, an applicant must submit to the FAS information required by the Cooperator Program regulations set forth in 7 CFR part 1484. Incomplete applications and applications which do not otherwise conform to this announcement will not be accepted for review.

The FAS administers various other agricultural export assistance programs, including the Market Access Program (MAP), Cochran Fellowships, the Emerging Markets Program, the Quality Samples Program, section 108 Foreign Currency Program, Technical Assistance for Specialty Crops Program, and several Export Credit Guarantee programs. Organizations which are interested in applying for Cooperator Program funds are encouraged to submit their requests using the Unified Export Strategy (UES) format. The UES allows interested entities to submit a consolidated and strategically coordinated single proposal that incorporates requests for funding and recommendations for virtually all the FAS marketing programs, financial assistance programs, and market access programs. The suggested UES format encourages applicants to examine the constraints or barriers to trade which they face, identify activities which would help overcome such impediments, consider the entire pool of complementary marketing tools and program resources, and establish realistic export goals. Applicants are not required, however, to use the UES format.

Organizations can submit applications in the UES format by two methods. The first allows an applicant to submit information directly to the FAS through the UES application Internet site. The FAS highly recommends applying via the Internet, as this format virtually eliminates paperwork and expedites the FAS processing and review cycle. Applicants also have the option of submitting electronic versions (along with two paper copies) of their applications to the FAS on diskette.

Applicants planning to use the Internet-based system must contact the Marketing Operations Staff on (202) 720–4327 to obtain site access information. The Internet-based application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.*

Applicants who choose to submit applications on diskette can obtain an application format by contacting the Marketing Operations Staff on (202) 720–4327.

All Cooperator Program applicants, whether applying via the Internet or diskette, also must submit by March 10, 2003, via hand delivery or U.S. mail, an original signed certification statement as specified in 7 CFR section 1484.20(a)(14).

Any organization which is not interested in applying for the Cooperator Program, but would like to request assistance through one of the other programs mentioned, should contact the Marketing Operations Staff on (202) 720–4327.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP.

Following is a description of the FAS process for reviewing applications and the criteria for allocating available Cooperator Program funds.

(1) Phase 1—Sufficiency Review and FAS Divisional Review

Applications received by the closing date will be reviewed by the FAS to determine the eligibility of the applicants and the completeness of the applications. These requirements appear at §§ 1484.14 and '' 1484.20 of the Cooperator Program regulations. Applications which meet the application requirements then will be further evaluated by the proper FAS Commodity Division. The Divisions will review each application against the criteria listed in § 1484.21 and § 1484.22 of the Cooperator Program regulations. The purpose of this review is to identify meritorious proposals and to recommend an appropriate funding level for each application based upon these criteria.

(2) Phase 2—Competitive Review

Meritorious applications then will be passed on to the Office of the Deputy Administrator, Commodity and Marketing Programs, for the purpose of allocating available funds among the applicants. Applications will compete for funds on the basis of the following allocation criteria (the number in parentheses represents a percentage weight factor):

(a) Contribution Level (40)

- The applicant's 6-year average share (1999–2004) of all contributions (contributions may include cash and goods and services provided by U.S. entities in support of foreign market development activities) compared to
- The applicant's 6-year average share (1999–2004) of all Cooperator marketing plan expenditures.

(b) Past Export Performance (20)

The 6-year average share (1998–2003) of the value of exports promoted by the applicant compared to

• The applicant's 6-year average share (1998–2003) of all Cooperator marketing plan expenditures plus a 6-year average share (1997–2002) of MAP expenditures and a 6-year average share (1997–2002) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(c) Past Demand Expansion Performance (20)

• The 6-year average share (1998–2003) of the total value of world trade of the commodities promoted by the applicant compared to

• The applicant's 6-year average share (1998–2003) of all Cooperator marketing plan expenditures plus a 6-year average share (1997–2002) of MAP expenditures and a 6-year average share (1997–2002) of foreign overhead provided for co-location within a U.S. agricultural trade office.

(d) Future Demand Expansion Goals (10)

• The projected total dollar value of world trade of the commodities being promoted by the applicant for the year 2009 compared to

• The applicant's requested funding level.

(e) Accuracy of Past Demand Expansion Projections (10)

• The actual dollar value share of world trade of the commodities being promoted by the applicant for the year 2002 compared to

• The applicant's past projected share of world trade of the commodities being promoted by the applicant for the year 2002, as specified in the 1999 Cooperator Program application.

The Commodity Divisions' recommended funding levels for each applicant are converted to percentages of the total Cooperator Program funds available then multiplied by the total weight factor to determine the amount of funds allocated to each applicant.

Closing Date for Applications

All Internet-based applications must be properly submitted by 5 p.m. eastern standard time, March 10, 2003. Signed certification statements also must be received by that time at one of the addresses listed below.

All applications on diskette (with two accompanying paper copies and a signed certification statement) and any other applications must be received by 5 p.m. eastern standard time, March 10, 2003, at one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, *etc.*): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 1400 Independence Avenue, SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed in Washington, DC on January 8, 2003.

Kenneth J. Roberts,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 03–1117 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Section 108 Foreign Currency Program

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice.

SUMMARY: The Foreign Agricultural Service invites proposals from interested parties to use Tunisian dinars acquired by the United States for activities to expand markets for U.S. agricultural commodities and for technical assistance activities.

FOR FURTHER INFORMATION CONTACT: Marketing Operations Staff, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4932–S, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042, (202) 720–4327.

SUPPLEMENTARY INFORMATION:

Introduction

The Foreign Agricultural Service (FAS) will make available Tunisian dinars to provide assistance in market development and agricultural technical assistance activities. These foreign currencies were acquired by USDA pursuant to agreements made under Title I of the Agricultural Trade Development and Assistance Act of 1954, (Pub. L. 480).

Title I, Pub. L. 480 authorizes the U.S. government to finance the sale and exportation of agricultural commodities to foreign governments on concessional terms. Between 1986 and 1991, the U.S. entered into various Title I, Pub. L. 480 agreements with foreign governments, on terms which allowed repayment to the United States in local currencies. Pub. L. 480 authorizes the U.S. government to use these foreign currencies to implement market development and agricultural technical assistance activities.

This announcement supersedes all previous announcements regarding this program. On January 8, 2002, FAS published a notice in the **Federal Register** (67 FR 862–864) inviting proposals to use currencies of the Dominican Republic, Jamaica, Sri Lanka, and Tunisia for market development projects and technical assistance activities. The currencies of the Dominican Republic, Jamaica, and Sri Lanka, which were available under the previous announcements, are no longer available.

FAS must disburse local currencies to program participants, usually through the disbursing officer in the U.S. embassy in the country of origin. That is, FAS may not convert the local currency to any other currency prior to disbursement. It is the responsibility of the recipient to arrange for receiving and using the foreign currencies made available, or converting the funds to other currencies. Applicants should note that Tunisian currency may not be readily convertible.

Proposal Process

This notice is complemented by concurrent notices announcing five other foreign market development programs administered by FAS, including the Market Access Program (MAP), the Foreign Market Development Cooperator (Cooperator) Program, the Emerging Markets Program, the Technical Assistance for Specialty Crops Program, and the Quality Samples Program. The MAP and Cooperator Program notices detail a Unified Export Strategy (UES) application process which provides a means for interested applicants to submit a consolidated and strategically coordinated single proposal that incorporates funding requests for any or all of these programs. Some applicants to the section 108 foreign currency program, particularly those who are applying for funding under more than one program, may wish to use the UES application process. The Internet-based UES application, including step-by-step instructions for its use, is located at the following URL address: *http://www.fas.usda.gov/cooperators.html.* Other applicants, particularly those who are applying for funding only under the section 108 foreign currency program, should follow the application procedures contained in this notice. Interested applicants that are unsure of how to apply are urged to contact the Marketing Operations Staff at the address or phone number above.

FAS recommends that proposals to participate in the section 108 foreign

currency program contain, at a minimum, the following:

(a) Organizational information, including:

- Organization's name, address, Chief Executive Officer (or designee), and Federal Tax Identification Number (TIN);
- Type of organization, *e.g.*, corporation, non-profit organization;
- Name, telephone number, fax number, and e-mail address of the primary contact person;
- If a trade organization, a description of the organization and its membership;
- A description of the organization's prior export promotion experience; and
- A description of the organization's experience in implementing a trade or technical assistance activity;

(b) Market information, including:

- An assessment of the targeted market;
- A long-term strategy in the market; and
- U.S. export value/volume and market share data and goals for 2000–2005;

(c) Project information, including:

- A brief project title;
- Request for funding in one of the available foreign currencies;
- A brief description of the specific market development trade constraint to be addressed by the project, performance measures for the years 2003–2005 which will be used to measure the effectiveness of the project, a benchmark performance measure for 2003, the viability of long term sales to this market, the goals of the project, and the expected benefits to the represented industry;
- A method for evaluating and reporting results;
- A description of the activities planned to address the constraint; and
- An itemized list of all estimated costs associated with each project activity for which reimbursement will be sought;

(d) Information indicating all funding sources and amounts to be contributed by each entity that will supplement implementation of the proposed project. This may include the organization that submitted the proposal, private industry entities, host governments, foreign third parties, Commodity Credit Corporation, FAS, or other Federal agencies. Contributed resources may include cash or goods and services; and,

(e) A completed Standard Form 424 (SF–424). This form is available on the Internet via the section 108 fact sheet at the following URL address: *http://www.fas.usda.gov/info/factsheets/108fact.htm,* or by calling the contact listed above.

Review Process and Allocation Criteria

The FAS allocates funds in a manner which effectively supports the strategic decision-making initiatives of the Government Performance and Results Act (GPRA) of 1993 and the USDA's Food and Agricultural Policy (FAP). In deciding whether a proposed project will contribute to the effective creation, expansion, or maintenance of foreign markets, the FAS seeks to identify a clear, long-term agricultural trade strategy and a program effectiveness time line against which results can be measured at specific intervals using quantifiable product or country goals. The FAS also considers the extent to which a proposed project targets markets with the greatest growth potential. These factors are part of the FAS resource allocation strategy to fund applicants who can demonstrate performance and address the objectives of the GPRA and FAP. FAS will provide financial assistance under this program on a competitive basis and applications will be reviewed against the evaluation criteria contained herein. Each proposal will be evaluated by the applicable FAS commodity division. The divisions will recommend funding levels for each applicant based on a review of the applications against the following factors:

- The ability of the organization to provide an experienced staff with the requisite technical and trade expertise to execute the proposal;
- The funding request and the organization's willingness to contribute resources, including cash, goods and services of the U.S. industry and foreign third parties;
- The conditions or constraints affecting the level of U.S. exports and market share for the agricultural commodities and products;
- The degree to which the proposed project is likely to contribute to the creation, expansion, or maintenance of the targeted foreign market; and
- The degree to which the organization's proposal is coordinated with other private or U.S. government-funded market development projects.

The purpose of this review is to identify meritorious proposals and to suggest an appropriate funding level for each application based upon these factors. Meritorious proposals will then be reviewed by representatives of each FAS program area for the purpose of allocating available funds among the applicants.

Preference is given to nonprofit U.S. agricultural trade organizations that represent an entire industry or are nationwide in membership and scope.

Note: FAS generally reviews section 108 proposals on a quarterly basis. However, FAS may also consider proposals on an accelerated basis if an urgent marketing opportunity becomes available. FAS will evaluate such proposals according to the criteria specified in this notice.

Agreements

Following approval of a proposal, FAS will enter into an agreement with the organization that submitted the proposal. Agreements will incorporate the project details as approved by FAS and specify any other terms and conditions applicable to project funding. Agreements include the maximum amount of funds, in local currencies rather than U.S. dollars, which may be made available for a participant's approved activities. All agreements with non-profit organizations under this program are administered under 7 CFR 3019—Uniform Administrative Requirements for Grants and Cooperative Agreements with Institutions of Higher Education, Hospitals, and other Non-profit Organizations. These regulations can be found on the Internet at the following URL address: *http://www.access.gpo.gov/nara/cfr/waisidx_01/7cfr3019_01.html.*

Submission of Proposals

Applicants may submit proposals at any time. However, all Internet-based section 108 proposals (using the UES application) must be properly submitted by 5 p.m. Eastern Standard Time, March 10, 2003, because the UES entry Web site closes at that time. Signed SF–424 forms must be delivered to one of the addresses listed below.

All proposals on diskette (with two accompanying paper copies and a signed SF–424 form) and any other proposals must be delivered to one of the following addresses:

Hand Delivery (including FedEx, DHL, UPS, *etc.*): U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, Room 4932–S, 14th and Independence Ave., SW., Washington, DC 20250–1042.

U.S. Postal Delivery: U.S. Department of Agriculture, Foreign Agricultural Service, Marketing Operations Staff, STOP 1042, 1400 Independence Ave., SW., Washington, DC 20250–1042.

Signed at Washington, DC, on January 8, 2003.

Kenneth J. Roberts,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 03–1119 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF AGRICULTURE

Forest Service

Gallatin National Forest Invasive Plant Treatment EIS, Gallatin National Forest, Gallatin County, Madison County, Meagher County, Park County, Sweet Grass County, and Stillwater County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: Invasive plants can alter ecosystem processes, including: productivity; hydrologic function; nutrient cycling, and natural disturbance patterns such as frequency and intensity of wildfires. Changing these processes can lead to displacement of native plant species, eventually impacting wildlife and plant habitat, recreational opportunities, livestock forage, and scenic values. The Forest Service has identified that at least 15,500 acres on the Gallatin National Forest that are in a downward trend due to the infestation of invasive plants. The Forest Service will evaluate these known infestations and high-risk areas or conditions that may cause infestations over the next ten to fifteen years and analyze various management activities to reduce the spread and density of invasive plants and allow desirable native vegetation to re-establish and regain vigor. Based on previous trend information, it is estimated that infestations could increase to approximately 155,000 acres over the next ten to fifteen years at historic funding levels. The purpose and need for this project is for the Forest Service to improve the trend of the ecological condition for the known infestations, prevent infestations in areas that have potential for invasion, and allow for adaptive management to treat anticipated new infestations across the Gallatin National Forest over the next ten to fifteen years. The proposed actions being considered to achieve the purpose and need include implementing an integrated pest management program aimed at controlling new starts, priority areas and areas of minor infestations; and implementing holding actions on areas of existing large infestations. The Gallatin National Forest is proposing to continue control of invasive plants through the integration of mechanical, biological, ground and aerial (helicopter) herbicide control methods.

DATES: Comments concerning the scope of the analysis should be received in writing on or before February 28, 2003.

ADDRESSES: Send written comments to Hebgen Lake Ranger District, Gallatin National Forest, PO Box 520, West Yellowstone, MT 59758.

FOR FURTHER INFORMATION CONTACT: Direct questions about the proposed action and EIS to Susan LaMont, Project Coordinator, PO Box 520, West Yellowstone, Montana 59758, phone (406) 823–6976.

SUPPLEMENTARY INFORMATION: These management activities would be administered by the Gallatin National Forest in Gallatin, Madison, Meagher, Park, Sweet Grass, and Stillwater Counties, Montana. The EIS will tier to the 1987 Gallatin National Forest and Grasslands Land and Resource Management Plan (Forest Plan), which provide the overall management direction for the area. The proposed action is consistent with the Forest Plan. The purpose of the Forest Service proposal is to further movement towards desired conditions outlined in the Forest Plan, by:

- Protecting the natural condition and biodiversity on the Gallatin National Forest by preventing or limiting the spread of aggressive, non-native plant species that displace native vegetation;
- Promptly eliminating new invaders (species not previously reported in the area) before they become established;
- Reducing known and potential invasive plant seed sources on trailheads and campsites, along main roads and trails, within powerline corridors, and in wildlife and livestock use areas;
- Preventing or limiting the spread of established invasive plants into areas containing little or no infestation;
- Protecting sensitive and unique habitats including the Absaroka-Beartooth Wilderness Area, LeeMetcalf Wilderness, municipal watersheds, critical winter ranges, research natural areas, riparian areas, and sensitive plant populations.

The proposed action will be consistent with the Forest Plan, which provides goals, objectives, standards and guidelines of the various activities and land allocations on the forest. The Forest Plan allocates the project area into twenty-six management areas (MAs), the invasive plants occur within most of these management areas. Private lands are also included within the project area boundary. Although excluded from Forest Service activities, project access and the condition of private lands will be considered during alternative development and when analyzing potential cumulative efforts.

The key issue topics identified to date include:

- The current and potential impacts of invasive plants on natural resources such as critical big game habitat, native plant communities, wilderness values, watersheds, and threatened, endangered, or sensitive species;
- Economics, effectiveness, and potential impacts of various control methods on natural resources;
- Potential effects on non-target native plants, wildlife and fish populations, and human health from the application of herbicides (both ground base and aerial applications).

The areas the Forest Service plan to analyze include:

Ranger district	Location (township range)	Maximum treatment acreage [1]	Estimated aerial treatment acreage
Big Timber	Between T5N—T5S; and Between R15E—R10E, Montana Principle Meridian.	900 Acres	0 Acres.
Livingston	Between T6N—T8S; and Between R12E—R5E, Montana Principle Meridian.	2,000 Acres	0 Acres.
Gardiner	Between TFS—T9S; and Between R17E—R5E, Montana Principle Meridian.	6,200 Acres	0 Acres.
Bozeman	Between T4N—T9S; and Between R8E—R1E, Montana Principle Meridian.	3,700 Acres	171 Acres.
Hebgen Lake	Between T8S—T15S; and Between R5E—R2E, Montana Principle Meridian.	2,700 Acres	172 Acres.

[1] These are the maximum projected treatment acres, actual treatment acres may be less.

A range of reasonable alternatives will be considered, including a no action alternative. Other alternatives will examine various combinations of invasive plant treatment. Based on the issues gathered through scoping, the

action alternatives will vary in the amount and location of acres considered for treatment and the number, type, and location of activity.

Public participation will be especially important at several points during the analysis, beginning with the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, local agencies, tribes and other individuals or organizations who may be interested in or affected by the proposed project. This input will be used in preparation of the draft EIS. Continued scoping and public participation efforts will be used by the interdisciplinary team to identify new issues, determine alternatives in response to the issues, and determine the level of analysis needed to disclose potential biological, physical, economic, and social impacts associated with this project.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by February 2003. The EPA will publish a notice of availability of the draft EIS in the **Federal Register**. The comment period on the draft EIS will be 45 days from the date the EPA notice appears in the **Federal Register**. At that time, copies of the draft EIS will be distributed to interested and affected agencies, organizations, and members of the public for their review and comment. It is important that those interested in this proposal on the Gallatin National Forest participate at that time.

The Forest Service believes it is important to give reviewers notice, at this early stage, of several court rulings related to public participation in the environmental review process. First, reviewers of a draft EIS must structure their participation in the environmental review of the proposal so that it is meaningful and alerts the agency to the reviewer's position contentions. Vermont *Yankee Nuclear Plant Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft EIS stage but that are not raised until after completion of the final EIS may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 f. 2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc,* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final EIS. To assist the Forest Service in identifying and considering issues and concerns on the proposed actions, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft EIS. Comments may also address the adequacy of the draft EIS or merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.)

The final EIS is scheduled for completion by February 2003. In the final EIS, the Forest Service is required to respond to substantive comments received during the comment period for the draft EIS. Rebecca Heath, Forest Supervisor of the Gallatin National Forest, is the responsible official for all except use of herbicides within designated Wilderness Areas. The responsible official for use of herbicides within designated Wilderness Areas is Brad Powell, Regional Forester of the Northern Region. They will decide which, if any, of the proposed project alternatives will be implemented.

Their decisions and reasons for the decisions will be documented in appropriate Records of Decision. Those decisions will be subject to Forest Service appeal regulations (36 CFR part 215).

Dated: December 18, 2002.

Rebecca Heath,

Forest Supervisor.

[FR Doc. 03–1044 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Fortine Timber Sales and Associated Activities; Kootenai National Forest, Lincoln County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The USDA, Forest Service, will prepare an Environmental Impact Statement (EIS) to disclose the environmental effects of timber harvest, prescribed fire, road management, and watershed rehabilitation in the Fortine Analysis Area on the Fortine Ranger District of the Kootenai National Forest. The Fortine Analysis Area is located approximately 30 air miles northeast of Libby, Montana, near the communities of Trego and Fortine, Montana.

Scoping Comment Date: Written comments and suggestions should be postmarked or received by February 24, 2003.

ADDRESSES: The Responsible Official is Edward C. Monnig, District Ranger, Fortine Ranger District, P.O. Box 116, Fortine, Montana, 59918. Written comments and suggestions concerning the scope of the analysis may be sent to him at that address.

FOR FURTHER INFORMATION CONTACT: Joleen Dunham, Project Leader, Fortine Ranger District. Phone: (406) 882–4451.

SUPPLEMENTARY INFORMATION: The Fortine Decision Area contains approximately 25,110 acres of land within the Kootenai National Forest in Lincoln County, Montana. The legal location of the Fortine Decision Area is as follows: all or portions of T33N, R26W; T32N, R26W; T32N, R27W; and T31N, R26W; PMM, Lincoln County, Montana. All of the proposed projects would occur on National Forest lands in the Upper Fortine drainage seven miles south of the town of Trego, Montana. All proposed activities are outside the boundaries of any roadless area or any areas considered for inclusion to the National Wilderness System as recommended by the Kootenai National Forest Plan or by any past or present legislative wilderness proposals.

The purpose and need for this project is to: (1) Manage forest ecosystems to improve forest health and provide habitat for plant and animal populations; (2) manage for stable stream channels, productive habitats for aquatic species, and water quality that meet or exceeds State of Montana water quality goals; (3) reduce existing and expected future fuel accumulations and the potential risk of high intensity wildland fire and subsequent risk to private property; (4) provide timber to support local, regional, and national needs; and (5) maintain and manage a cost effective, long-term road system that meets present and future resource management needs, increases security for wildlife, and insures safe access.

The Forest Service proposes to harvest timber through application of a variety of harvest methods on approximately 2358 acres of forestland within the Fortine Decision Area. Use of existing, temporary and permanent roads would be needed to access timber harvest areas. An estimated 0.75 miles of existing roads would be reconstructed in addition to 1.1 miles of new road construction to facilitate timber removal and improve access for resource management. The temporary road would be obliterated following completion of sale related activities. An

additional 17 miles of road no longer needed for resource management, at this time, would be decommissioned by various methods, such as removal of culverts, recontouring, ripping and seeding, and installing barriers. The method of decommissioning would be selected for each road or portions of road on a site-specific basis. An estimated 2 miles of existing road would be restricted seasonally with 12 miles of existing road restricted year-round to reduce the potential loss of snags in old growth habitat, improve habit security for wildlife, and reduce sediment delivery to live streams. An estimated 11 miles of existing road would be restricted to reduce open road densities within and adjacent to designated old growth stands. More specifically management activities in this proposal include:

Regeneration Harvest: This harvest would leave approximately 20 large trees per acre, where feasible, to provide future snags and down woody material for wildlife habitat. A total of approximately 734 acres would be harvested through this method.

Intermediate Harvest: The following types of intermediate harvest are proposed: (1) Commercial thinning of condominate and subdominate trees while retaining a stocked stand of overstory trees on approximately 1522 acres; (2) harvest of post and pole sized lodgepole pine from approximately 71 acres; (3) salvage harvest on 31 acres would remove merchantable dead lodgepole pine while protecting desirable live trees in the stand.

Underburning: Underburning is proposed on approximately 179 acres outside harvest units to reduce fuel loads and reduce fire risk.

Roadside Fuel Reduction: Fuel reduction through slashing, hand piling and burning while maintaining the integrity of the stand is proposed within the first 100 feet of timber adjacent to open roads, on approximately 65 acres.

Burning of Natural Fuels and Slash: Burning of natural fuels and slash resulting from timber harvest is proposed on approximately 2358 acres.

Watershed/Fish Habitat Improvement: Watershed improvement projects include controlling cattle access to creeks, removing failed culverts, and applying best management practices on approximately 104 miles of existing road.

Range of Alternatives: The Forest Service will consider a range of alternatives. One of these will be the ''no action'' alternative in which none of the proposed activities would be implemented. Additional alternatives will examine varying levels and locations for the proposed activities to achieve the proposal's purposes, as well as to respond to the issues and other resource values.

Public Involvement and Scoping: In July 1999 preliminary efforts were made to involve the public in considering management opportunities within the Fortine Decision Area. Comments received prior to this notice will be included in the documentation for the EIS. This proposal includes openings greater than 40 acres, ranging from 46 to 60 acres. A 60 day public review period, and approval by the Regional Forester for exceeding the 40 acre limitation for regeneration harvest will occur prior to the signing of the Record of Decision. This 60 day period is initiated with this notice of intent.

Estimated Dates for Filing: The Draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review by September 2003. At that time, EPA will publish a notice of availability of the Draft EIS in the **Federal Register**. The comment period on the Draft EIS will be a minimum of 45 days from the date the EPA publishes the notice of availability in the **Federal Register**. It is very important that those interested in the management of this area participate at that time.

The Final EIS is scheduled to be complete by December 2003. In the Final EIS, the Forest Service will respond to comments and responses received during the comment period that pertain to the environmental consequences discussed in the Draft EIS and applicable laws, regulations, and policies considered in making a decision regarding the proposal.

Reviewer's Obligations: The Forest Service believes it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of Draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the Draft EIS stage may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the Draft EIS 45 day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the Final EIS.

To be most helpful, comments on the Draft EIS should be as specific as possible and may address the adequacy of the statement or the merit of the alternatives discussed. Reviewers may wish to refer to the Council on Environmental Quality regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Responsible Official: Edward C. Monnig, District Ranger, Fortine Ranger District, Kootenai National Forest, P.O. Box 116, Fortine, Montana 59918, is the Responsible Official. As the Responsible Official, he will decide if the proposed project will be implemented and will document the decision and reasons for the decision in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations.

Dated: January 9, 2003.

Greg Kujawa,

Acting Forest Supervisor, Kootenai National Forest.

[FR Doc. 03–1139 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Del Norte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Del Norte County Resource Advisory Committee (RAC) will meet on February 4, 2003 in Crescent City, California. The purpose of the meeting is to discuss the selection of Title II projects under Public Law 106–393, H.R. 2389, the Secure Rural Schools and Community Self-Determination Act of 2000, also called the ''Payments to States'' Act.

DATES: The meeting will be held on February 4, 2003 from 6 to 8:30 p.m.

ADDRESSES: The meeting will be held at the Del Norte County Unified School District Board Room, 301 West Washington Boulevard, Crescent City, California.

FOR FURTHER INFORMATION CONTACT: Laura Chapman, Committee Coordinator, USDA, Six Rivers National Forest, 1330 Bayshore Way, Eureka, CA 95501. Phone (707) 441–3549. E-mail: *1chapman@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The committee will discuss and prioritize

project proposals submitted by the public and Six Rivers National Forest. The meeting is open to the public. Public input opportunity will be provided and individuals will have the opportunity to address the committee at that time.

Dated: January 13, 2003.

S.E. Woltering,

Forest Supervisor.

[FR Doc. 03–1074 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to request an extension of a currently approved information collection, the Floriculture and Nursery Survey.

DATES: Comments on this notice must be received by March 24, 2003, to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250 or sent electronically to *gmcbride@nass.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION: *Title:* Floriculture and Nursery Survey.

OMB Control Number: 0535–0093.

Expiration Date of Approval: April 30, 2003.

Type of Request: Intent to seek approval to extend an information collection.

Abstract: The objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Floriculture and Nursery Survey is conducted in 36 States and obtains basic agricultural statistics on production and value of floriculture and nursery products. The retail and wholesale quantity and value of sales are collected for fresh cut flowers, potted flowering plants, foliage plants, annual bedding/garden plants, herbaceous perennials, cut cultivated florist greens, propagative floriculture material, and unfinished plants. Additional detail on area in production, operation value of sales, and agricultural workers is included. These statistics are used by the U.S. Department of Agriculture to help administer programs and by growers and marketers in making production and marketing decisions.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 14,000.

Estimated Total Annual Burden on Respondents: 7,000 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

Signed in Washington, DC, November 19, 2002.

Rich Allen,

Associate Administrator.

[FR Doc. 03–1039 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Revise and Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to request a revision to and extension of a currently approved information collection, the Vegetable Surveys Program.

DATES: Comments on this notice must be received by March 24, 2003 to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue SW., Washington, DC 20250 or sent electronically to *gmcbride@nass.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Vegetable Surveys Program.

OMB Number: 0535–0037.

Expiration Date of Approval: March 31, 2003.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The objective of the National Agricultural Statistics Service is to prepare and issue State and national estimates of crop and livestock production, prices, and disposition. The Vegetable Surveys Program obtains basic agricultural statistics for fresh market and processing vegetables in major producing States. Vegetable statistics are used by the U.S. Department of Agriculture to help administer programs and by growers, processors, and marketers in making

production and marketing decisions. The fresh market estimating program now consists of 24 selected crops and the processing program consists of 8 principal crops. To accommodate a reduction in allocated funds, a cut of approximately 20 percent was made in number of commodities, number of States surveyed, and sample sizes.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by Section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 10 minutes per response.

Respondents: Farms and businesses.

Estimated Number of Respondents: 8,800.

Estimated Total Annual Burden on Respondents: 2,500 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

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

Signed at Washington, DC, November 19, 2002.

Rich Allen,

Associate Administrator.

[FR Doc. 03–1040 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF AGRICULTURE

National Agricultural Statistics Service

Notice of Intent To Revise and Extend a Currently Approved Information Collection

AGENCY: National Agricultural Statistics Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13) and Office of Management and Budget regulations at 5 CFR part 1320 (60 FR 44978, August 29, 1995), this notice announces the intention of the National Agricultural Statistics Service (NASS) to request revision to and extension of a currently approved information collection, the Aquiculture Surveys.

DATES: Comments on this notice must be received by March 24, 2003, to be assured of consideration.

ADDRESSES: Comments may be mailed to Ginny McBride, NASS OMB Clearance Officer, U.S. Department of Agriculture, Room 5336 South Building, 1400 Independence Avenue, SW., Washington, DC 20250 or sent electronically to *gmcbride@nass.usda.gov.*

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, National Agricultural Statistics Service, U.S. Department of Agriculture, (202) 720–4333.

SUPPLEMENTARY INFORMATION:

Title: Aquiculture Surveys.

OMB Control Number: 0535–0150.

Expiration Date of Approval: March 31, 2003.

Type of Request: Intent to revise and extend a currently approved information collection.

Abstract: The objective of the National Agricultural Statistics Service is to prepare and issue state and national estimates of crop and livestock production and prices. The Aquiculture Surveys collect information on trout and catfish inventory, acreage, and sales and catfish processed. Survey results are used by government agencies in planning farm programs.

Twenty states are in the trout growers survey. In January, previous year trout sales data are collected from farmers and distributed fish data are collected from state and federal hatcheries.

Thirteen states are in the catfish growers survey. Data are collected from farmers in January for January inventory, water area, and previous year sales. In addition, farmers in the four major catfish producing states are surveyed in July for mid-year inventory numbers.

All 26 catfish processing plants across the nation are in the catfish processing survey. Plants are surveyed monthly for amount purchased, prices paid, amount sold, and prices received.

These data will be collected under the authority of 7 U.S.C. 2204(a). Individually identifiable data collected under this authority are governed by section 1770 of the Food Security Act of 1985, 7 U.S.C. 2276, which requires USDA to afford strict confidentiality to non-aggregated data provided by respondents.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Farms.

Estimated Number of Respondents: 2,100.

Estimated Total Annual Burden on Respondents: 900 hours.

Copies of this information collection and related instructions can be obtained without charge from Ginny McBride, NASS OMB Clearance Officer, at (202) 720–5778.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. All responses to this notice will become a matter of public record and be summarized in the request for OMB approval.

Signed in Washington, DC, November 19, 2002.

Rich Allen,

Associate Administrator.

[FR Doc. 03–1041 Filed 1–16–03; 8:45 am]

BILLING CODE 3410–20–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete a product and a service previously furnished by such agencies.

COMMENTS MUST BE RECEIVED ON OR BEFORE: February 16, 2003.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Sheryl D. Kennerly, (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a) (2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each service will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited.

Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Services

Service Type/Location: Base Supply Center U.S. Coast Guard Integrated Support Command, Kodiak, Alaska.
NPA: Raleigh Lions Clinic for the Blind, Inc., Raleigh, North Carolina.
Contract Activity: U.S. Coast Guard Integrated Support Command, Kodiak, Alaska.

Service Type/Location: Custodial Service, U.S. Customs Service, 457 Aviation Hanger, San Antonio, Texas, U.S. Customs Service, Bldg #2, 447 Sandau Road, San Antonio, Texas.
NPA: Mavagi Enterprises, Inc., San Antonio, Texas.
Contract Activity: U.S. Customs Service, Indianapolis, Indiana.

Service Type/Location: Hospital Housekeeping Services, Darnall Army Community Hospital, Fort Hood, Texas.
NPA: Professional Contract Services, Inc., Austin, Texas.
Contract Activity: Headquarters, III Corps, Fort Hood, Texas.

Service Type/Location: Janitorial/Custodial, U.S. Army Reserve Center, Duluth, Minnesota.
NPA: Goodwill Industries Vocational Enterprises, Inc., Duluth, Minnesota.
Contract Activity: Headquarters, 88th Regional Support Command, Fort Snelling, Minnesota.

Service Type/Location: Mess Attendant, Willow Grove Naval Air Station Joint Reserve Base; Liberty Dining Hall, Horsham, Pennsylvania.
NPA: Occupational Training Center of Burlington County, Mt. Holly, New Jersey.
Contract Activity: Fleet Industrial Supply Center, Norfolk Det Philadelphia, Pennsylvania.

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action will result in authorizing small entities to furnish the product and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act(41 U.S.C. 46–48c) in connection with the products and services proposed for deletion from the Procurement List.

The following product and service are proposed for deletion from the Procurement List:

Products

Product/NSN: Brush, Tooth Brush Style, 7920–00–900–3577.
NPA: None currently authorized.
Contract Activity: GSA, General Product Center.

Services

Service Type/Location: Janitorial/Custodial, U.S. Courthouse and Customhouse, Toledo, Ohio.
NPA: ContracTech, Inc., Toledo, Ohio.
Contract Activity: GSA, Public Buildings Service.

Sheryl D. Kennerly,
Director, Information Management.

[FR Doc. 03–1143 Filed 1–16–03; 8:45 am]
BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 39–2002, 40–2002, 41–2002, 42–2002, 43–2002, 44–2002, 45–2002, 46–2002, 47–2002, and 48–2002]

Flint Ink North America Corporation—Applications for Foreign-Trade Subzone Status; Extension of Comment Period

The comment periods for the cases referenced above (67 FR 64088–64096, 10/17/2002) are being extended again, to April 15, 2003, at the request of the applicant, which will allow interested parties additional time in which to comment on the proposals. These ten related cases involve pending subzone applications from the following Foreign-Trade Zones:

—Foreign-Trade Zone 143—Sacramento, California
—Foreign-Trade Zone 170—Indianapolis, Indiana
—Foreign-Trade Zone 182—Fort Wayne, Indiana
—Foreign-Trade Zone 29—Louisville, Kentucky
—Foreign-Trade Zone 47—Boone County, Kentucky
—Foreign-Trade Zone 189—Kent-Ottawa-Muskegon Counties, Michigan
—Foreign-Trade Zone 46—Cincinnati, Ohio
—Foreign-Trade Zone 105—Providence, Rhode Island

—Foreign-Trade Zone 21—Charleston, South Carolina
—Foreign-Trade Zone 185—Culpeper, Virginia

Comments in writing are invited during this period. Submissions should include 3 copies. Material submitted will be available at: Foreign-Trade-Zones Board, U.S. Department of Commerce, Franklin Court Building—Suite 4100W, 1099 14th St. NW., Washington, DC 20005.

Dated: January 10, 2003.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. 03–1151 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Information Systems Technical Advisory Committee; Notice of Partially Closed Meeting

The Information Systems Technical Advisory Committee (ISTAC) will meet on February 5 & 6, 2003, 9 a.m., in the Cloud Room, Building 33, 53560 Hull Street, SPAWAR Systems Center (Topside), San Diego, California 92152. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to information systems equipment and technology.

February 5

Public Session

1. Comments or presentations by the public.
2. Discussion on deemed export issues.
3. Discussion on cryptography controls and digital rights management.
4. Discussion on semiconductor etch technology.
5. Discussion on semiconductor manufacturing equipment controls.
6. Discussion on external connections of microprocessors.

February 5 & 6

Closed Session

7. Discussion of matters properly classified under Executive Order 12958, dealing with U.S. export control programs and strategic criteria related thereto.

A limited number of seats will be available for the public session. Reservations are not required. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that public presentation materials or comments be forwarded before the meeting to the address listed below: Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 15th St. & Pennsylvania Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 7, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings or portions of meeting of these Committees and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meeting or portions thereof will be open to the public.

For more information, contact Lee Ann Carpenter on 202–482–2583.

Dated: January 13, 2003.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 03–1098 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Notice of Partially Closed Meeting

The Sensors and Instrumentation Technical Advisory Committee will meet on February 11, 2003, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution and Pennsylvania Avenues, NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the public.
3. Committee objectives for 2003.
4. Follow-up on action items from previous meeting.
5. Update on Bureau of Industry and Security initiatives.

Closed Session

6. Discussion of matters properly classified under Executive Order 12958, dealing with the U.S. export control program and strategic criteria related thereto.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OSIES/EA/BIS MS: 3876, U.S. Department of Commerce, 14th St. & Constitution Ave., NW., Washington, DC 20230.

The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on November 29, 2001, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, that the series of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C., 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10(a)(1) and 10(a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

For more information contact Lee Ann Carpenter on (202) 482–2583.

Dated: January 13, 2003.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 03–1099 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–JT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-580–841]

Structural Steel Beams From the Republic of Korea; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of final results of antidumping duty administrative review

of structural steel beams from the Republic of Korea.

SUMMARY: On September 11, 2002, the Department of Commerce (''the Department'') published in the **Federal Register** the preliminary results of its administrative review of the antidumping duty order on structural steel beams from the Republic of Korea (67 FR 57574). This review covers imports of subject merchandise from INI Steel Company (''INI''). The period of review (''POR'') is February 11, 2000 through July 31, 2001.

Based on our analysis of the comments received, we have made changes in the margin calculations. Therefore, the final results differ from the preliminary results of review. The final weighted-average dumping margin for INI is listed below in the section entitled ''Final Results of the Review.''

EFFECTIVE DATE: January 17, 2003.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Robert Bolling, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–1102 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 11, 2002, the Department published its preliminary results of *Structural Steel Beams From the Republic of Korea: Preliminary Results of Antidumping Duty Administrative Review for Structural Steel Beams From the Republic of Korea*, 67 FR 57574 (September 11, 2002) (''*Preliminary Results*''). In the *Preliminary Results*, we stated that we would seek additional information related to INI and its affiliation with Hyundai U.S.A. in order to, inter alia, understand M. K. Jung's control over INI and that we would allow interested parties to comment on this new information before making a final determination. On September 20, 2002, the Department issued a supplemental questionnaire requesting additional information on corporate structure and affiliation. On October 9, 2002, INI filed its supplemental questionnaire response. On October 18, 2002, petitioners (Nucor Corp., Nucor-Yamato Steel Co., TXI-Chaparral Steel Co.) filed comments and factual information on INI's October 9, 2002, response.

We invited parties to comment on these preliminary results. We received written comments on October 30, 2002, from petitioners and INI. On November 6, 2002, we received rebuttal comments from petitioners and INI. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

The products covered by this investigation are doubly-symmetric shapes, whether hot- or cold-rolled, drawn, extruded, formed or finished, having at least one dimension of at least 80 mm (3.2 inches or more), whether of carbon or alloy (other than stainless) steel, and whether or not drilled, punched, notched, painted, coated or clad. These products include, but are not limited to, wide-flange beams (''W'' shapes), bearing piles (''HP'' shapes), standard beams (''S'' or ''I'' shapes), and M-shapes.

All products that meet the physical and metallurgical descriptions provided above are within the scope of this investigation unless otherwise excluded. The following products are outside and/or specifically excluded from the scope of this investigation: structural steel beams greater than 400 pounds per linear foot or with a web or section height (also known as depth) over 40 inches.

The merchandise subject to this investigation is classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') at subheadings: 7216.32.0000, 7216.33.0030, 7216.33.0060, 7216.33.0090, 7216.50.0000, 7216.61.0000, 7216.69.0000, 7216.91.0000, 7216.99.0000, 7228.70.3040, 7228.70.6000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise is dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this administrative review are addressed in the ''Issues and Decision Memorandum'' (''*Decision Memorandum*'') from Joseph A. Spetrini, Deputy Assistant Secretary, Import Administration, to Faryar Shirzad, Assistant Secretary for Import Administration, dated January 9, 2003, which is hereby adopted by this notice. A list of the issues which parties have raised and to which we have responded, all of which are in the *Decision Memorandum*, is attached to this notice as an Appendix. Parties can find a complete discussion of all issues raised in this review 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 Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Sales Below Cost

We disregarded sales below cost for INI during the course of the review. *See Preliminary Results*.

Changes Since the Preliminary Results

Based on our analysis of comments received, we have made changes in the margin calculations for INI. The changes to the margin calculations are listed below:

INI

- We revised INI's imputed credit expenses for its U.S. sales upward by the percentage difference between INI's U.S. dollar short-term interest rate and Hyundai U.S.A.'s U.S. dollar short-term interest rate. *See Comment 3.*
- We revised the adjustment to the imputed credit offset used to determine a portion of indirect selling expenses based on our determination to adjust INI's imputed credit expenses upward by the percentage difference between INI's and Hyundai U.S.A.'s U.S. dollar short-term interest rate. *See Comment 3*.
- We reversed our decision in the *Preliminary Results* and now determine that the verification report incorrectly stated that the entered value for a particular transaction was wrong. Therefore, for the final results, we modified our margin program and we did not reduce the entered value for this particular transaction. *See Comment 4*.
- We revised INI's gross unit price to include interest revenue instead of as an offset to direct expenses. *See Comment 6*.

Final Results of Review

We determine that the following percentage margin exists for the period February 11, 2000 through July 31, 2001:

Structural Steel Beams from Korea	
Manufacturer/exporter/reseller	Margin (percent)
INI	1.87

Assessment Rates

The Department will determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an exporter/importer (or customer)-specific assessment rate for merchandise subject to this review. The Department will issue appraisement instructions directly to the Customs Service within 15 days

of publication of these final results of review. We will direct the Customs Service to assess the resulting assessment rates against the entered customs values for the subject merchandise on each of the importer's/customer's entries during the review period.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of this notice of final results of administrative review for all shipments of structural steel beams from the Republic of Korea entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) the cash deposit rate for each of the reviewed companies will be the rate listed in the final results of review (except that if the rate for a particular product is *de minimis*, *i.e.*, less than 0.5 percent, no cash deposit will be required for that company) see 19 CFR 351.106(c)(1); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value (''LTFV'') investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate of 37.21 percent, which is the all others rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

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 or countervailing 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 the antidumping duties or countervailing duties occurred and the subsequent assessment of double antidumping duties or countervailing duties.

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. 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)(1) and 771(i) of the Act.

Dated: January 9, 2003.

Faryar Shirzad,

Assistant Secretary for Import Administration.

Appendix 1-- Issues In The Decsision Memorandum

Comment 1: Affiliation between INI and Hyundai U.S.A./Hyundai Corporation
Comment 2: Reimbursement Provisions when INI is both Exporter and Importer
Comment 3: Recalculation of U.S. Imputed Credit Expenses (for field CREDIT2U) Using Hyundai U.S.A.'s Interest Rate
Comment 4: Entered Value for Certain Observations
Comment 5: INI's Cost of Production
Comment 6: Interest Revenue on Home Market Sales
Comment 7: Payment Date Cap For Certain Sales After the Sale Date
Comment 8: Ministerial Error in the Draft Liquidation Instructions
Comment 9: Issuance of Automatic Liquidation Instructions for Non-reviewed Companies

[FR Doc. 03–1150 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application to amend an Export Trade Certificate of Review.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, U.S. Department of Commerce, has received an application to amend an Export Trade Certificate of Review (''Certificate''). This notice summarizes the proposed amendment and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Jeffrey Anspacher, Director, Office of Export Trading Company Affairs, International Trade Administration, by phone at (202) 482–5131, (this is not a toll-free number) or by E-mail at *oetca@ita.doc.gov.*

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five (5) copies, plus two (2) copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 1800H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 88–6A012.''

The National Tooling and Machining Association's (''NTMA'') original Certificate was issued on October 18, 1988 (53 FR 43140, October 25, 1988) and last amended on March 7, 2002 (67 FR 11981, March 18, 2002). A summary of the application for an amendment follows.

Summary of the Application:

Applicant: National Tooling and Machining Association, 9300 Livingston Road, Ft. Washington, Maryland 20744.

Contact: Thomas H. Garcia, Manager, Marketing Programs, Telephone: (301) 248–6200.

Application No.: 88–6A012.

Date Deemed Submitted: January 6, 2003.

Proposed Amendment: NTMA seeks to amend its Certificate so that the attached list will constitute the ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)).

Dated: January 9, 2003.

Jeffrey Anspacher,

Director, Office of Export Trading Company Affairs.

Attachment

b & b Tool Company, Inc., Rockford, IL
bmc Industries, Bakersfield, CA
A & A Industries, Inc., Peabody, MA
A & A Machine Company, Inc., Southampton, PA
A & A Machine Shop, Inc., La Marque, TX
A & B Aerospace, Inc., Azusa, CA
A & B Machine Shop, Rockford, IL
A & B Tool & Manufacturing Corp., Toledo, OH
A & D Precision, Fremont, CA
A & E Custom Manufacturing Technologies, Inc., Kansas City, KS
A & E Machine Shop, Inc., Lone Star, TX
A & G Machine, Inc., Auburn, WA
A & S Tool & Die Company, Inc., Kernersville, NC
A A Precisioneering, Inc., Meadville, PA
A B A Division, A B A—P G T, Inc., Manchester, CT
A B C O Tool & Engineering, Phoenix, AZ
A B Heller, Inc., Milford, MI
A B R Enterprises Inc., Temple City, CA
A C Machine, Inc., Akron, OH
A E Cole Die & Engraving, Columbus, OH
A E Machine Works, Inc., Houston, TX
A F C Tool Company, Inc., Subsidiary of F C Industries, Dayton, OH
A I M Tool & Die, Grand Haven, MI
A J L Manufacturing Company, Inc., Rochester, NY
A M C Precision, Inc., N. Tonawanda, NY
A M Machine Company, Inc., Baltimore, MD
A S C Corporation, Owings Mills, MD
A. C. Cut-Off, Inc., Azusa, CA
A-G Tool & Die, Div. of Seilkop Industries, Inc., Miamitown, OH
A-Line Tool & Die, Inc., Louisville, KY
A-RanD, Inc., Phoenix, AZ
Abbott Machine & Tool, Inc., Toledo, OH
Abbott Tool, Inc., Toledo, OH
Ability Tool Company, Rockford, IL
Able Wire EDM, Inc., Brea, CA
Abrams Airborne Manufacturing, Inc., Tucson, AZ
Absolute Grinding Co., Inc., Mentor, OH
Absolute Turning & Machine, Tucson, AZ
Acadiana Hydraulic Works, Inc., New Iberia, LA
Accu Die & Mold Inc., Stevensville, MI
Accu-Met Laser, Inc., Cranston, RI
Accu-Roll, Inc., Rochester, NY
Accudynamics, Inc., Middleboro, MA
Accura Industries, Inc., Rochester, NY
Accurate Grinding & Mfg. Corp. & Accurate Fishing Products, Corona, CA
Accurate Machine Co. Inc., Indianapolis, IN
Accurate Manufacturing Company, Glendale, CA
Accurate Products Co., Tucson, AZ
Accurite Machine & Mfg. Inc., Louisville, KY
Accutronics, Inc., Littleton, CO
Ace Manufacturing Company, Cincinnati, OH
Ace Specialty Company, Inc., Tonawanda, NY
Ackley Machine Corporation, Moorestown, NJ
Acme Metal Works, Gilbert, AZ
Acraloc Corporation, Oak Ridge, TN
Acro Industries, Inc., Rochester, NY
Acro Tool & Die Company, Inc., Akron, OH
Actco Tool & Mfg. Co., Meadville, PA
Action Die & Tool Inc., Wyoming, MI
Action Machine L.L.C., Glendale, AZ
Action Mold & Machining, Inc., Grand Rapids, MI
Action Precision Grinding Inc., North Tonawanda, NY
Action SuperAbrasive Products, Brimfield, OH
Action Tool and Manufacturing, Inc., Rockford, IL
Acucut, Inc., Southington, CT
Acutec Precision Machining Inc., Saegertown, PA
Adams Engineering, Division of Manufacturing Technology, Inc., South Bend, IN
Adaptive Technologies Inc., Springboro, OH
Addison Precision Mfg. Corp., Rochester, NY
Adena Tool Corporation, Dayton, OH
Admill Machine Company, Newington, CT
Adron Tool Corporation, Menomonee Falls, WI
Advance Manufacturing Corp., Cleveland, OH
Advanced Composite Products & Technology, Inc. (ACPT Inc.), Huntington Beach, CA
Advanced Machine Inc., Rochester, NY
Advanced Machine Programming, Morgan Hill, CA
Advanced Machining Corporation, Salisbury, NC
Advanced Measurement Labs, Inc., Sun Valley, CA
Advanced Mold & Tooling Inc., Rochester, NY
Advanced Precision Engineering, Ipswich, MA
Advanced Tooling Specialists Inc., Menasha, WI
Advanced Tooling Systems, Inc., Comstock Park, MI
Advantage Mold & Design, Meadville, PA
Aero Comm Machining, Wichita, KS
Aero Engineering & Mfg. Company, Valencia, CA
Aero Gear, Inc., Windsor, CT
Aerostar Aerospace Inc., Phoenix, AZ
Aetna Machine Company, Cochranton, PA
Aggressive Tool & Die, Inc., Buckner, KY
Aggressive Tool & Die, Inc., Coopersville, MI
Ahaus Tool & Engineering, Inc., Richmond, IN
Aimco Precision, Inc., Phoenix, AZ
Ajax Tool, Inc., Fort Wayne, IN
Akro Tool Co., Inc., Cincinnati, OH
Akron Steel Fabricators Company, Akron, OH
Akron Tool & Die Company, Inc., Akron, OH
Albert Seisler Machine Corp., Mohnton, PA
Albertson & Hein, Inc., Wichita, KS
Albion Machine & Tool Company, Albion, MI
Alco Manufacturing, Inc., Santa Ana, CA
Alfred Manufacturing Company, Denver, CO
Alger Machine Company, Inc., Rochester, NY
All Five Tool Company, Inc., Bristol, CT
All Tool Company, Union, NJ
All Tools Company, Oklahoma City, OK
All Tools Texas, Inc., Houston, TX
All Weld Machine, Milpitas, CA
All-Tech Machine & Eng., Inc., Fremont, CA
All-Tech Machining, Inc., Wilmer, AL
Allen Aircraft Products, Inc., Ravenna, OH
Allen Precision Industries, Inc., Asheboro, NC
Allen Precision Machining Co., Angleton, TX
Allen Randall Enterprises, Inc., Akron, OH
Alliance Machine Tool Co., Inc., Louisville, KY
Allied Mechanical, Ontario, CA
Allied Screw Products, Inc., Mishawaka, IN
Allied Tool & Die Company, LLC, Phoenix, AZ
Allied Tool & Die, Inc., Cleveland, OH
Allied Tool & Machine Company, Kernersville, NC
Allied Tool & Machine, Inc., Saginaw, MI
Allied Tools Of Texas, Houston, TX
Alloy Metal Products, Livermore, CA
Allstate Tool & Die, Inc., Rochester, NY
Alpha Mold West Inc., Broomfield, CO
Alpha Mold, LLC, Huber Heights, OH
Alpha Precision Machining Inc., Kent, WA
Alpha Tooling, Inc., Santa Fe Springs, CA
Alro Specialty Metals, St. Louis, MO
Alt's Tool & Machine, Inc., Santee, CA
Alton Products, Inc., Maumee, OH
Alves Precision Engineered Products Inc., Watertown, CT
Amatrol, Inc., Jeffersonville, IN
Ambel Precision Mfg. Corp., Bethel, CT
American Machine & Gundrilling Co., Inc., Maple Grove, MN
American Mfg. & Machining, Inc., Racine, WI
American Precision Machining, Inc., Phoenix, AZ
American Precision Technologies, Inc., San Fernando, CA
American Tool & Die, Inc., Toledo, OH
American Wire EDM, Inc., Placentia, CA
Amerimold, Inc., Mogadore, OH
Amity Mold Company, Tipp City, OH
Anchor Lamina Inc., Madison Heights, MI
Anders Machine and Engraving, Div. of Ad-Tech Machine & Tool, Rochester, NY
Andrew Tool Company, Inc., Plymouth, MN
Anglo-American Mold, Inc., Louisville, KY
Anmar Precision Components Inc., North Hollywood, CA
Anmark Machine, Tempe, AZ
Anoplate Corporation, Syracuse, NY
Apex Machine Company, Ft. Lauderdale, FL
Apex Machine Tool Company, Farmington, CT
Apex Precision Technologies, Inc., Camby, IN
Apex Tool & Manufacturing, Inc., Evansville, IN
Apollo E.D.M. Company, Fraser, MI
Apollo Precision, Inc., Plymouth, MN
Apollo Products Inc., Willoughby, OH
Applegate EDM, Inc., Dallas, TX

Applied Engineering, Inc., Yankton, SD
Arc Drilling Inc., Garfield Heights, OH
Arco Industries, Inc., Dayton, OH
Arco Metals Corporation, Baltimore, MD
Ardekin Machine Company, Rockford, IL
Area Tool & Manufacturing, Inc., Meadville, PA
Argo Tool Corporation, Twinsburg, OH
Arkansas Tool & Die, Inc., No. Little Rock, AR
Arlington Machine & Tool Company, Fairfield, NJ
Armin Tool & Manufacturing Co., Inc., South Elgin, IL
Armstrong Machine Works, Inc., Rogersville, TN
Armstrong Mold, Machining Div., East Syracuse, NY
Armstrong-Blum Mfg. Co., Mt. Prospect, IL
Arnett Tool, Inc., New Paris, OH
Arro Tool & Die, Inc., Lakewood, NY
Arrow Diversified Tooling, Inc., Ellington, CT
Arrow Grinding, Inc., Tonawanda, NY
Arrow Sheet Metal Products Co., Denver, CO
Artisan Machining, Inc., Bohemia, NY
Ascension Industries, North Tonawanda, NY
Ash Machine Corporation, Pataskala, OH
Associated Electro-Mechanics, Inc., Springfield, MA
Associated Technologies, Brea, CA
Associated Toolmakers, Inc., Keokuk, IA
Astley Precision Machine Co., Irwin, PA
Astro Automation, Inc., Irwin, PA
Astro Machine Works Inc., Ephrata, PA
Atec Engineering, Phoenix, AZ
Athens Industries, Southington, CT
Atkins Tool Company, Riverton, NJ
Atlantic Precision Products Inc., Sanford, ME
Atlantic Tool & Die Company, Strongsville, OH
Atlas Machine & Supply, Inc., Louisville, KY
Atlas Tool, Inc., Roseville, MI
August Machine, Inc., Phoenix, AZ
Austin Machine Company Inc., O'Fallon, MO
Autocam Corporation, Kentwood, MI
Automated Cells & Equipment, Inc., Painted Post, NY
Automated EDM Incorporated, Ramsey, MN
Automation Tool & Die, Inc., Brunswick, OH
Automation Tool Company, Cookeville, TN
Axian Technology, Phoenix, AZ
Ay Machine Company, Ephrata, PA
Ay-Mac Precision, Inc., Yorba Linda, CA
ACMT, Inc. dba A C Tool & Machine, Co., Louisville, KY
ALKAB Contract Manufacturing, Inc., New Kensington, PA
B & B Machine & Grinding Service, Denver, CO
B & B Manufacturing Company, Largo, FL
B & B Precision Mfg., Inc., Avon, NY
B & G Quality Machine & Tool, Company, Inc., Baltimore, MD
B & H Fabricators, Inc., Wilmington, CA
B & H Tool Co. Inc., San Marcos, CA
B & H Tool Works, Inc., of Rockcastle Co., Richmond, KY
B & L Tool and Machine Company, Plainville, CT
B & M Machine Corporation of Racine, Racine, WI
B C D Metal Products Inc., Malden, MA
B. Radtke & Sons, Inc., Round Lake Park, IL
B-W Grinding Service, Inc., Houston, TX
Bachman Machine Company, Inc., St. Louis, MO
Bachmann Precision Machine, Products Corp., South El Monte, CA
Badge Machine Products, Inc., Canandaigua, NY
Bahrs Die & Stamping Company, Inc., Cincinnati, OH
Baker Hill Industries, Inc., Coral Springs, FL
Banner Machine Inc., Phoenix, AZ
Barberie Mold, Gardena, CA
Barnes Aerospace-Apex Mfg., Phoenix, AZ
Baumann Engineering, Claremont, CA
Bawden Industries, Inc., Romulus, MI
Baxter Machine Products, Inc., Huntingdon, PA
Beach Mold & Tool, Inc., New Albany, IN
Beacon Tool Company, Inc., Whittier, CA
Beaver Tool & Machine Company, Inc., Feasterville, PA
Bechler Cams, Inc., Anaheim, CA
Becker, Inc., Kenosha, WI
Becksted Machine, Inc., Tucson, AZ
Bedard Machine, Inc., Brea, CA
Bel-Kur, Inc., Temperance, MI
Belgian Screw Machine Products, Inc., Concord, MI
Bell Engineering, Inc., Saginaw, MI
Bellco Precision Manufacturing, Inc., Melissa, TX
Beloit Precision Die Co. Inc., Beloit, WI
Benda Tool & Model Works, Hercules, CA
Bendon Gear Machine, Rockland, MA
Bennett Tool & Die Company, Nashville, TN
Bennett Tool & Machine, Fremont, CA
Benning Inc., Blaine, MN
Bent River Machine Inc., Clarkdale, AZ
Berman Tool & Die, Waldorf, MD
Bermar Associates, Inc., Troy, MI
Bertram Tool & Machine Co., Inc., Farrell, PA
Bertrand Products, Inc., South Bend, IN
Best Tool & Manufacturing Co., Inc., Kansas City, MO
Bestway Industries, Inc., Cleveland, OH
Beta Machine Co. Inc., Cleveland, OH
Bilar Tool & Die Corporation, Warren, MI
Billet Industries, Inc., York, PA
Bishop Steering Technology, Inc., Indianapolis, IN
Black Creek Mold & Tool, Rainbow City, AL
Blackwood Grinding Inc., Hurst, TX
Blandford Machine & Tool Co., Inc., Louisville, KY
Blue Chip Mold, Inc., Rochester, NY
Bluegrass Forging, Tool & Die, Shelbyville, KY
Bob's Tool & Cutter Grinding, Inc., Indianapolis, IN
Bohler Uddeholm North America, Santa Fe Springs, CA
Boice Industrial Corporation, Ruffsdale, PA
Bolt Industries, LLC, Phoenix, AZ
Bosma Machine & Tool, Corporation, Tipp City, OH
Boston Centerless Inc., Woburn, MA
Bourdelais Grinding Co., Inc., Chatsworth, CA
Bowden Manufacturing Corp., Willoughby, OH
Boyce Machine, Inc., Cuyahoga Falls, OH
Boyle, Inc., Freeport, PA
Bra-Vor Tool & Die Company, Inc., Meadville, PA
Bradford Machine Company Inc., Brattleboro, VT
Bradhart Products, Inc., Brighton, MI
Bramko Tool & Engineering, Inc., O'Fallon, MO
Bratt Machine Company Inc., No. Andover, MA
Brij Systems, Wichita, KS
Brinkman Tool & Die, Inc., Dayton, OH
Brittain Machine, Inc., Wichita, KS
Broadway Companies, Inc., Englewood, OH
Brogdon Tool & Die, Inc., Blue Springs, MO
Brookfield Machine, Inc., West Brookfield, MA
Brooklyn Machine & Mfg. Co., Inc., Cuyahoga Heights, OH
Brooklyn Scraping & Re-Machining, Inc., W. Lafayette, IN
Brooks Machine Tool Corporation dba, Time Machine & Stamping, Phoenix, AZ
Brown-Covey, Inc., Kansas City, MO
Brownstown Quality Tool & Design, Brownstown, IN
Budney Overhaul & Repair, LTD., Berlin, CT
Buerk Tool LLC, Buffalo, NY
Buiter Tool & Die, Inc., Grand Rapids, MI
Bundy Manufacturing Inc., El Segundo, CA
Burckhardt America, Inc., Greensboro, NC
Burger & Brown Engineering, Inc., Olathe, KS
Burgess Brothers, Inc., Canton, MA
BMCO Industries Inc., Cranston, RI
BPS Industries Inc., Baltimore, MD
BSB Products Corporation, Buffalo, NY
BT Laser, Inc., Santa Clara, CA
C & C Machine Company, Akron, OH
C & C Precision Machining Inc., Mesa, AZ
C & G Machine & Tool Co., Inc., Granby, MA
C & J Industries Inc., Meadville, PA
C & R Manufacturing, Inc., Shawnee, KS
C & S Machine & Manufacturing, Corporation, Louisville, KY
C A R Engineering & Mfg., Victor, NY
C B Kaupp & Sons, Inc., Maplewood, NJ
C B S Manufacturing Company, Inc., Windsor, CT
C D M Tool & Mfg. Co., Inc., Hartford, WI
C J Winter Machine Technologies, Inc., Rochester, NY
C M Gordon Industries Inc., Santa Fe Springs, CA
C M Industries, Inc., d/b/a Custom Marine, Inc., Old Saybrook, CT
C N C Precision Machining, Inc., Comstock Park, MI
C T D Machines, Inc., Los Angeles, CA
C V Tool Company, Inc., Southington, CT
C. G. Tech, Inc., Phoenix, AZ
C-Axis Inc., Hamel, MN
C–P Mfg. Corp., Van Nuys, CA
Caco Pacific Corporation, Covina, CA
Cadco Program & Machine, St. Charles, MO
Cal-Weld, Fremont, CA
Calder Machine Co. (CMC), Florence, SC
California Wire EDM, Santa Ana, CA
Calmax Technology, Inc., Santa Clara, CA
Cambridge Specialty Company, Inc., Kensington, CT
Cambridge Tool & Die Corp., Cambridge, OH
Cameron Machine Shop, Inc., Richardson, TX
Campbell Grinding & Machine, Inc., Lewisville, TX
Campro Manufacturing, Inc., Phoenix, AZ
Camtec, Inc., Traverse City, MI
Canto Tool Corporation, Meadville, PA
Capitol Technologies, Inc., South Bend, IN
Capitol Tool & Die, L. P., Madison, TN
Carboloy Inc., Warren, MI
Cardinal Machine Company, Inc., Strongsville, OH
Carius Tool Co., Inc., Cleveland, OH

Carlson Capital Manufacturing Co., Rockford, IL
Carlson Tool & Manufacturing, Corp., Cedarburg, WI
Cass Screw Machine Products, Company, Brooklyn Center, MN
Catalina Tool & Mold, Inc., Tucson, AZ
Cates Machine Shop, Inc., Tyler, TX
Cee-San Machine & Fabrication, Co., Inc., Houston, TX
Centaur Tool & Die, Inc., Bowling Green, OH
Centennial Technologies, Inc., Saginaw, MI
Center Line Industries, Inc., West Springfield, MA
Center Line Machine Company, Lafayette, CO
Center Line Tool, Freeport, PA
Central Mass. Machine, Inc., Holyoke, MA
Central States Machine Service, Elkhart, IN
Central Tools, Inc., Cranston, RI
Century Mold Company, Inc., Rochester, NY
Century Tool & Engr., Inc., Indianapolis, IN
Cer-Mac Inc., Horsham, PA
CertainTeed, Auburn, WA
Certified Grinding & Machine, Inc., Rochester, NY
Certified Industries, II, LLC, Phoenix, AZ
Chadakoin Interactive, Thompsons Station, TN
Chance Tool & Die Co., Inc., Cincinnati, OH
Chandler Tool & Design Inc., Rockford, IL
Chapman Engineering, Inc., Santa Ana, CA
Charmilles Technologies Corporation, Lincolnshire, IL
Chase Machine & Mfg. Co., Rochester, NY
Chelar Tool & Die, Inc., Belleville, IL
Cherokee Industries, Hampshire, IL
Chicago Grinding & Machine Co., Melrose Park, IL
Chicago Mold Engineering Co., Inc., St. Charles, IL
Chickasha Manufacturing Company, Inc., Chickasha, OK
Chippewa Tool & Manufacturing Co., Woodville, OH
Chopper Guys Biker Products, Inc., Vallejo, CA
Christopher Tool & Manufacturing, Solon, OH
Cindex Industries Inc., Ludlow, MA
Circle-K-Industries, K-Form Inc., Sterling, VA
Clark Automation Manufacturing Company, Inc., Pleasanton, CA
Clark-Reliance Corporation, Strongsville, OH
Clarke Engineering, Inc., Clarke Gear Co., North Hollywood, CA
Class Machine & Welding, Inc., Akron, OH
Classic Tool, Inc., Saegertown, PA
Clay & Bailey Mfg. Co., Kansas City, MO
Cleveland Electric Laboratories, Company, Inc., Twinsburg, OH
Clifton Automatic Screw, Machine Products, Inc., Lake City, PA
Cloud Company, San Luis Obispo, CA
Coast Cutters Company, Inc., South El Monte, CA
Cobak Tool & Manufacturing Co., St. Louis, MO
Coffey Associates, Washington, DC
Coil Pro Machinery, Southington, CT
Colbrit Manufacturing Co., Inc., Chatsworth, CA
Collins Instrument Company, Angleton, TX
Collins Machine & Tool Co., Inc., Madison, TN
Colonial Machine & Tool Co., Inc., Coventry, RI
Colonial Machine Company, Kent, OH
Colorado Surface Grinding, Inc., Denver, CO
Comet Tool, Inc., Hopkins, MN
Command Tooling Systems, Ramsey, MN
Commerce Grinding, Inc., Dallas, TX
Commercial Grinding Services, Inc., Cleveland, OH
Commonwealth Machine Co., Inc., Danville, VA
Competition Tooling, Inc., High Point, NC
Competitive Engineering Inc., Tucson, AZ
Complete Tool & Die, Inc., St. James, MO
Composidie, Inc., Apollo, PA
Compu Die, Inc., Wyoming, MI
Compumachine Incorporated, Wilmington, MA
Computech Manufacturing Co., Inc., No. Kansas City, MO
Computerized Machining Service, Inc., Englewood, CO
Conco Systems, Inc., Verona, PA
Condor Engineering, Inc., Colorado Springs, CO
Coney Tool Inc., Independence, MO
Connecticut Jig Grinding, Inc., New Britain, CT
Connolly Tool & Machine Co., Dallas, TX
Conroy & Knowlton, Inc., Los Angeles, CA
Consolidated Mold & Mfg. Inc., Kent, OH
Conti Tool & Die Company, Akron, OH
Continental Precision, Inc., Phoenix, AZ
Continental Tool & Machine, Strongsville, OH
Continental Tool & Manufacturing, Inc., Lenexa, KS
Cook Machine and Engineering Corporation, Gardena, CA
Coosa Machine Company, LLC, Rainbow City, AL
Corbitt Mfg. Company, St. Charles, MO
Cornerstone Design, LTD., Franksville, WI
Cornerstone Screw Machine Products, Burbank, CA
Corning Gilbert Inc., Glendale, AZ
Corry Custom Machine, Corry, PA
Cosar Mold, Inc., Brimfield, OH
Costa Machine, Inc., Akron, OH
Covert Manufacturing, Inc., Galion, OH
Cox Mfg. Co. Inc., San Antonio, TX
Cox Tool Company, Inc., Excelsior Spring, MO
Craig Machinery & Design, Inc., Louisville, KY
Creative Machining & Mfg., Inc., St. Petersburg, FL
Creative Precision, West, Phoenix, AZ
Creb Engineering, Inc., Pascoag, RI
Crenshaw Die & Manufacturing, Corp., Irvine, CA
Crest Manufacturing Company, Lincoln, RI
Criterion Tool & Die, Inc., Brook Park, OH
Critical Operations, Inc., Santa Ana, CA
Cross Tool & Manufacturing, Inc., Flagstaff, AZ
Crossland Machinery, Kansas City, MO
CrossRidge Precision, Oak Ridge, TN
Crown Mold & Machine, Streetsboro, OH
Crucible Materials Corporation, Camillus, NY
Crush Master Grinding Corp., Walnut, CA
Custom Engineering, Inc., Evansville, IN
Custom Gear & Machine, Inc., Rockford, IL
Custom Machine, Inc., Woburn, MA
Custom Machine, Inc., Cleveland, OH
Custom Tool & Design, Inc., Erie, PA
Custom Tool & Grinding Inc., Washington, PA
Custom Tool & Model Corp., Frankfort, NY
Cut-Right Tools Corporation, Willoughby, OH
Czech Tool, Saegertown, PA
CB Quality Machining & Engineering Inc., Buffalo, MN
CDL Manufacturing, Inc., Rochester, NY
CHIPSCO, Inc., Meadville, PA
CNC Corp., Colorado Springs, CO
CNC Precision Manufacturing, Inc., Farmers Branch, TX
CPC Tooling Technologies, Columbus, OH
D & H Manufacturing Company, Fremont, CA
D & N Precision, Inc., San Jose, CA
D & S Manufacturing Corporation, Southwick, MA
D M E Company, Madison Heights, MI
D M Machine & Tool, Kennerdell, PA
D M Machine Company, Inc., Willoughby, OH
D P I, Inc., Huntingdon Vly, PA
D P Tool & Machine Inc., Avon, NY
D S A Precision Machining, Inc., Livonia, NY
D S Greene Company, Inc., Wakefield, MA
D. F. O'Brien Precision Machining & Tooling, Santa Fe Springs, CA
D-K Manufacturing Corporation, Fulton, NY
D-Velco Manufacturing, Phoenix, AZ
Daca Machine & Tool, Inc., Dutzow, MO
Dadeks Machine Works Corporation, Houston, TX
Daily Industrial Tools, Costa Mesa, CA
Dan McEachern Company, Alameda, CA
Danco Precision, Inc., Phoenixville, PA
Dane Systems, Inc., Stevensville, MI
Danly IEM, Div. of Connell Ltd. Partnership, Cleveland, OH
Data Machine, Inc., Adamsburg, PA
Data Mold & Tool, Inc., Walbridge, OH
Datum Industries, Kentwood, MI
David Engineering & Mfg., Corona, CA
Davis Machine & Manufacturing Company, Arlington, TX
Davis Tool & Die Company Inc., Fenton, MO
Dayton Progress Corporation, West Carrollton, OH
Dayton Reliable Tool & Mfg. Co., Dayton, OH
DaCo Precision Manufacturers, Sandy, UT
Dearborn Precision Tubular, Products, Inc., Fryeburg, ME
Deck Brothers, Inc., Buffalo, NY
Deep Holdings, Inc., dba Deephole Machine, Houston, TX
Deeter's Tool & Mfg., Inc., Erie, PA
Dekalb Tool & Die, Inc., Tucker, GA
Delco Corporation, Akron, OH
Dell Tool, Penfield, NY
Delltronics, Inc., Englewood, CO
Deltron Engineering, Burbank, CA
Demaich Industries, Inc., Johnston, RI
Dependable Machine Company, Inc., Indianapolis, IN
Desert Precision Mfg., Inc., Tucson, AZ
Designs For Tomorrow, Inc., Maryland Heights, MO
Detroit Tool & Engineering Co., Lebanon, MO
Deutsch ECD, Hemet, CA
DeKing Screw Products Inc., Chatsworth, CA
Di-Matrix, Phoenix, AZ
Dial Machine Company, Andalusia, PA
Diamond Lake Tool, Inc., Anoka, MN
Diamond Tool & Engineering, Inc., Bertha, MN
Diamond Tool, Inc., Euclid, OH
Die Cast Die and Mold, Inc., Perrysburg, OH
Die Products Company, Minneapolis, MN

Die Quip Corp., Bethel Park, PA
Die Solutions, Inc., Washington, MO
Die Tech Industries, Ltd., Providence, RI
Die-Matic Corporation, Brooklyn Heights, OH
Die-Matic Tool and Die, Inc., Grand Rapids, MI
Die-Mension Corporation, Brunswick, OH
Die-Namic Inc., Taylor, MI
Diemaster Tool & Mold, Inc., Macedonia, OH
Dietooling, Div. of Diemolding, Wampsville, NY
Digital Tool & Die, Inc., Grandville, MI
Distefano Tool & Mfg. Company, Omaha, NE
Distinctive Machine Corporation, Grand Rapids, MI
Diversified Engraving Stamp, & Machine Company, Akron, OH
Diversified Manufacturing, Incorporated, Lockport, NY
Diversified Tool & Die, Vista, CA
Diversified Tool, Inc., Mukwonago, WI
Dixie Tool & Die Co., Inc., Gadsden, AL
Double D Machine & Tool Company, Fremont, OH
Doyle Manufacturing, Inc., Holland, OH
Drabik Tool and Die Inc., Brook Park, OH
Drewco Corporation, Franksville, WI
Drill Masters Inc., Hamden, CT
Dugan Tool & Die Company, Toledo, OH
Dun-Rite Industries, Inc., Temperance, MI
Dunn & Bybee Tool Company, Inc., Sparta, TN
Dura-Metal Products Corporation, Irwin, PA
Durivage Pattern & Mfg. Co. Inc., Williston, OH
DuWest Tool & Die, Inc., Cleveland, OH
Dynamic Engineering, Inc., Minneapolis, MN
Dynamic Fabrication, Inc., Santa Ana, CA
Dynamic Machine & Fabricating, Phoenix, AZ
Dynamic Tool & Design, Inc., Menomonee Falls, WI
DynaGrind Precision, Inc., New Kensington, PA
Dysinger Incorporated, Dayton, OH
Dytran Instruments, Inc., Chatsworth, CA
E & S Precision Machine, LLC, Modesto, CA
E B & Sons Machine Inc., Aliquippa, PA
E C M of Florida, Jupiter, FL
E J Codd Co. of Baltimore City &, Codd Fabricators & Boiler Co., Inc., Baltimore, MD
E K L Machine Company, Inc., Andalusia, PA
E R C Concepts Company, Inc., Sunnyvale, CA
E W Johnson Company, Inc., Lewisville, TX
E.T. Precision Optics Inc., Rochester, NY
E-Fab, Inc., Santa Clara, CA
Eagle Mold Company, Inc., Carlisle, OH
Eagle Precision Tooling Inc., Erie, PA
Eagle Technologies Group, St. Joseph, MI
Eagle Tool & Machine Company, Inc., Springfield, OH
East Side Machine, Inc., Webster, NY
East Texas Machine Works, Inc., Longview, TX
Ebway Corporation, Fort Lauderdale, FL
Eckert Enterprises Ltd., Tempe, AZ
Eckert Machining, Inc., San Jose, CA
Eclipse Mold, Inc., Clinton Township, MI
Eclipse Tool & Die, Inc., Wayland, MI
Edco, Inc., Toledo, OH
Edge-Tech, Inc., Redmond, WA
Edwardsville Machine & Welding, Company, Inc., Edwardsville, IL
Egli Machine Company, Inc., Sidney, NY
Ehlert Tool Co., Inc., New Berlin, WI
Ehrhardt Tool & Machine Company, Granite City, IL
Eicom Corporation, Moraine, OH
Ejay's Machine Co., Inc., Fullerton, CA
Elcam Tool & Die, Inc., Wilcox, PA
Electra Form Industries Inc., Vandalia, OH
Electric Enterprise Inc., Stratford, CT
Electro-Freeto Manufacturing Co., Inc., Wayland, MA
Electro-Mechanical Products, Inc., Denver, CO
Electro-Tech Machining, Long Beach, CA
Electroform Co. Inc., Machesney Park, IL
Elite Tool & Machinery Systems, Inc, O'Fallon, MO
Elizabeth Carbide Die Co., Inc., McKeesport, PA
Elliot Tool & Manufacturing Co., St. Louis, MO
Elliott's Precision, Inc., Peoria, AZ
Ellis Machine and Fabrication Inc., Buffalo, NY
Ellis Tool & Machine, Inc., Tom Bean, TX
Elrae Industries, Alden, NY
Emmert Welding & Manufacturing, Inc., Independence, MO
Empire Die Casting Co., Inc., Macedonia, OH
Empire Manufacturing Corporation, Bridgeport, CT
Engineered Pump Services, Inc., Pasadena, TX
Entek Corporation, Norman, OK
Enterprise Tool & Die, Brooklyn Heights, OH
Ephrata Precision Parts, Inc., Denver, PA
Epicor Software Corporation, Minneapolis, MN
Erickson Tool & Machine Company, Rockford, IL
Erie Shore Machine Co., Inc., Cleveland, OH
Erie Specialty Products, Inc., Erie, PA
Estee Mold & Die, Inc., Dayton, OH
Esterle Mold & Machine Co., Stow, OH
Estul Tool & Manufacturing Co., Inc., Matthews, NC
Evans Tool & Die, Inc., Conyers, GA
Ever Fab, Inc., East Aurora, NY
Ever-Ready Tool, Inc., Largo, FL
Everett Pattern and Mfg., Inc., Middleton, MA
Ewart-Ohlson Machine Company, Cuyahoga Falls, OH
Ex-Cel Machine & Tool, Inc., Louisville, KY
Exact Cutting Service, Inc., Brecksville, OH
Exact Tool & Die, Inc., Brook Park, OH
Exacta Machine, Inc., Wichita, KS
Exacta Tech Inc., Livermore, CA
Exacto, Inc. of South Bend, South Bend, IN
Excaliber Precision Machining, Peoria, AZ
Excel Manufacturing Inc., Seymour, IN
Excel Manufacturing, Inc., Valencia, CA
Excel Precision, Inc., Tempe, AZ
Excel Stamping & Manufacturing, Inc., Houston, TX
Executive Mold Corporation, Huber Heights, OH
Ezell Precision Tool Company, Clearwater, FL
EDM Supplies, Inc., Downey, CA
EROWA Technology Inc., Arlington Hts., IL
EWT, Inc., Rockford, IL
F & F Machine Specialties, Mishawaka, IN
F & G Tool & Die Company, Dayton, OH
F & S Tool, Inc., Erie, PA
F D T Precision Machine Co., Inc., Taunton, MA
F G A Inc., Baton Rouge, LA
F H Peterson Machine Corporation, Stoughton, MA
F K Instrument Co., Inc., Clearwater, FL
F M Machine Company, Akron, OH
F N Smith Corporation, Oregon, IL
F P Pla Tool & Manufacturing Co., Buffalo, NY
F S G Inc, Mishawaka, IN
F T T Manufacturing Inc., Geneseo, NY
F Tinker & Sons Company, Pittsburgh, PA
F W Gartner Thermal Spraying Co., Houston, TX
F-Squared, Inc., Tarentum, PA
Fabricast, Inc., So. El Monte, CA
Fabritek Company, Inc., Winchester, VA
Fairbanks Machine & Tool, Raytown, MO
Fairview Machine Company, Inc., Topsfield, MA
Fairway Molds, Inc., Walnut, CA
Falls City Machine Technology, Louisville, KY
Falls Mold & Die, Inc., Stow, OH
Fame Tool & Manufacturing Co., Cincinnati, OH
FamPEC Technology LLC, Murfreesboro, TN
Fargo Machine Company, Inc., Ashtabula, OH
Farrar Corporation, Norwich, KS
Farzati Manufacturing Corp., Greensburg, PA
Faustson Tool Corp., Arvada, CO
Fay & Quartermaine Machining Corp., El Monte, CA
Fay Tool & Die, Inc., Orlando, FL
Feedall, Inc., Willoughby, OH
Feilhauer's Machine Shop Inc., Cincinnati, OH
Fenton Manufacturing, Inc., Ashtabula, OH
Fenwick Machine & Tool, Piedmont, SC
Feral Productions LLC., Newark, CA
Ferriot Inc., Akron, OH
First International Bank, Hartford, CT
Fischer Precision Spindles, Inc., Berlin, CT
Fischer Tool & Die Corporation, Temperance, MI
Five Star Tool Company, Inc., Rochester, NY
Fleck Machine Company, Inc., Hanover, MD
Foresight Technologies, Tempe, AZ
Forster Tool & Mfg. Inc., Bensenville, IL
Fortner & Gifford, Inc., Prescott, AZ
Fostermation Inc., Meadville, PA
Fox Valley Tool & Die, Inc., Kaukauna, WI
Franchino Mold & Engineering, Lansing, MI
Frasal Tool Co., Inc., Newington, CT
Frazier Aviation, Inc., San Fernando, CA
Fre-Mar Industries, Inc., Brunswick, OH
Fredon Corporation, Mentor, OH
Free-MaDie Company, Kittanning, PA
Freeport Welding & Fabricating, Inc., Freeport, TX
Fries Machine & Tool, Inc., Dayton, OH
Frost & Company, Charlestown, RI
Fulton Industries, Inc., Rochester, IN
Furno Co. Inc., Pomona, CA
Future Fabricators, Phoenix, AZ
Future Tool & Die, Inc., Grandville, MI
Fyco Tool & Die, Inc., Houston, TX
FCMP, Inc., Buffalo, NY
FRB Machine Inc., Emlenton, PA
G & G Tool Company, Inc., Sidney, OH
G & K Machine Company, Denver, CO
G & L Tool Corp., Agawam, MA
G B F Enterprises, Inc., Santa Ana, CA
G B Tool Company, Warwick, RI
G H Tool & Mold, Inc., Washington, MO
G M T Corporation, Waverly, IA

G R McCormick, Inc., Burbank, CA
G S Precision, Inc., Brattleboro, VT
Gadsden Tool, Inc., Gadsden, AL
Gales Manufacturing Corporation, Racine, WI
Gambar Products Company, Inc., Warwick, RI
Garcia Associates, Arlington, VA
Gatco, Inc., Plymouth, MI
Gateway Metals Inc., Crestwood, MO
Gauer Mold & Machine Company, Tallmadge, OH
Gaum, Inc., Robbinsville, NJ
Gear Manufacturing, Inc., Anaheim, CA
Geiger Manufacturing, Inc., Stockton, CA
Gene's Gundrilling Inc., Alahambra, CA
General Aluminium Forgings, Colorado Springs, CO
General Engineering Company, Toledo, OH
General Grinding, Inc., Oakland, CA
General Machine Shop, Inc., Cheverly, MD
General Machine-Diecron, Inc., Griffin, GA
General Tool & Die Company, Inc., Racine, WI
General Tool Company, Cincinnati, OH
Genesee Manufacturing Company, Inc., Rochester, NY
Genesee Metal Stampings, Inc., West Henrietta, NY
Genesee Precision Mfg., Inc., Avon, NY
Gentec Manufacturing Inc., San Jose, CA
Geometric Tool & Machine Co., Inc., Piedmont, SC
George Welsch & Son Company, Cleveland, OH
German Machine, Inc., Rochester, NY
Germantown Tool & Machine, Works, Inc., Huntingdon Valle, PA
Gibbs Die Casting Corporation, Henderson, KY
Gibbs Machine Company, Inc., Greensboro, NC
Gilbert Machine & Tool Company, Greene, NY
Gill Tool & Die, Inc., Grand Rapids, MI
Gillette Machine & Tool Co Inc., Rochester, NY
Girard Tool & Die/Jackburn Mfg., Inc., Girard, PA
Gischel Machine Company Inc., Baltimore, MD
Givmar Precision Machining, Mountain View, CA
Glaze Tool & Engineering, Inc., New Haven, IN
Glendale Machine Company, Inc., Solon, OH
Glendo Corporation, Emporia, KS
Glidden Machine & Tool, Inc., North Tonawanda, NY
Global Precision, Inc., Davie, FL
Global Shop Solutions, The Woodlands, TX
Godwin—SBO, L.P., Houston, TX
Golis Machine, Inc., Montrose, PA
Graham Tech Inc., Cochranton, PA
Grand Valley Manufacturing, Company, Titusville, PA
Graybill's Tool & Die, Inc., Manheim, PA
Great Lakes E.D.M. Inc., Clinton Twp., MI
Great Lakes Metal Treating, Inc., Tonawanda, NY
Great Lakes Tooling Inc., Cleveland, OH
Great Western Grinding & Eng., Inc., Huntington Beach, CA
Grind-All Precision Tool Co., Inc., Clinton Township, MI
Grind-All, Inc., Cleveland, OH
Grindworks Inc., Glendale, AZ
Grosmann Precision, Ballwin, MO
Grover Gundrilling, Inc., Norway, ME
Guill Tool & Engineering Co., Inc., West Warwick, RI
Gulf South Machine/Drilex Corp., Houston, TX
Gurney Precision Machining, Saint Petersburg, FL
Gustav's Tool & Die, Inc., Seguin, TX
H & H Machine Company, Whittier, CA
H & H Machine Shop of Akron, Inc., Akron, OH
H & H Machined Products, Inc., Erie, PA
H & K Machine Service Co. Inc., O'Fallon, MO
H & M Machining Inc., Machesney Park, IL
H & M Precision Machining, Santa Clara, CA
H & W Machine Company, Broomfield, CO
H & W Tool Company, Inc., Dover, NJ
H B Machine, Inc., Phoenix, AZ
H Brauning Company, Inc., Manassas, VA
H D & K Mold Company, Inc., Hilton, NY
H H Mercer, Inc., Mesquite, TX
H R M Machine, Inc., Costa Mesa, CA
Haberman Machine, Inc., St. Paul, MN
Haig Precision Mfg. Corp., Campbell, CA
Hal-West Technologies, Inc., Kent, WA
Hamblen Gage Corporation, Indianapolis, IN
Hamill Manufacturing Company, Trafford, PA
Hamilton Mold & Machine, Inc., Cleveland, OH
Hamilton Tool Company, Inc., Meadville, PA
Hammill Manufacturing Company, Toledo, OH
Hammon Precision Technologies, Hayward, CA
Hanover Machine Company, Ashland, VA
Hans Rudolph, Inc., Kansas City, MO
Hansen Engineering, Harbor City, CA
Hanson Mold, St. Joseph, MI
Hardy Machine Inc., Hatfield, PA
Hardy-Reed Tool & Die Co., Manitou Beach, MI
Haumiller Engineering Company, Elgin, IL
Hawkeye Precision, Inc., Gilbert, AZ
Hawkins Machine Company, Inc., Coventry, RI
Hawkinson Mold Engineering Co., Alhambra, CA
Hayden Corporation, West Springfield, MA
Heatherington Machine Corp., Orlando, FL
Heinhold Engineering & Machine, Co., Inc., Salt Lake City, UT
Heitz Machine & Manufacturing, Co., Maryland Heights, MO
Hellebusch Tool & Die, Inc., Washington, MO
Helm Precision, Ltd., Phoenix, AZ
Henman Engineering & Machine, Muncie, IN
Hercules Machine Tool & Die, Warren, MI
Herman Machine, Inc., Tallmadge, OH
Herrick & Cowell Company, Hamden, CT
Hetrick Mfg., Inc., Lower Burrell, PA
Heyden Mold & Bench Company, Tallmadge, OH
Hi Tech Manufacturing, LLC, Greensboro, NC
Hi-Tech Machining & Engineering LLC, Tucson, AZ
Hi-Tech Tool Industries, Inc., Sterling Heights, MI
Hiatt Metal Products Company, Muncie, IN
Hickory Machine Company, Inc., Newark, NY
High-Tech Industries, Holland, MI
Highland Mfg. Inc., Manchester, CT
Hill Engineering, Inc., A Mestek Co., Villa Park, IL
Hillcrest Precision Tool Co. Inc., Haverhill, MA
Hillcrest Tool & Die, Inc., Titusville, PA
Hilton Tool & Die Corporation, Rochester, NY
Hittle Machine & Tool Company, Indianapolis, IN
Hobson & Motzer, Inc., Durham, CT
Hodon Manufacturing Inc., Willoughby, OH
Hoffman Custom Tool & Die, Newport Beach, CA
Hoffstetter Tool & Die, Clearwater, FL
Holland USA, Muskegon, MI
Hollis Line Machine Co., Inc., Hollis, NH
Holmes Manufacturing Corporation, Cleveland, OH
Homeyer Tool and Die Co., Marthasville, MO
Hoppe Tool, Inc., Chicopee, MA
Horizon Industries, Columbia, PA
Howard Tool Co. Inc., Bangor, ME
Hubbell Machine Company, Inc., Cleveland, OH
Humboldt Instrument Company, San Leandro, CA
Hunt Machine & Manufacturing Co., Tallmadge, OH
Hyde Special Tools, Saegertown, PA
Hydrodyne Division of FPI, Inc., Burbank, CA
Hydromat, Inc., St. Louis, MO
Hygrade Precision Technologies, Inc., Plainville, CT
Hytron Manufacturing Company, Inc., Huntington Beach, CA
Ideal Grinding Technologies, Inc, Chatsworth, CA
Ideal Tool Co. Inc., Meadville, PA
Imperial Die & Manufacturing Co., Strongsville, OH
Imperial Machine & Tool Company, Wadsworth, OH
Imperial Mfg., Santa Fe Springs, CA
Imperial Newbould, Meadville, PA
Imperial Tool & Manufacturing Co., Inc., Lexington, KY
Indiana Tool & Die Company, Die Sets Inc., Indiana, PA
Industrial Babbitt Bearing, Services, Inc., Gonzales, LA
Industrial Custom Automatic Machine (ICAM), Dayton, OH
Industrial Grinding, Inc., Dayton, OH
Industrial Machine & Tool Co., Inc., Nashville, TN
Industrial Machine Company, Oklahoma City, OK
Industrial Maintenance, & Electrical Corporation, Lavergne, TN
Industrial Mold + Machine, Twinsburg, OH
Industrial Molds, Inc., Rockford, IL
Industrial Precision Products, Inc., Oswego, NY
Industrial Tool & Machine Co., Cuyahoga Falls, OH
Industrial Tool, Die &, Engineering, Inc., Tucson, AZ
Industrial Tooling Technologies, Inc., Muskegon, MI
Ingersoll Contract Manufacturing, Company, Rockford, IL
Injection Mold & Machine Company, Akron, OH
Inland Tool & Manufacturing Co., Kansas City, KS
Inline Inc., Phoenix, AZ
Innex Industries, Inc., Rochester, NY
Integrated Aerospace, Santa Ana, CA

Integrated Fabrication and Machine, Sharpsville, PA
Integrated Machine Systems, Bethel, CT
Integrity Mfg. L.L.C., Farmington, CT
International Stamping Inc., Warwick, RI
Intrex Corporation, Louisville, CO
Iverson Industries, Inc., Wyandotte, MI
IDRAPRINCE, Holland, MI
ILM Tool, Inc., Hayward, CA
IMS, Inc., Decatur, AL
ISO Machining, Inc., Pleasanton, CA
ISYS Manufacturing, Inc., Concord, CA
ITM, Schertz, TX
J & A Tool Company, Inc., Franklin, PA
J & F Machine Inc., Cypress, CA
J & G Machine & Tool Co., Inc., Walworth, NY
J & J Tool Co., Inc., Louisville, KY
J & M Machine, Inc., Fairport Harbor, OH
J & M Unlimited, Ashland City, TN
J B Tool Die & Engineering, Inc., Fort Wayne, IN
J B Tool, Inc., Placentia, CA
J C B Precision Tool & Mold, Inc., Commerce City, CO
J D Kauffman Machine Shop, Inc., Christiana, PA
J F Fredericks Tool Company, Inc., Farmington, CT
J I Machine Company, Inc., San Diego, CA
J K Tool & Die, Inc., Apollo, PA
J M Mold South, Easley, SC
J M Mold, Inc., Piqua, OH
J M P Industries, Inc., Cleveland, OH
J M S Mold & Engineering Co., Inc., South Bend, IN
J S Die & Mold, Inc., Byron Center, MI
J W Harwood Company, Cleveland, OH
J.B.A.T. t/a Cherry Hill, Precision, Cherry Hill, NJ
Jacksonville Machine Inc., Jacksonville, IL
Jaco Engineering, Anaheim, CA
Jaquith Carbide Corporation, Ipswich, MA
Jasco Tools Inc., Cutting Tools Division, Rochester, NY
Jatco Machine & Tool Company, Inc., Pittsburgh, PA
Jena Tool Corporation, Dayton, OH
Jenkins Machine, Inc., Bethlehem, PA
Jennison Corporation, Carnegie, PA
Jergens Tool and Mold, Englewood, OH
Jergens, Inc., Cleveland, OH
Jesse Industries, Inc., Sparks, NV
Jet Products Co., Inc., Phoenix, AZ
Jet Products, Inc., East Bridgewater, MA
Jewett Machine Mfg. Co., Inc., Richmond, VA
Jig Grinding Service Company, Cleveland, OH
Jirgens Modern Tool Corporation, Kalamazoo, MI
JobBOSS Software/Exact, Edina, MN
Johnson Engineering Company, Indianapolis, IN
Johnson Precision, Inc., Buffalo, NY
Johnson Tool, Inc., Fairview, PA
Joint Production Technology, Inc., Macomb, MI
Joint Venture Acquisition Co., LLC, Saegertown, PA
Jonco Tool Company, Racine, WI
Juell Machine Company, Inc., Pomona, CA
JBK Manufacturing & Development, Co., Dayton, OH
J2 Precision CNC, Inc., Phoenix, AZ
K & E Mfg. Company, Lee's Summit, MO
K & H Mold & Machine Division, Akron, OH
K & H Precision Products, Inc., Honeoye Falls, NY
K & M Machine-Fabricating, Inc., Cassopolis, MI
K & S Tool & Die, Inc., Meadville, PA
K & S Tool & Mfg. Company, Inc., Jamestown, NC
K L H Industries, Inc., Germantown, WI
K M S Machine Works, Inc., Taunton, MA
K Mold & Engineering, Inc., Granger, IN
K V, Inc., Huntingdon Valle, PA
K.C.K. Tool & Die Co., Inc., Ferndale, MI
K-Form, Inc., Tustin, CA
Ka-Wood Gear & Machine Company, Madison Heights, MI
Kahre Brothers, Inc., Evansville, IN
Kalman Manufacturing, Morgan Hill, CA
Kansas City Screw Products Inc., Kansas City, MO
Karlee, Garland, TX
Karsten Precision, Phoenix, AZ
Kaskaskia Tool & Machine, Inc., New Athens, IL
Kaufhold Machine Shop, Inc., Lancaster, PA
Kearflex Engineering Company, Warwick, RI
Keck-Schmidt Tool & Die, South El Monte, CA
Kell-Strom Tool Company, Inc., Wethersfield, CT
Kellems & Coe Tool Corporation, Jeffersonville, IN
Keller Technology Corporation, Tonawanda, NY
Kelley Industries, Inc., Eighty Four, PA
Kelly & Thome, Pomona, CA
Kelm Acubar Company, Benton Harbor, MI
Kem-Mil-Co, Hayward, CA
Kemco Tool & Machine Company, Kirkwood, MO
Kenlee Precision Corporation, Baltimore, MD
Kennametal Inc., Latrobe, PA
Kennebec Tool & Die Co., Inc., Augusta, ME
Kennedy & Bowden Machine Company, La Vergne, TN
Kennick Mold & Die, Inc., Cleveland, OH
Kentucky Machine & Tool Company, Louisville, KY
Kern Special Tools Company, Inc., New Britain, CT
Keyes Machine Works, Inc., Gates, NY
Keystone Machine, Inc., Littlestown, PA
Kimberly Gear & Spline, Inc., Phoenix, AZ
King Machine & Engineering Co., Inc., Indianapolis, IN
King Systems Corporation, Plastics Technology Division, Noblesville, IN
Klein Steel Service, Inc., Rochester, NY
Knight Industries Precision Machining, Inc., Corona, CA
Knowlton Manufacturing Company, Norwood, OH
Knust—S B O, Houston, TX
Kordenbrock Tool & Die Company, Cincinnati, OH
Kovacs Machine & Tool Company, Inc., Wallingford, CT
Krause Tool, Inc., A–Z Corp. Div. of Krause Tool, Golden, CO
Kuhn Tool & Die Co., Meadville, PA
Kurt J. Lesker Company, Clairton, PA
L & L Machine, Inc., Ludlow, MA
L & L Tool & Die, Gardena, CA
L & P Machine, Inc., Santa Clara, CA
L A I Southwest, Inc., Phoenix, AZ
L H Carbide Corporation, Fort Wayne, IN
L P I Corporation, Hollywood, FL
L R G Corporation, Jeannette, PA
L R W Cutting Tools, Inc., Phoenix, AZ
L T L Company, Inc., Rockford, IL
L. P. Engineering Co., Carson, CA
Lake Manufacturing Co., Inc., Newburyport, MA
Lakeside Manufacturing Company, Stevensville, MI
Lamb Machine & Tool Company, Indianapolis, IN
Lamina, Inc., Farmington Hills, MI
Lampin Corporation, Uxbridge, MA
Lancaster Machine Shop, Lancaster, TX
Lancaster Metal Products Company, Lancaster, OH
Lancaster Mold, Inc., Lancaster, PA
Land Specialties Manufacturing Co., Inc., Raytown, MO
Lane Enterprise, Rochester, NY
Lane Punch Corporation, Salisbury, NC
Laneko Engineering Company, Ft. Washington, PA
Laneko Roll Form, Inc., Hatfield, PA
Lange Precision, Inc., Fullerton, CA
Langenau Manufacturing Company, Cleveland, OH
Laron Incorporated, Kingman, AZ
Las Cruces Machine Manufacturing &, Engineering, Las Cruces, NM
Laser Automation, Inc., Chagrin Falls, OH
Laser Fabrication & Machine Co., Inc., Alexandria, AL
Laser Tool, Inc., Saegertown, PA
Latva Machine, Inc., Newport, NH
Lavigne Manufacturing, Inc., Cranston, RI
Layke Incorporated, Phoenix, AZ
Layke Tool & Manufacturing, Inc., Meadville, PA
Ledford Engineering Company, Inc., Cedar Rapids, IA
Lee's Grinding, Inc., Cleveland, OH
Leech Industries, Inc., Meadville, PA
Lees Enterprise, Chatsworth, CA
Leese & Co., Inc., Greensburg, PA
Leggett & Platt, Inc., Whittier, CA
Leicester Die & Tool, Inc., Leicester, MA
Lenz Technology Inc., Mountain View, CA
Leonardi Manufacturing Co., Inc., Weedsport, NY
Lewis Aviation, Phoenix, AZ
Lewis Machine & Tool Co. Inc., Cuba, MO
Lewis Machine and Tool Company, Milan, IL
Liberty Precision Industries, Ltd., Rochester, NY
Libra Precision Machining, Tecumseh, MI
Ligi Tool & Engineering, Inc., Deerfield Beach, FL
Lilly Software Associates, Inc., Hampton, NH
Limmco, Inc., New Albany, IN
Linmark Machine Products, Inc., Union, MO
Little Rhody Machine Repair, Inc., Coventry, RI
Littlecrest Machine Shop, Inc., Houston, TX
Lloyd Company, Houston, TX
Lloyd Tool & Manufacturing Corp., Burton, MI
Lobart Company, Pacoima, CA
Loecy Precision Mfg., Mentor, OH
Lordon Engineering, Gardena, CA
Loud Engineering and Manufacturing, Inc., Ontario, CA
Loyal Machine Company, Inc., Chelsea, MA
Luick Quality Gage & Tool, Inc., Muncie, IN
Lunar Tool & Machinery Company, St. Louis, MO
Lunar Tool & Mold, Inc., North Royalton, OH

Lunquist Manufacturing Corp., Rockford, IL
Lux Manufacturing, Inc., Sunnyvale, CA
Lynn Welding Co. Inc., Newington, CT
Lyons Tool & Die Company, Meriden, CT
LOMA Automation Technologies, Inc., Louisville, KY
M & D Loe Manufacturing, Inc., Benicia, CA
M & H Engineering Company, Inc., Danvers, MA
M & H Tool & Die, Inc., Gadsden, AL
M & J Grinding & Tool Co., Holland, OH
M & J Valve Services, Inc., Lafayette, LA
M C Mold & Machine, Inc., Tallmadge, OH
M D F Tool Corporation, North Royalton, OH
M F Engineering Co. Inc., Bristol, RI
M H S Automation, Round Lake Beach, IL
M P E Machine Tool Inc., Corry, PA
M P Technologies, Inc., Brecksville, OH
M S Willett, Inc., Cockeysville, MD
M. R. Mold & Engineering Corp., Brea, CA
M-Ron Corporation, Glendale, AZ
M-Tron Manufacturing Company, Inc., San Fernando, CA
Mac Machine and Metal Works, Inc, Connersville, IN
Mac-Mold Base, Inc., Romeo, MI
Machine Incorporated, Stoughton, MA
Machine Specialties, Inc., Greensboro, NC
Machine Tooling, Inc., Cleveland, OH
Machine Works, Inc., Phoenix, AZ
Machinist Cooperative, Gilroy, CA
MacKay Manufacturing, Spokane, WA
Maddox Metal Works, Inc., Dallas, TX
Magdic Precision Tooling, Inc., East McKeesport, PA
Maghielse Tool Corporation, Grand Rapids, MI
Magna Machine & Tool Company, New Castle, IN
Magnum Manufacturing Center, Inc., Colorado Springs, CO
Magnus Precision Manufacturing, Inc., Phelps, NY
Mahuta Tool Corp., Germantown, WI
Main Tool & Mfg. Co., Inc., Minneapolis, MN
Maine Machine Products, South Paris, ME
Mainline Machine, Inc., Broussard, LA
Majer Precision Engineering, Inc., Tempe, AZ
Major Tool & Machine, Inc., Indianapolis, IN
Makino, Mason, OH
Malmberg Engineering, Inc., Livermore, CA
Manda Machine Company, Inc., Dallas, TX
Manetek, Inc., Broussard, LA
Manheim Special Machine Shop, Manheim, PA
Mann Tool Company, Inc., Pacific, MO
Manufacturing Machine Corp., Pawtucket, RI
Manufacturing Service Corp., West Hartford, CT
Marberry Machine, Inc., Houston, TX
Marco Manufacturing Company, Akron, OH
Mardon Tool & Die Company, Inc., Rochester, NY
Marini Tool & Die Company, Inc., Racine, WI
Marion Tool and Die, Inc., Terre Haute, IN
Maris Systems Design, Inc., Spencerport, NY
Markham Machine Co. Inc., Akron, OH
Marlin Tool, Inc., Cuyahoga Falls, OH
Marox Corporation, Holyoke, MA
Marquette Tool & Die Company, St. Louis, MO
Marshall Manufacturing Company, Minneapolis, MN
Martinelli Machine, San Leandro, CA
Masco Machine, Inc., Cleveland, OH
Massachusetts Machine Works Inc., Westwood, MA
Master Cutting & Engineering, Inc., Santa Fe Springs, CA
Master Industries Inc., Piqua, OH
Master Research & Manufacturing, Inc., Norwalk, CA
Master Tool & Mold, Inc., Grafton, WI
Mastercraft Mold, Inc., Phoenix, AZ
Mastercraft Tool & Machine Co., Inc., Southington, CT
Mastercraft Tool Co., St. Louis, MO
Matthews Gauge, Inc., Santa Ana, CA
Maudlin & Son Manufacturing Co., Inc., Kemah, TX
May Technology & Mfg., Inc., Kansas City, MO
May Tool & Die, Inc., North Royalton, OH
MaTech Machining Technologies, Inc., Hebron, MD
McAfee Tool & Die, Inc., Uniontown, OH
McCurdy Tool & Machine Inc., Caledonia, IL
McGill Manufacturing Company, Flint, MI
McKee Carbide Tool Division, Olanta, PA
McKenzie Automation Systems, Inc., Rochester, NY
McNeal Enterprises, Inc., San Jose, CA
McNeil Industries, Inc., Willoughby, OH
McNeill Manufacturing Company, Oakland, CA
McSwain Manufacturing Corp., Cincinnati, OH
Meadville Plating Company, Inc., Meadville, PA
Meadville Tool Grinding, Meadville, PA
Mechanical Drive Components, Inc., Chicopee, MA
Mechanical Manufacturing Corp., Sunrise, FL
Mechanical Metal Finishing Co., Gardena, CA
Mechanized Enterprises, Inc., Anaheim, CA
Medved Tool & Die Company, Elm Grove, WI
Menegay Machine & Tool Company, Canton, OH
Mercer Machine Company, Inc., Indianapolis, IN
Merit Gage, Inc., St. Louis Park, MN
Merritt Tool Company, Inc., Kilgore, TX
Metal Form Engineering, Redlands, CA
Metal Processors Inc., Stevensville, MI
Metal-Tek Machining Inc., Phoenix, AZ
Metalcraft, Inc., Tempe, AZ
Metallon, Inc., Thomaston, CT
Metalsa—Perfek, Novi, MI
Metco Manufacturing Company, Inc., Warrington, PA
Metplas, Inc., Natrona Heights, PA
Metric Machining, Monrovia, CA
Metro Manufacturing, Inc., Phoenix, AZ
Metz Tool & Die Works, Rockford, IL
Miami Tool & Die, Inc., Huntington, IN
Micro Facture LLC, Mountville, PA
Micro Instrument Corporation, Boulder City, NV
Micro Manufacturing, Caledonia, MI
Micro Matic Tool, Inc., Youngstown, OH
Micro Precision Company, Houston, TX
Micro Punch & Die Company, Rockford, IL
Micro Surface Engineering, Inc., Bal-tec Division, Los Angeles, CA
Micro Tool & Manufacturing, Inc., Meadville, PA
Micro-Tronics, Inc., Tempe, AZ
Mid-Central Manufacturing, Inc., Wichita, KS
Mid-Conn Precision Manufacturing LLC, Bristol, CT
Mid-Continent Engineering, Inc., Minneapolis, MN
Mid-State Manufacturing, Inc., Milldale, CT
Mid-States Forging Die & Tool, Co., Inc., Rockford, IL
Midland Precision Machining, Inc., Tempe, AZ
Midway Mfg. Inc., Elyria, OH
Midwest Tool & Die Corporation, Fort Wayne, IN
Midwest Tool & Engineering Co., Dayton, OH
Mikron Machine, Inc., Cranesville, PA
Milco Wire EDM, Inc., & Milco Waterjet, Huntington Beach, CA
Millat Industries Corp., Dayton, OH
Miller Equipment Corporation, Richmond, VA
Miller Mold Company, Saginaw, MI
Milrose Industries, Cleveland, OH
Milwaukee Precision Corporation, Milwaukee, WI
Milwaukee Punch Corporation, Greendale, WI
Minco Tool & Mold Inc., Dayton, OH
Mission Tool & Manufacturing Co., Inc., Hayward, CA
Mitchell Machine, Inc., Springfield, MA
Mitchum Schaefer, Inc., Indianapolis, IN
Mittler Brothers Machine & Tool, Division-Mittler Corporation, Foristell, MO
Mod Tech Industries, Inc., Shawano, WI
Model Machine Company, Inc., Baltimore, MD
Modern Industries Inc., Phoenix, AZ
Modern Machine Company, San Jose, CA
Modern Machine Company, Bay City, MI
Modern Technologies Corp., Xenia, OH
Mold Threads Inc., Branford, CT
Moldcraft, Inc., Depew, NY
Moldesign, Inc., Knoxville, TN
Monks Manufacturing Co., Inc., Wilmington, MA
Monroe Tool & Die Co., Rochester, NY
Monsees Tool & Die, Inc., Rochester, NY
Montgomery Machine Company, Houston, TX
Moon Tool & Die Inc., Conneaut Lake, PA
Moore Gear Mfg. Co., Inc., Hermann, MO
Moore Quality Tooling, Inc., Dayton, OH
Moore's Ideal Products, Covina, CA
Morlin Incorporated, Erie, PA
Morris Machine Co., Inc., Indianapolis, IN
Morton & Company, Inc., Wilmington, MA
Moseys' Production Machinists Inc., Anaheim, CA
Mound Laser and Photonics Center, Miamisburg, OH
Mountain States Automation, Inc., Englewood, CO
Mueller Machine & Tool Company, Berkeley, MO
Muller Tool Inc., Cheektowaga, NY
Multi-Tool, Inc., Saegertown, PA
Mutual Precision, Inc., West Springfield, MA
Mutual Tool & Die, Inc., Dayton, OH
Myers Industries, Akro-Mils Division, Akron, OH
Myers Precision Grinding Company Inc., Warrensville Hts, OH
Myles Tool Co., Inc., Sanborn, NY
MCD Plastics & Manufacturing Inc., Piqua, OH
MCTD, Inc., Michigan City, IN
MKR Fabricators, Saginaw, MI
MPC Industries, Inc., Irvine, CA
MRC Technologies, Buffalo, NY
N C Dynamics, Inc., Long Beach, CA
N E T & Die Company, Inc., Fulton, NY

Nashville Machine Company, Inc., Nashville, TN
National Carbide Die, McKeesport, PA
National Jet Company, Inc., LaVale, MD
National Tool & Machine Co. Inc., East St. Louis, IL
Nationwide Precision Products, Corp., Rochester, NY
Nelson Bros. & Strom Co., Inc., Racine, WI
Nelson Engineering, Garden Grove, CA
Nelson Grinding, Inc., Fullerton, CA
Nelson Precision Drilling Co., Glastonbury, CT
Nerjan Development Company, Stamford, CT
Neutronics, Inc., Phoenix, AZ
New Century Fabricators, Inc., New Iberia, LA
New England Die Co., Inc., Waterbury, CT
New England Precision Grinding, Inc., Holliston, MA
New Standard Corporation, York, PA
Newman Machine Company, Inc., Greensboro, NC
Niagara Punch & Die Corporation, Buffalo, NY
Nifty Bar, Inc., Penfield, NY
Niles Machine & Tool Works, Inc., Livermore, CA
Nixon Tool Co., Inc., Richmond, IN
Noble Tool Corporation, Dayton, OH
Norbert Industries, Inc., Sterling Heights, MI
Nordon Tool & Mold, Inc., Rochester, NY
Noremac Manufacturing Corp., Westboro, MA
Norman Noble, Inc., Cleveland, OH
North Canton Tool Company, Inc., Canton, OH
North Central Tool & Die, Inc., Houston, TX
North Coast Tool & Mold Corp., Cleveland, OH
North Easton Machine Co., Inc., North Easton, MA
Northeast E D M, Newburyport, MA
Northeast Manufacturing Co., Inc., Stoneham, MA
Northeast Tool & Manufacturing, Co., Indian Trail, NC
Northern Machine Tool Company, Muskegon, MI
Northern Tool & Gage, Inc., North Royalton, OH
Northwest Machine Works, Inc., Grand Junction, CO
Northwest Tool & Die Company, Inc., Grand Rapids, MI
Northwest Tool & Die, Inc., Meadville, PA
Northwood Industries, Inc., Perrysburg, OH
Norwood Tool Company, Dayton, OH
Now-Tech Industries Inc., Lackawanna, NY
Nu-Tech Industries, Grandview, MO
Nu-Tool Industries, Inc., North Royalton, OH
Numeric Machine, Fremont, CA
Numeric Machining Co., Inc., West Springfield, MA
Numerical Concepts, Inc., Terre Haute, IN
Numerical Precision, Inc., Wheeling, IL
Numerical Productions, Inc., Indianapolis, IN
Numet Machine, Stratford, CT
NuTec Tooling Systems, Inc., Meadville, PA
O & S Machine Company, Inc., Latrobe, PA
O–A, Inc., Agawam, MA
O E M Industries, Inc., Dallas, TX
O E M, Inc., Corvallis, OR
O–D Tool & Cutter Inc., Mansfield, MA
O'Keefe Ceramics, Woodland Park, CO
Oakley Die & Mold Company, Inc., Mason, OH
Obars Machine & Tool Company, Toledo, OH
Oberg Industries Inc., Freeport, PA
Oconee Machine & Tool Company, Inc., Westminster, SC
Oconnor Engineering Laboratories, Costa Mesa, CA
Ohio Gasket & Shim Company, Akron, OH
Ohio Transitional Machine & Tool, Inc., Toledo, OH
Oilfield Die Manufacturing Co., Lafayette, LA
Omax Corporation, Kent, WA
Omega One, Inc., Maple Heights, OH
Omega Tool, Inc., Menomonee Falls, WI
Omni Machine Works, Inc., Covington, GA
Omni Tool, Inc., Winston Salem, NC
Optimized EDM, Santa Clara, CA
Osborn Products, Inc., Phoenix, AZ
Overland Bolling, Dallas, TX
Overton & Sons Tool & Die Co. Inc., Mooresville, IN
Overton Corporation, Willoughby, OH
P & A Tool & Die, Inc., Rochester, NY
P & N Machine Company, Inc., Houston, TX
P & P Mold & Die, Inc., Tallmadge, OH
P & R Industries, Inc., Rochester, NY
P I A Group, Inc., Cincinnati, OH
P. Tool & Die Company, Inc., N. Chili, NY
P–K Tool & Manufacturing Company, Chicago, IL
Pacific Bearing Company, Rockford, IL
Pacific Tool & Die, Inc., Brunswick, OH
Pahl Tool Services, Cleveland, OH
Palma Tool & Die Company, Inc., Lancaster, NY
Palmer Machine Company Inc., Conway, NH
Palmer Manufacturing Company, Malden, MA
Pankl Aerospace Systems, Cerritos, CA
Parallax, Inc., Largo, FL
Paramount Machine & Tool Corp., Fairfield, NJ
Parker Plastics Corporation, Pittsburgh, PA
Parr-Green Mold and Machine Co., North Canton, OH
Parris Tool & Die Company, Goodlettsville, TN
Parrish Machine, Inc., South Bend, IN
Pasco Tool & Die, Inc., Meadville, PA
Patco Machine & Fab, Inc., Houston, TX
Path Technologies, Inc., Mentor, OH
Patkus Machine Company, Rockford, IL
Patriot Machine, Inc., St. Charles, MO
Patten Tool & Engineering, Inc., Kittery, ME
Paul E. Seymour Tool & Die Co., North East, PA
Peerless Precision, Inc., Westfield, MA
Pegasus/Triumph Manufacturing, Inc., East Berlin, CT
Peko Precision Products, Rochester, NY
Pell Engineering & Manufacturing, Inc., Pelham, NH
Penco Precision, Fontana, CA
Pendarvis Manufacturing, Anaheim, CA
Pendleton Tool Company, Inc., Erie, PA
Peninsula Screw Machine Products, Inc., Belmont, CA
Penn State Tool & Die Corp., North Huntingdon, PA
Penn United Tech, Inc., Saxonburg, PA
Pennoyer-Dodge Company, Glendale, CA
Pennsylvania Crusher, Cuyahoga Falls, OH
Pennsylvania Tool & Gages, Inc., Meadville, PA
Pequot Tool & Mfg., Inc., Pequot Lakes, MN
Perfection Tool & Mold Corp., Dayton, OH
Perfecto Tool & Engineering Co., Anderson, IN
Perfekta, Inc., Wichita, KS
Performance Grinding & Manufacturing, Inc., Tempe, AZ
Performance Machining Inc., Irwin, PA
Perry Tool & Research Inc., Hayward, CA
Petersen Precision Engineering, LLC, Redwood City, CA
Peterson Jig & Fixture, Inc., Rockford, MI
Phil-Coin Machine & Tool Co., Inc., Hudson, MA
Philips Machining Company, Inc., Coopersville, MI
Phoenix Grinding, Div. of Cal-Disc Grinding Co., Phoenix, AZ
Phoenix Metallics, Phoenix, AZ
Phoenix Tool & Gage, Inc., Phoenix, AZ
Piece-Maker Company, Troy, MI
Pinnacle Manufacturing Co., Inc., Chandler, AZ
Pinnacle Precision Co., Glassport, PA
Pioneer Industries, Seattle, WA
Pioneer Precision Grinding, Inc., West Springfield, MA
Pioneer Tool & Die Company, Akron, OH
Pioneer Tool & Die, Inc., Meadville, PA
Piper Plastics, Inc., Chandler, AZ
Pitt-Tex, Latrobe, PA
Plano Machine & Instrument Inc., Gainesville, TX
Plastic Mold Technology Inc., Grand Rapids, MI
Plastipak Packaging, Inc., Package Development Plant 67, Medina, OH
Pleasanton Tool and Manufacturing, Inc., Pleasanton, CA
Plesh Industries, Inc., Buffalo, NY
Pol-Tek Industries, Ltd., Cheektowaga, NY
Polytec Products Corporation, Menlo Park, CA
Ponderosa Industries, Inc., Denver, CO
Popp Machine & Tool, Inc., Louisville, KY
Port City Machine & Tool Company, Muskegon Heights, MI
Portage Knife Company, Inc., Mogadore, OH
Post Products, Inc., Kent, OH
Powers Bros. Machine, Inc., Montebello, CA
Powill Manufacturing & Engineering, Inc., Phoenix, AZ
Practical Machine Company, Barberton, OH
Precise Products Corporation, Minneapolis, MN
Precision Aircraft Components, Inc., Dayton, OH
Precision Aircraft Machining, Co., Inc. dba PAMCO, Sun Valley, CA
Precision Automation Co., Inc., Clarksville, IN
Precision Balancing & Analyzing Co., Mentor, OH
Precision Boring Company, Detroit, MI
Precision Components Group, Inc., Fremont, CA
Precision Die & Stamping Inc., Tempe, AZ
Precision Engineering & Mfg. Co., PEMCO, Haymarket, VA
Precision Engineering, Inc., Uxbridge, MA
Precision Gage & Tool Company, Dayton, OH
Precision Gage, Inc., Tempe, AZ
Precision Grinding & Mfg. Corp., Rochester, NY
Precision Grinding Inc., Phoenix, AZ
Precision Grinding, Inc., Birmingham, AL
Precision Identity Corporation, Campbell, CA
Precision Machine & Instrument, Co., Houston, TX
Precision Machine & Tool Co., Longview, TX

Precision Machine Company, Lancaster, PA
Precision Machine Rebuilding, Inc., Rogers, MN
Precision Machine Works, Aiken, SC
Precision Manufacturing, Technologies, Inc., Grand Junction, CO
Precision Metal Crafters, Ltd., Greensburg, PA
Precision Metal Fabrication, Dayton, OH
Precision Metal Tooling, Inc., Oakland, CA
Precision Mold & Engineering, Inc., Warren, MI
Precision Mold Base Corporation, Tempe, AZ
Precision Mold Welding, Inc., Little Rock, AR
Precision Products Inc., Greenwood, IN
Precision Resource, California Division, Huntington Beach, CA
Precision Resource Tool & Machine, Division, Shelton, CT
Precision Resources, Hawthorne, CA
Precision Specialists, Inc., West Berlin, NJ
Precision Specialties, San Jose, CA
Precision Stamping & Tool, Inc., Irvine, CA
Precision Stamping, Inc., Farmers Branch, TX
Precision Technology, Inc., Chandler, AZ
Precision Tool & Mold, Inc., Clearwater, FL
Precision Tool Work, Inc., New Iberia, LA
Precision Wire EDM Service Inc., Grand Rapids, MI
Preferred Tool Company, Inc., Seymour, IN
Prescott Aerospace, Inc., Prescott Valley, AZ
Pressco Products, Kent, WA
Prestige Mold Incorporated, Rancho Cucamonga, CA
Price Products, Inc., Escondido, CA
Pride, dba Pride Industries, Brooklyn Park, MN
Prima Die Castings, Inc., Clearwater, FL
Prime-Co Tool Inc., East Rochester, NY
Primeway Tool & Engineering Co., Div. of Cleary Developments, Inc., Madison Heights, MI
Pro-Mold, Inc., Rochester, NY
Pro-Tech Machine, Inc., Burton, MI
Process Equipment Company, Tipp City, OH
Product Engineering Company, Columbus, IN
Production Machining & Mfg., Dallas, TX
Production Saw Works, Inc., North Hollywood, CA
Production Tool & Mfg. Co., Portland, OR
Producto Machine Company, Bridgeport, CT
Professional Instruments Co., Inc., Hopkins, MN
Professional Machine & Tool Co., Gallatin, TN
Proficient Machining Co., Inc., Mentor, OH
Profile Grinding, Inc., Cleveland, OH
Proformance Manufacturing, Inc., Corona, CA
Progressive Concepts Machining, Pleasanton, CA
Progressive Machine & Design, LLC, Victor, NY
Progressive Metallizing &, Machine Company, Inc., Akron, OH
Progressive Tool & Die, Inc., Meadville, PA
Progressive Tool & Die, Inc., Gardena, CA
Progressive Tool Company, Waterloo, IA
Promax Tool Co., Rancho Cordova, CA
Prompt Machine Products, Inc., Chatsworth, CA
Proper Cutter, Inc., Guys Mills, PA
Proper Mold & Engineering, Inc., Center Line, MI
Proto-Design, Inc., Redmond, WA
Protonics Engineering Corp., Cerritos, CA
ProMold, Inc., Cuyahoga Falls, OH
Puehler Tool Company, Valley View, OH
Pullbrite, Inc., Fremont, CA
PDQ Machine, Inc., Machesney Park, IL
PMR, Inc., Avon, OH
PQ Enterprise, L.L.C., Grand Rapids, MI
PR Machine Works, Inc., Mansfield, OH
Quality Centerless Grinding Corp., Middlefield, CT
Quality Grinding and Machine, Rainbow City, AL
Quality Machine Engineering, Inc., Santa Rosa, CA
Quality Machining Technology, Inc., Oakdale, CA
Quality Machining, Inc., Waunakee, WI
Quality Mold & Engineering, QME Inc., Baroda, MI
Quality Tool & Die Inc., Meadville, PA
Quality Tool Company, Toledo, OH
Quick-Way Stampings, Euless, TX
R & D Machine Shop, Dallas, TX
R & D Specialty/Manco, Phoenix, AZ
R & D Tool & Engineering, Lee's Summit, MO
R & G Precision Tool Inc., Thomaston, CT
R & H Manufacturing Inc., Edwardsville, PA
R & J Tool, Inc., Brookville, OH
R & M Machine Tool, Freeland, MI
R & M Manufacturing Company, Niles, MI
R & M Mold Manufacturing Co., Inc., Bloomsbury, NJ
R & S EDM, Inc., W. Springfield, MA
R & S Redco, Inc., Rockland, MA
R D C Machine, Inc., Santa Clara, CA
R Davis EDM, Anaheim, CA
R E F Machine Company, Inc., Middlefield, CT
R F Cook Manufacturing Co., Stow, OH
R G F Machining Technologies, Canon City, CO
R J S Corporation, Akron, OH
R M I, Van Nuys, CA
R S Precision Industries, Inc., Farmingdale, NY
R T R Slotting & Machine Inc., Cuyahoga Falls, OH
R. W. Machine, Inc., Houston, TX
R. W. Smith Company, Inc., Dallas, TX
Rainbow Tool & Machine Co., Inc., Gadsden, AL
Raloid Corporation, Reisterstown, MD
Ralph Stockton Valve Products, Inc., Houston, TX
Ram Tool, Inc., Grafton, WI
Rapid-Line Inc., Grand Rapids, MI
Rapidac Machine Corporation, Rochester, NY
Ratnik Industries, Inc., Victor, NY
Rawlings Engineering, Macon, GA
Re-Del Engineering, Campbell, CA
Realco Diversified, Inc., Meadville, PA
Reardon Machine Co., Inc., St. Joseph, MO
Reata Engineering & Machine, Works, Inc., Englewood, CO
Reber Machine & Tool Company, Muncie, IN
Reed Instrument Company, Houston, TX
Reese Machine Company, Inc., Ashtabula, OH
Reg-Ellen Machine Tool Corp., Rockford, IL
Reichert Stamping Company, Toledo, OH
Reitz Tool, Inc., Cochranton, PA
Reko International Sales, Inc., Troy, MI
Reliable EDM, Inc., Houston, TX
Remarc Manufacturing Inc., Hayward, CA
Remmele Engineering, Inc., New Brighton, MN
Reny & Company Inc., El Monte, CA
Repairtech International, Inc., Van Nuys, CA
Republic Industries, Louisville, KY
Republic-Lagun, Carson, CA
Research Tool Inc., East Haven, CT
Reuther Mold & Manufacturing Co., Attn: Accounts Payable, Cuyahoga Falls, OH
Reynolds Manufacturing Co., Inc., Rock Island, IL
Rheaco Inc., Grand Prairie, TX
Rhode Island Centerless, Inc., Johnston, RI
Rich Tool & Die Company, Scarborough, ME
Richard Manufacturing Company, Inc., Milford, CT
Richard Tool & Die Corporation, New Hudson, MI
Richard's Grinding, Inc., Cleveland, OH
Richards Machine Tool Company, Inc., Lancaster, NY
Richsal Corporation, Elyria, OH
Rick Sanford Machine Company, San Leandro, CA
Rickman Machine Company, Wichita, KS
Rid-Lom Precision Tool Corp., Rochester, NY
Ridge Machine & Welding Company, Toronto, OH
Riggins Engineering, Inc., Van Nuys, CA
Right Tool & Die, Inc., Toledo, OH
Rite-Way Industries Inc., Louisville, KY
Riverview Machine Company, Inc., Holyoke, MA
Riviera Tool Company, Grand Rapids, MI
Robert C. Reetz Company, Inc., Pawtucket, RI
Robert C. Weisheit Co., Franklin Park, IL
Roberts Tool & Die Company, Chillicothe, MO
Roberts Tool Company, Inc., Chatsworth, CA
Robrad Tool & Engineering, Mesa, AZ
Rochester Automated Systems, Inc., Rochester, NY
Rochester Gear, Inc., Rochester, NY
Rochester Manufacturing, Wellington, OH
Rochester Precision Machine, Inc., Rochester, MN
Rockburl Industries Inc., Rochester, NY
Rockford Process Control, Inc., Rockford, IL
Rockford Tool & Manufacturing Co., Rockford, IL
Rockford Toolcraft, Inc., Rockford, IL
Rockhill Machining Industries Inc., Barberton, OH
Rockstedt Tool & Die, Brunswick, OH
Rocon Manufacturing Corporation, Rochester, NY
Rogers Enterprises, Rochester, NY
Roll Kraft, Mentor, OH
Romold Inc., Rochester, NY
Ron Grob Company, Loveland, CO
Ronart Industries, Inc., Detroit, MI
Ronlen Industries, Inc., Brunswick, OH
Rons Racing Products, Inc., Tucson, AZ
Royalton Manufacturing, Inc., Cleveland, OH
Royster's Machine Shop, LLC, Henderson, KY
Rozal Industries, Inc., Farmingdale, NY
Ruoff & Sons, Inc., Runnemede, NJ
Ryan Industries Inc., York, PA
RRR Development Co., Inc., North Canton, OH
RTS Wright Industries, Nashville, TN
RTS Wright Industries, LLC, Gilbert, AZ
S & B Tool & Die Co., Inc., Lancaster, PA
S & R Tool Inc., Lakeville, NY
S C Manufacturing, Akron, OH
S G S Tool Company, Munroe Falls, OH
S L P Machine, Inc., Ham Lake, MN
S. C. Machine, Chatsworth, CA
Sabre Machining Center, Inc., Dayton, OH

Saeilo Manufacturing Industries, Blauvelt, NY
Sage Machine & Fabricating, Houston, TX
Sagehill Engineering, Inc., Menlo Park, CA
Saliba Industries, Inc., Lake Forest, IL
Sanders Tool & Mould Company, Hendersonville, TN
Sandor Tool & Manufacturing Co., Lawrence, MA
Satran Technical Enterprises, Mayer, AZ
Sattler Machine Products, Inc., Sharon Center, OH
Sawing Services Co., Chatsworth, CA
Sawtech, Lawrence, MA
Schaffer Grinding Company, Inc., Montebello, CA
Scheu & Kniss, The Elizabeth Companies, Louisville, KY
Schill Corp., Toledo, OH
Schmald Tool & Die Inc., Burton, MI
Schmiede Corporation, Tullahoma, TN
Schmitt Machine, Inc., Ventura, CA
Schneider & Marquard, Inc., Newton, NJ
Schuetz Tool & Die, Inc., Hiawatha, KS
Schulze Tool Company, Independence, MO
Schwab Machine, Inc., Sandusky, OH
Schwartz Industries, Inc., Warren, MI
Scientiam Machine Co., Harbor City, CA
Seaway Industrial Products, Inc., Erie, PA
Sebewaing Tool & Engineering Co., Sebewaing, MI
Select Manufacturing Company, Rainbow City, AL
Select Tool & Die—Tool Div., Dayton, OH
Select Tool & Eng., Inc., Elkhart, IN
Select Tool and Die, Toledo, OH
SelfLube, Coopersville, MI
Selzer Tool & Die, Inc., Elyria, OH
Sematool Mold & Die Co., Santa Clara, CA
Serrano Industries Inc., Santa Fe Springs, CA
Service Manufacturing and, Engineering, Norwalk, CA
Service Tool & Die, Inc., Henderson, KY
Setters Tools, Inc., Piedmont, SC
Sharon Center Mold & Die, Sharon Center, OH
Shaw Industries, Inc., Franklin, PA
Shear Tool, Inc., Saginaw, MI
Sheets Tool & Manufacturing, Inc., Saegertown, PA
Shelby Engineering Company, Inc., Indianapolis, IN
Sherer Manufacturing Incorporated, Clearwater, FL
Sherman Tool & Gage, Erie, PA
Shookus Special Tools, Inc., Raymond, NH
ShopTech Industrial Software Corp., Cincinnati, OH
Sibley Machine & Foundry Corp., South Bend, IN
Signal Machine Company, New Holland, PA
Silicon Valley Mfg., Fremont, CA
Sipco Molding Technologies, Meadville, PA
Sirois Tool Co. Inc., Berlin, CT
Six Sigma, Louisville, KY
Ski-Way Machine Products Company, 24460 Lakeland Blvd., Euclid, OH
Skillcraft Machine Tool Company, West Hartford, CT
Skulsky, Inc., Gardena, CA
Skyline Manufacturing Corp., Nashville, TN
Skylon Mold & Machining, Sugar Grove, PA
Smith-Renaud, Inc., Cheshire, CT
Smith's Machine, Cottondale, AL
Smithfield Manufacturing, Inc., Clarksville, TN
Snyder Systems, Benicia, CA
Solar Tool & Die, Inc., Kansas City, MO
Sonic Machine & Tool, Inc., Tempe, AZ
Sonoma Precision Mfg. Co., Santa Rosa, CA
Sonora Precision Molds, Inc., Mi Wuk Village, CA
South Bend Form Tool Company, South Bend, IN
South Eastern Machining, Inc., Pelzer, SC
Southampton Manufacturing, Inc., Feasterville, PA
Southeastern Technology, Inc., Murfreesboro, TN
Southern Manufacturing Technologies Inc., Tampa, FL
Southwest Mold, Inc., Tempe, AZ
Space City Machine & Tool Co., Houston, TX
Spalding & Day Tool & Die Co., Louisville, KY
Spark Technologies, Inc., Schenley, PA
Spartak Products Inc., Houston, TX
Specialty Machine & Hydraulics, Pleasantville, PA
Speed Precision Machining, Phoenix, AZ
Spenco Machine & Manufacturing, Temecula, CA
Spex Precision Machine Technologies, Rochester, NY
Spike Industries, North Lima, OH
Spiral Grinding Company, Culver City, CA
Springfield Manufacturing, LLC, Clover, SC
Springfield Tool & Die, Inc., Greenville, SC
Spun Metals, Inc., A Deakins Co., Brazil, IN
Standard Die Supply of Indiana, Inc., Indianapolis, IN
Standard Jig Boring Service, Inc., Akron, OH
Standard Machine Inc., Cleveland, OH
Standard Welding & Steel, Products, Inc., Medina, OH
Stanek Tool Corporation, New Berlin, WI
Stanley Machining & Tool Corp., Carpentersville, IL
Star Precision Products, Mentor, OH
Star Tool & Die, Inc., Elkhart, IN
Starn Tool & Manufacturing Co., Meadville, PA
State Industrial Products, Inc., Phoenix, AZ
Stauble Machine & Tool Company, Louisville, KY
Stelted Manufacturing, Inc., Tempe, AZ
Sterling Engineering Corporation, Winsted, CT
Sterling Tool Company, Racine, WI
Stevens Manufacturing Co., Inc., Milford, CT
Stewart Manufacturing Company, Phoenix, AZ
Stillion Industries, Ann Arbor, MI
Stillwater Technologies, Inc., Troy, OH
Stonewall Jackson Mold Inc., Annville, KY
Stoney Crest Regrind Service, Inc., Bridgeport, MI
Streamline Tooling Systems, Muskegon, MI
Strobel Machine, Inc., Worthington, PA
Stuart Tool & Die, Falconer, NY
Studwell Engineering, Inc., Sun Valley, CA
Subsea Ventures Inc., Houston, TX
Suburban Manufacturing Company, Eastlake, OH
Summit Machine Company, Scottdale, PA
Summit Precision, Inc., Phoenix, AZ
Sun EDM Inc., Gilbert, AZ
Sunbelt Plastics, Inc., Frisco, TX
Sunrise Tool & Die, Inc., Henderson, KY
Sunset Tool Inc., Saint Joseph, MI
Super Finishers II, Phoenix, AZ
Superbolt, Inc., Carnegie, PA
Superior Die Set Corporation, Oak Creek, WI
Superior Die Tool Machine Co., Columbus, OH
Superior Gear Box Company, Stockton, MO
Superior Jig, Inc., Anaheim, CA
Superior Mold Company, Ontario, CA
Superior Thread Rolling Company Inc, Arleta, CA
Superior Tool & Die Company, Bensalem, PA
Superior Tool & Die Company, Inc., Elkhart, IN
Superior Tool, Inc., Willow Street, PA
Supreme Tool and Die Company, Fenton, MO
Surface Manufacturing, Auburn, CA
Swiss Wire E D M, Costa Mesa, CA
Swissco, Inc., Bell Gardens, CA
Synergis Technologies Group, Grand Rapids, MI
Syst-A-Matic Tool & Design, Meadville, PA
Systems 3, Inc., Tempe, AZ
STADCO, Los Angeles, CA
STM Manufacturing, Holland, MI
T & S Industrial Machining Corp., Woburn, MA
T J Tool and Mold, Guys Mills, PA
T M Machine & Tool, Inc., Toledo, OH
T M S Inc., Technical Machining Services, Inc., Lincoln, RI
T R Jones Machine Company, Inc., Crystal Lake, IL
T. J. Karg Company, Inc., Akron, OH
T–K & Associates, Inc., La Porte, IN
T–M Manufacturing Corporation, Sunnyvale, CA
Talbar, Inc., Meadville, PA
Talent Tool & Die, Inc., Berea, OH
Tana Corporation, Toledo, OH
Tanner Oil Tools Inc., Houston, TX
Target Precision, Meadville, PA
Taurus Tool & Engineering, Inc., Muncie, IN
Team Tooling and Design, Incorporated, Shawnee, OK
Tech Industries, Inc., Cleveland, OH
Tech Manufacturing Company, Wright City, MO
Tech Mold, Inc., Tempe, AZ
Tech Tool & Mold, Inc., Meadville, PA
Tech-Etch, Inc., Plymouth, MA
Tech-Machine, Inc., Colorado Springs, CO
Techmetals, Inc., Dayton, OH
Techni-Cast Corporation, South Gate, CA
Techni-Products, Inc., East Longmeadow, MA
Technics 2000 Inc., Olathe, KS
Technodic, Inc., Providence, RI
Tecno Troqueles Industries, Laredo, TX
TecoMetrix, LLC, Tempe, AZ
Tedco, Inc., Cranston, RI
Teke Machine Corp., Rochester, NY
Tell Tool, Inc., Westfield, MA
Tenk Machine & Tool Company, Cleveland, OH
Tennessee Metal Works, Inc., Nashville, TN
Tennessee Tool Corporation, Charlotte, TN
Terrell Manufacturing Inc., Strongsville, OH
Testand Corporation, Pawtucket, RI
Tetco, Inc., Plainville, CT
Teter Tool & Die, Inc., La Porte, IN
Thaler Machine Company, Dayton, OH
The Baughman Group, Louisville, KY
The Bechdon Company, Inc., Upper Marlboro, MD
The Foster Group, Rochester, NY
The Goforth Corp., dba The Machine Shop, Fremont, CA

The Metalworking Group, Inc., Cincinnati, OH
The POM Group, Inc., Auburn Hills, MI
The Ryan Group, Franklin, NJ
The Sullivan Corporation, Hartland, WI
The Timken Company, Specialty Tooling & Rebuilding, Canton, OH
The Will-Burt Company, Orrville, OH
Therm, Inc., Ithaca, NY
Thiel Tool & Engineering Co.,Inc., St. Louis, MO
Thomas Machine Works, Inc., Newburyport, MA
Thornhurst Manufacturing, Inc., Zephyrhills, FL
Three-Way Pattern, Inc., Wichita, KS
ThyssenKrupp Budd Company, Shelbyville, KY
Tipco Punch, Inc., Hamilton, OH
Tipp Machine & Tool, Inc., Tipp City, OH
Titan, Inc., Sturtevant, WI
Toledo Blank, Inc., Toledo, OH
Toledo Molding & Die, Toledo, OH
Tolerance Masters, Inc., Circle Pines, MN
Tomak Precision, Lebanon, OH
Tomco Tool & Die, Inc., Belding, MI
TomKen Tool & Engineering, Inc., Muncie, IN
Tool Gauge & Machine Works, Inc., Tacoma, WA
Tool Mate Corporation, Cincinnati, OH
Tool Specialties Company, Hazelwood, MO
Tool Specialty Company, Los Angeles, CA
Tool Tech Corporation, San Jose, CA
Tool Tech, Inc., Springfield, OH
Tool-Matic Company, Inc., City Of Commerce, CA
Toolcomp Tooling & Components Co., Toledo, OH
Toolcraft of Phoenix, Inc., Glendale, AZ
Toolcraft Products, Inc., Dayton, OH
Toolex, Inc., Houston, TX
Tools Renewal Company, Birmingham, AL
Tools, Inc., Sussex, WI
Top Tool & Die, Inc., Cleveland, OH
Toth Industries, Inc., Toledo, OH
Toth Technologies, Pennsauken, NJ
Tower Tool & Engineering, Inc., Machesney Park, IL
Trace-A-Matic Corporation, Brookfield, WI
Tracer Tool & Die Company Inc., Grand Rapids, MI
Trademark Die & Engineering, Belmont, MI
Tram Tek Inc., Phoenix, AZ
Transmatic Manufacturing, Mesa, AZ
Treblig, Inc., Greenville, SC
Trec Industries, Inc., Brooklyn Heights, OH
Tree City Mold & Machine Co., Inc., Kent, OH
Treffers Precision, Inc., Phoenix, AZ
Tresco Tool, Inc., Guys Mills, PA
Tri Craft, Inc., Middleberg Heigh, OH
Tri-City Machine Products, Inc., Peoria, IL
Tri-City Tool & Die, Inc., Bay City, MI
Tri-Core Mold & Die, Machesney Park, IL
Tri-M-Mold, Inc., Stevensville, MI
Triad Plastic Technologies, Reno, NV
Triangle Tool Company, Erie, PA
Tribond Industries, Inc., Phoenix, AZ
Tricon Machine LLC, Rochester, NY
Tridecs Corporation, Hayward, CA
Trident Precision Manufacturing, Webster, NY
Trimac Manufacturing, Inc., Santa Clara, CA
Trimble Navigation Ltd. Engineering & Construction Division, Huber Heights, OH
Trimetric Specialties, Inc., Newark, CA
Trimline Tool, Inc., Grandville, MI
Trinity Tools, Inc., North Tonawanda, NY
Trio Manufacturing, Inc., Kent, WA
Trio Tool & Die, Inc., Hawthorne, CA
Triple-T Cutting Tools Inc., West Berlin, NJ
Triplett Machine, Inc., Phelps, NY
Trojan Mfg. Co. Inc., Piqua, OH
Trotwood Corporation, Trotwood, OH
Tru Form Manufacturing Corp., Rochester, NY
Tru Tool, Inc., Sturtevant, WI
Tru-Cut, Inc., Sebring, OH
True Cut EDM Inc., Garland, TX
True-Tech Corporation, Fremont, CA
Trust Technologies, Willoughby, OH
Trutron Corporation, Troy, MI
Tschida Engineering, Inc., Napa, CA
Tucker Engineering Inc., Peabody, MA
Turn-Tech, Inc., Pinehurst, TX
Twin City Plating Company, Minneapolis, MN
Two-M Precision Co., Inc., Willoughby, OH
TAE Corporation, d/b/a T & E Manufacturing, Kent, WA
TCI Precision Metals, Gardena, CA
TMI Industries, Inc., Temperance, MI
TMK Manufacturing Inc., Santa Clara, CA
TMX Engineering & Manufacturing, Santa Ana, CA
U F E Incorporated, Stillwater, MN
U M C, Inc., Hamel, MN
U S Machine & Tool, Inc., Murfreesboro, TN
Ugm, Inc., Salida, CA
Ultra Precision, Inc., Freeport, PA
Ultra Stamping & Assembly, Inc., Rockford, IL
Ultra Tool & Manufacturing, Inc., Menomonee Falls, WI
Ultra-Tech, Inc., Kansas City, KS
Ultramation, Inc., Waco, TX
Ultron, Long Beach, CA
Unique Machine Company, Montgomeryville, PA
Unique Tool & Manufacturing, Randleman, NC
Unitech, Inc., Kansas City, MO
United Centerless Grinding, East Hartford, CT
United Machine Co., Inc., Wichita, KS
United Plastics Group, Anaheim, CA
United Stars Aerospace, Inc., Kent, WA
United States Fittings, Inc., Warrensville Hgt, OH
United Tool & Engineering Co., South Beloit, IL
United Tool & Engineering, Inc., Mishawaka, IN
Universal Brixius, Milwaukee, WI
Universal Custom Process, Inc., Streetsboro, OH
Universal Precision Products Inc., Akron, OH
Upland Fab, Inc., Ontario, CA
UAB Manufacturing Co., Inc., Southampton, PA
USAeroteam, Dayton, OH
V & M Tool Company, Inc., Perkasie, PA
V & S Die & Mold, Inc., Lakewood, OH
V A Machine & Tools, Inc., Broussard, LA
V Ash Machine Company, Cleveland, OH
V I Mfg., Inc., Webster, NY
V R C, Inc., Berea, OH
V.A.W. of America, Inc., Phoenix, AZ
Valley Machine Works, Inc., Phoenix, AZ
Valley Tool & Die, Inc., North Royalton, OH
Valv-Trol Company, Stow, OH
Van Engineering, R Vandewalle, Inc., Cincinnati, OH
Van Os Machine Works, Inc., St. Louis, MO
Van Reenen Tool & Die Inc., Rochester, NY
Van-Am Tool & Engineering, Inc., St. Joseph, MO
Vanderveer Industrial Plastics, Inc., Placentia, CA
Vanpro, Inc., Cambridge, MN
Varco Systems, Orange, CA
Vaughn Manufacturing Company, Inc., Nashville, TN
Venango Machine Products, Inc., Reno, PA
Versacut Ind. Inc., Morenci, MI
Versa Tool & Die Machining, and Engineering Inc., Beloit, WI
Vico Louisville, Louisville, KY
Viking Tool & Engineering, Whitehall, MI
Viking Tool & Gage, Inc., Conneaut Lake, PA
Vistek Precision Machine Company, Ivyland, PA
Vitron Manufacturing, Inc., Phoenix, AZ
Vitullo & Associates, Inc., Warren, MI
Vobeda Machine & Tool Company, Racine, WI
Vulcan Tool Corporation, Dayton, OH
W & H Stampings & Fineblanking, Inc, Hauppauge, NY
W D & J Machine & Engineering Inc., Fullerton, CA
W G Strohwig Tool & Die, Inc., Richfield, WI
W W G, Inc., Indianapolis, IN
W. C. Kirby & Son, Inc., Noblesville, IN
W.A.C. Consulting/Coss Systems Inc., Northboro, MA
Wagner Engineering, Inc., Gilbert, AZ
Wagner Engraving Co., Kirkwood, MO
Waiteco Machine, Inc., Devens, MA
Waltco Engineering, Inc., Gardena, CA
Walter Tool & Mfg. Inc., Elgin, IL
Warmelin Precision Products, Hawthorne, CA
Waukesha Tool & Stamping Inc., Sussex, WI
Wayne Manufacturing, Inc., Boulder, CO
Weco Metal Products, Ontario, NY
Wemco Precision Tool, Inc., Meadville, PA
Wentworth Company, Glastonbury, CT
Werkema Machine Company, Inc., Grand Rapids, MI
Wes Products, Madison Heights, MI
West Hartford Tool & Die Company, Newington, CT
West Pharmaceutical Services, Erie, PA
West Valley Milling, Inc., Chatsworth, CA
West Valley Precision Inc., San Jose, CA
Western Air Products, Tucson, AZ
Western Mass. MechTech, Inc., Ware, MA
Western Tap Manufacturing Co., Inc., Buena Park, CA
Westfield Manufacturing Corp., Westfield, IN
Westfield Tool & Die, Inc., Westfield, MA
Westlake Tool & Die Mfg., Avon, OH
Westool Corporation, Temperance, MI
White Machine, Inc., North Royalton, OH
Whitehead Tool & Design, Inc., Guys Mills, PA
Wiegel Tool Works, Inc., Wood Dale, IL
Wiesen EDM, Inc., Belding, MI
Wightman Engineering Services, Inc., Santa Clara, CA
Wilco Die Tool Machine Company, Maryland Heights, MO
Wilkinson Mfg., Inc., Santa Clara, CA
Willer Tool Corporation, Jackson, WI
William Sopko & Sons Co., Inc., Cleveland, OH

Williams Engineering & Manufacturing, Inc., Chatsworth, CA
Williams Machine, Inc., Lake Elsinore, CA
Williams Machining Co., Edinboro, PA
Windsor Tool & Die, Inc., Cleveland, OH
Wintech Industries Inc., Tempe, AZ
Wire Cut Company, Inc., Buena Park, CA
Wire Tech E D M, Inc., Los Alamitos, CA
Wire-Tech, Inc., Tempe, AZ
Wirecut Technologies Inc., Indianapolis, IN
WireCut E D M, Inc., Dallas, TX
Wisconsin Engraving Company/Unitex, New Berlin, WI
Wise Machine Co., Inc., Butler, PA
Wolverine Bronze Company, Roseville, MI
Wolverine Tool & Engineering, Belmont, MI
Wolverine Tool Company, St. Clair Shores, MI
Woodruff Corporation, Torrance, CA
Wright Brothers Welding &, Sheet Metal, Inc., Hollister, CA
WADKO Precision, Inc., Eagle Lake, TX
WGI Inc., Southwick, MA
WSI Industries, Inc., Osseo, MN
X–L Machine Company, Inc., Three Rivers, MI
XLI Corporation, Rochester, NY
Yarde Metals, Inc., Bristol, CT
Yates Tool, Inc., Medina, OH
Yoder Die Casting Corporation, Dayton, OH
Youngberg Industries, Inc., Belvidere, IL
Youngers and Sons Manufacturing, Company, Inc., Viola, KS
Youngstown Plastic Tooling & Machinery, Inc., Youngstown, OH
Z & Z Machine Products Inc., Racine, WI
Z M D Mold & Die Inc., Mentor, OH
Zircon Precision Products, Inc., Tempe, AZ
Zuelzke Tool & Engineering, Milwaukee, WI
4 Axis Machining, Inc., Denver, CO

[FR Doc. 03–1097 Filed 1–16–03; 8:45 am]
BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Ocean Service

[Docket No. 021226332–2332–01; I.D. 121202C]

Coral Reef Conservation Grant Program Fiscal Year 2003 Funding Guidance

AGENCY: National Marine Fisheries Service (NMFS), National Ocean Service (NOS), Commerce.

ACTION: Notice of Availability of Federal assistance for coral reef conservation activities.

SUMMARY: This document advises the public that the National Oceanic and Atmospheric Administration (NOAA) is soliciting proposals for the NOAA Coral Reef Conservation Grant Program (Program), pursuant to the Coral Reef Conservation Act of 2000 (Act). The Act authorizes the Secretary of Commerce (Secretary), through the NOAA Administrator (Administrator), and subject to the availability of funds, to provide matching grants of financial assistance for coral reef conservation projects under the Program. This document provides the specific Fiscal Year (FY) 2003 Funding Guidance (Guidance) necessary to award $5,590,000 in Federal assistance, of which NOAA is providing $5,240,000 and the Department of the Interior (DOI)is providing $350,000, consistent with the NOAA Coral Reef Conservation Grant Program Implementation Guidelines (Guidelines) published in the **Federal Register** on Friday, April 19, 2002. The Guidelines can be found at *http://www.coralreef.noaa.gov/*. The information published in this Guidance includes: specific program eligibility criteria, Funding Availability, proposal submittal and selection dates, and detailed application requirements and Application Evaluation criteria. All applications submitted pursuant to this notice must be consistent with the requirements stated herein, the Guidelines, and with ''A National Coral Reef Action Strategy'' (Strategy), completed in September 2002. The Strategy can also be found at: *http://www.coralreef.noaa.gov/*. Applicants may also request copies of the Strategy from the contacts listed below. Funding will be subject to the availability of federal appropriations.

DATES: Applications must be received by NOAA before 5 P.M. Eastern Time on the dates specified below. Initial applications can be submitted by either electronic mail (e-mail) or surface mail; however, one original and two signed copies of the final application must be submitted by surface mail. Applicants should consider the delivery time when submitting their applications from international or remote areas. NOAA intends to provide funding to selected applicants no later than September 30, 2003. The following review and selection timetable applies to all applications under the Program, except the Coral Reef Research Ecosystem Program (see section IV):

Initial Applications due to NOAA–March 14, 2003

NOAA returns proposal comments to applicants–May 9, 2003

Final Applications due to NOAA–June 6, 2003

The NOAA Grants Officer will provide written notice to each successful applicant with written notice of the final funding selection on or before September 30, 2003. It is the goal of the NOAA Program Officer to also provide notice to each unsuccessful applicant before September 30, 2003.

ADDRESSES: Initial applications may be submitted by surface mail or e-mail. Submissions by e-mail are preferred. If submitting by surface mail, applicants are encouraged to include a copy of the initial application in electronic format on disk or cd and mail both to: David Kennedy, NOAA Coral Reef Conservation Program Coordinator, Office of Response and Restoration, N/ORR, Room 10102, NOAA National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910. Applications submitted by e-mail must be sent to *coral.grants@noaa.gov*. Fax submittals will not be accepted except for the International Coral Reef Conservation proposals, Section VII (Fax: 301–713–4389).

FOR FURTHER INFORMATION CONTACT: Administrative questions should be directed to Bill Millhouser, 301–713–3155, extension 189 or e-mail at *bill.millhouser@noaa.gov*.

Technical point of contact for State and Territory Coral Reef Management is Bill Millhouser, 301–713–3155, extension 189 or e-mail at *bill.millhouser@noaa.gov*.

Technical point of contact for State and Territory Coral Reef Ecosystem Monitoring is John Christensen, 301–713–3028, extension 153 or e-mail at *john.christensen@noaa.gov*.

Technical point of contact for Coral Reef Ecosystem Research is Kimberly Puglise, 301–713–2427, extension 199 or e-mail at *kimberly.puglise@noaa.gov*.

Technical point of contact for General Coral Reef Conservation is Tom Hourigan, 301–713–3459, extension 122 or e-mail at *tom.hourigan@noaa.gov*.

Technical point of contact for Projects to Improve or Amend Coral Reef Fishery Management Plans is Tom Hourigan, 301–713–3459, extension 122 or e-mail at *tom.hourigan@noaa.gov*.

Technical point of contact for International Coral Reef Conservation is Arthur Paterson, 301–713–3078, extension 217 or e-mail at *arthur.e.paterson@noaa.gov*.

For general information on NOAA's Coral Reef Conservation Program, contact Roger Griffis, 301–713–3989, extension 115 or e-mail at *roger.b.griffis@noaa.gov*.

SUPPLEMENTARY INFORMATION: NOAA announces the availability of $5,590,000 of Federal assistance in FY 2003 for Coral Conservation Activities. NOAA is providing $5,240,000 and DOI is providing $350,000. These funds will be used to support grants of financial assistance under the following six program categories: State and Territory Coral Reef Management; State and Territory Coral Reef Ecosystem

Monitoring; Coral Reef Ecosystem Research; Coral Reef Conservation; Projects to Improve or Amend Coral Reef Fishery Management Plans; and International Coral Reef Conservation.

Please Note: The Coral Reef Ecosystem Research Program mentioned here will solicit proposals through NOAA's Undersea Research Program (NURP) on a different schedule than described in this Guidance. Applicants interested in submitting applications for coral research should consult section IV. Coral Reef Ecosystem Research.

The amount of funds available and the application requirements for each program category are established in Sections II - VII of this notice. In addition to this specific program information, all applicants should carefully read section VIII. General Information for All Applicants.

For applications submitted in electronic format, the preferred format is Adobe Acrobat (.PDF); however, WordPerfect or Microsoft Word files are acceptable. All applications must meet the information and formatting requirements specified in this Guidance. Federal financial assistance forms are not required to be submitted with the initial application; however, one original and two signed copies must be submitted with the final application.

Each application must include a cover sheet with the following information:

(a) Project title;

(b) Applicant organization;

(c) Principal investigator or contact;

(d) Contact information including address, phone and fax numbers, and e-mail address;

(e) Program category (see **SUPPLEMENTARY INFORMATION**, below);

(f) Geographic location of the project;

(g) Amount of grant funds requested;

(h) Amount of matching funds provided; and,

(i) Concise paragraph project summary.

NOAA will select projects based on a review of applications pursuant to criteria contained in the Guidelines, the Strategy, and this Guidance. In addition, each program office will ensure where appropriate in their evaluation criteria, commitment to effective education and outreach consistent with NOAA's mission to protect coral reef resources. Selected recipients will enter into either a cooperative agreement with the NOAA Office responsible for the program or receive a grant depending upon the amount of NOAA's involvement in the project. Substantial involvement means a cooperative agreement, while independent work requires a grant. Examples of substantial involvement include:

(1) Requirements that the appropriate DOC official collaborate with the recipient by working jointly with a recipient scientist or technician in carrying out the scope of work;

(2) Specify direction or redirection of the scope of work due to the relationships with other projects; and,

(3) Review scope of work and closely monitor the program operations during the performance period.

Applicants whose initial applications are preliminarily selected must then submit a final Federal financial assistance award application package, including proposed projects and supporting documentation, and all required Federal financial assistance forms as described in the relevant program section below. The required Federal financial assistance forms SF–424, SF–424A, SF–424B, CD–511, CD–512, and if applicable, CD–346 and/or SF-LLL, can be obtained from the NOAA grants Website at *http://www.rdc.noaa.gov/~grants/pdf*. Applicants are required to include one original and two signed hard/paper copies for each final application package submitted.

The number of awards made under this funding Guidance may vary. See each program description in sections II - VII for more information. Successful applicants may be asked to revise award objectives, work plans, or budgets prior to submittal of the final application. The exact amount of funds to be awarded, the final scope of activities, the project duration, and specific NOAA cooperative involvement with the activities of each project will be determined in pre-award negotiations among the applicant, NOAA Grants Management Division (GMD), and relevant NOAA staff. Projects should not be initiated in expectation of Federal funding until a notice of award document is received from NOAA GMD. Publication of this document does not obligate NOAA to award any specific project or obligate all or any part of the available funds.

I. Authority

Statutory authority is provided under Section 6403 (Coral Reef Conservation Program) of the Coral Reef Conservation Act of 2000 (16 U.S.C. 6401 *et seq.*). Each program's Catalog of Federal Domestic Assistance (CFDA) number can be found in the specific program information included in sections II - VII below.

II. State and Territory Coral Reef Management

A. Program Description

This description provides requirements for applying for funding appropriated by Congress to NOAA and DOI in FY 2003 to support comprehensive programs for the conservation and management of coral reefs and associated fisheries in the jurisdictions of Puerto Rico, the U.S. Virgin Islands (USVI), Florida, Hawaii, Guam, the Commonwealth of the Northern Mariana Islands (CNMI), and American Samoa.

NOAA's National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM) and National Marine Fisheries Service (NMFS) Office of Habitat Conservation (OHC), and DOI Office of Insular Affairs (OIA) are jointly providing approximately $2,100,000 in funding for cooperative agreements to support state and territorial coral reef and coral reef fishery management and conservation activities as listed in E(2) below.

Each jurisdiction need only develop and submit one comprehensive coral reef management application for the funds available under this section. The Federal agencies will coordinate their reviews of each application to ensure comparability and continuity. It is anticipated that OCRM will make awards to four of the seven jurisdictions and that DOI/OIA will make awards to the remaining three jurisdictions.

B. Eligibility Criteria

The eligible applicants are the governor-appointed point of contact agencies for coral reef activities in each of the jurisdictions of American Samoa, Florida, CNMI, Guam, Hawaii, Puerto Rico, and USVI.

C. Funding Availability and Mechanism

1. Funding Availability

Approximately $2,100,000 in FY 2003 funding is available for Coral Reef and Coral Reef Fishery Management cooperative agreements. Funding will be subject to the availability of federal appropriations. Support in out years after FY 2003 is contingent upon the availability of funds and the requirements of the Federal agency supporting the project. Each eligible jurisdiction can apply for a maximum $400,000.

2. Funding Mechanism

Cooperative agreements will be awarded to each eligible jurisdiction. Applicants may submit applications covering a 12- to 18–month period with

an anticipated start date of October 1, 2003.

D. Matching Funds

The requirements for matching funds under Section VIII(3) of the Guidance are applicable to Funding Availability under this program. Specific information to be submitted in regard to matching funds can be found in the Application Content and Format Section below.

E. Application Content and Format

1. Application Content

Applications should reflect the *National Coral Reef Action Strategy*, the U.S. Coral Reef Task Force *National Action Plan to Conserve Coral Reefs*, and local strategies for coral reef management, such as the 1999, *U.S. All Islands Coral Reef Initiative Strategy*, as modified by the events and activities of the last 3 years. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA coral reef mapping, monitoring, coastal zone and fishery management initiatives, and DOI Fish and Wildlife Service and National Park Service coral reef activities.

In light of the October 2002 U.S. Coral Reef Task Force resolution to implement a regional process to address six key focus areas, jurisdictions are encouraged to propose funding under this program for local projects and participation in support of this effort. A copy of the Task Force Resolution is available at *http://coralreef.gov/res1cfm/*.

In developing the application, applicants must consult with all relevant State and/or Territory governmental and non-governmental entities involved in coral reef activities in their respective jurisdictions. Those agencies consulted must include coastal zone management, water quality, and wildlife and/or marine resource agencies.

Funding under this award is also intended to support jurisdictional participation in national coral reef planning activities, such as U.S. Coral Reef Task Force meetings. As such, applicants should include in their proposal, anticipated travel costs associated with attendance and participation at U.S. Coral Reef Task Force and other relevant meetings and conferences.

Applicants may submit applications covering up to an 18–month period and must meet all applicable Department of Commerce (DOC) or DOI grant requirements. Initial and final applications must be submitted to NOAA by the due dates established in the DATES section above. Federal financial assistance forms are not required to be submitted with the initial application; however, all applicable Federal forms must be submitted with the final application. One original and two signed hard/paper copies of the final application, including forms, are required.

Large equipment and/or infrastructure acquisitions are not a priority for funding under this program. Such purchases proposed herein will be reviewed on a case by case basis with respect to the specific management objectives of this and the local coral reef program.

2. Application Format

In developing the proposal, applicants must organize proposed tasks into the following nine key threat management categories (a - i, below), which are based on those found in the threat and management action matrices developed by the All Islands Group:

a. *Climate Change, Coral Bleaching, Diseases and Extreme Biotic and Storm Events*, e.g., applied research, monitoring, or planning to better understand and manage impacts;

b. *Overfishing, Destructive Fishing, and the Harvest and Collection of Marine Ornamentals (Including Coral)*, in FY 2003, NMFS OHC has provided $350,000 of the total $2,100,000 to fund priority state and territorial coral reef fishery management activities. Proposed funding for coral reef fishery management tasks should not exceed $60,000 per jurisdiction, and should be budgeted within the jurisdiction's comprehensive proposal.

The mandate of NMFS is to build sustainable fisheries, recover protected species, and sustain healthy habitats for these species. These tasks should be developed in the same format as the other coral reef management tasks and included and submitted in the comprehensive application. Examples of eligible projects include:

(i) Assessment and monitoring of fish and fishery resources, collection of fishery information;

(ii) Analysis of fishery impacts on reefs and support for the implementation of fishery gear restrictions or other priority regulations;

(iii) Development of fishery reserves;

(iv) Activities to improve management of ornamental reef species for the aquarium industry;

(v) Hiring or training of enforcement officers; and,

(vi) Outreach and education on fishery and endangered species issues.

c. *Increasing Development Pressure, Unmanaged Land Use, and Population Growth*, e.g., tasks to forward the conservation and management of coral reefs through planning, designation, implementation and evaluation of land use and marine protected areas; including personnel training, equipment procurement, management plan development, signage, monitoring and enforcement, etc.;

d. *Tourism and Recreational Overuse, and Vessel Groundings and Anchorings*, e.g., coastal zone management activities, marine and land zoning, vessel grounding prevention and management, mooring buoy installation, recreational signage, etc.;

e. *Alien and Invasive Species*, e.g., policy development, mitigation projects, etc.;

f. *Marine Pollution, Sedimentation, Runoff, Nonpoint Source Pollution, and Marine Debris*, e.g., tasks focused on: (1) Oil-spill prevention and response, e.g., developing response plans, personnel training, interagency coordination, etc.; (2) Marine debris prevention and removal, e.g., developing prevention policies, collection and disposal of debris, etc.; and (3) Reducing impacts from land-based/watershed pollution source, e.g., Best Management Practices (BMP) planning and implementation, watershed restoration projects, etc.;

g. *Lack of General Public Awareness*, e.g., tasks to increase general coral reef awareness including brochures and other informational materials, public meetings and workshops, etc.;

h. *National Security Activities*, e.g., tasks intended to support coordination toward the management of impacts from national security activities; and,

i. *Other*, e.g., activities that address other threats.

The first page of the application should consist of the cover page described in the **SUPPLEMENTARY INFORMATION** section at the beginning of this document.

For each category in which one or more task is proposed, the applicant must include the following information:

a. A brief introduction that describes the status of the issue in the jurisdiction as addressed by the proposed task; recent actions undertaken to address the issues, with a focus on the status of previous federally funded tasks; the jurisdiction's strategy to address critical needs over the medium term; and, a justification for the proposed task.

b. A description of each proposed task that must include:

(i) The category of management action from the All Islands Group management action matrix under which the proposed activity falls;

(ii) Clear identification of the work to be completed, who will perform the

work, relationship to ongoing projects and how the project fits into the jurisdiction's strategy for addressing the issue;

(iii) How the project coordinates with relevant local governmental and non-governmental agencies and, if applicable, NOAA or DOI regional activities;

(iv) Task timetable with interim benchmarks and clearly-defined work products;

(v) Project priority as compared to all other proposed projects; and,

(vi) A Summary Budget that includes a detailed breakdown of costs by category and information regarding the amount of matching funds available to the applicant, as described in Section VIII(3) of this Guidance. Intended sources of matching funds must be identified in the application, and applicants whose proposals are selected for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds.

c. Each application must also include, on the last page, a summary budget table of all projects, which lists the name of each project proposed and the corresponding total cost and matching funds information.

F. Application Evaluation and Selection Criteria

1. Evaluation Criteria

Applications will be peer-reviewed by individuals with coral reef and fisheries management experience on the following equally weighted evaluation criteria, as evidenced by information in the application:

a. Documented need for the proposed coral reef management activity to fill gaps in the jurisdiction's management capacity;

b. Demonstrated coordination with applicable ongoing local, state, territorial, and Federal coral reef management activities;

c. Technical merit of the proposed management activity; and,

d. Ability of the work to be completed for the funding and timing proposed.

Subsequently, a Federal agency team of representatives from NMFS, OCRM, and OIA will review the applications, pursuant to equally weighted criteria described in Section X(3) of the Guidelines and comments received from peer reviewers. Based on this review, the team will make a preliminary funding recommendation for each jurisdiction.

2. Selection Criteria

OCRM and DOI will then provide the preliminary funding recommendation and application comments to each selected jurisdiction. These comments will include input from peer reviewers and the Federal agency team and are intended for use in the applicant's development of the final application.

Upon receipt of the final application, complete with the requisite Federal financial assistance forms, the Federal agency team will review the complete package and make final funding recommendations based on the response to comments that were returned to the applicant. The team will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines.

If all available funds are not awarded, NOAA and DOI will consult with the eligible applicants on the use of any residual funds. NOAA and DOI will work with each jurisdiction to ensure the greatest degree of success in meeting local, state, territorial, and national coral reef management needs.

G. Program Authority

Specific authority for the NOAA program is found in 16 U.S.C. 6403. NOAA proposals will be reviewed and awarded by OCRM under title, *Coastal Zone Management Program*, CFDA Number: 11.419.

III. State and Territory Coral Reef Ecosystem Monitoring

A. Program Description

This description provides requirements for applying for funding appropriated by Congress to the NOAA in FY 2003 to support state and territorial coral reef ecosystem monitoring. This program will be administered by the NOS National Centers for Coastal and Ocean Science (NCCOS).

NOAA and its partners are implementing a nationally coordinated, comprehensive, long-term monitoring program to assess the condition of U.S. coral reef ecosystems and evaluate the effectiveness of coral reef ecosystem management decisions. This program was requested by the U.S. Coral Reef Task Force, which, along with the nation's coral reef program managers and the public, endorsed and called for implementation of ''A National Program to Assess, Inventory, and Monitor U.S. Coral Reef Ecosystems.''

NOAA began implementing the Program in 2000 and continues to administer it with Congressional appropriations for coral reef conservation. The Program includes the collection, analysis, and reporting of long-term coral reef ecosystem monitoring data pursuant to scientifically valid methodologies and protocols and is a key priority of the *National Coral Reef Action Strategy*.

The implementation plan calls for integration of now-disparate monitoring sites into a coordinated national network, sharing of monitoring information among U.S. coral reef resource managers and scientists, and filling gaps in monitoring coverage nationwide. Through this Program, U.S. Federal, state, commonwealth, and territory, and Freely Associated State agencies support a variety of local and regional assessments, inventories, and monitoring of U.S. and U.S. affiliated coral reef resources. Additionally, there are several regional volunteer and community monitoring programs regularly assessing reef resources. A nationally coordinated coral monitoring infrastructure will enable the preparation of a biennial science-based report on the condition or ''health'' of U.S. coral reef ecosystems and support local coral reef management efforts.

The nation's coral reef resource managers have recommended key biotic and abiotic parameters that should be monitored at all local sites in the National monitoring network:

1. Benthic habitat characterization (e.g., depth, habitat delineation, and/or percent live/dead cover of corals, submerged aquatic vegetation, macroalgae, sponges, rugosity, diversity, etc.);

2. Associated biological community structure including fish condition (e.g., abundance, density, size, diversity, disease, harvest trends) and large motile and sessile invertebrates condition (abundance, density, size, diversity, disease, harvest trends); and,

3. Water/substrate quality (e.g., temperature, nutrient enrichment, toxic chemicals, turbidity).

Proposed work should include multi-organizational partnerships (local, regional, Federal, and possibly international) that build local capacity for maintaining long-term monitoring sites as part of a National Coral Reef Monitoring Network. NOAA will be an active partner in the development and implementation of the award; thus, proposals should be structured as cooperative agreements between NOAA and the principal investigators. For these proposals, it is appropriate to include the equipment necessary to build capacity to archive biotic transects (e.g., one or more digital videography cameras with underwater housing, museum maintenance of reference specimen collections, etc.).

B. Eligibility Criteria

Eligible applicants are limited to the natural resource management agency in each U.S. State or Territory, or Freely Associated State, with jurisdiction over coral reefs, as designated by the respective governors or other applicable senior jurisdictional official. NOAA is requesting proposals from Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands. Federal agencies are not eligible for funding under this Program.

Furthermore, to be eligible for FY 2003 funding, applicants previously receiving funds under this Program must have made significant progress implementing those tasks and met data submission deadlines, including all performance and fiscal reporting requirements and data transfers.

C. Funding Availability and Mechanisms

1. Funding Availability

Approximately $840,000 will be available in FY 2003 for coral reef ecosystem monitoring activities under this program. FY 2003 awards to Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands are expected to range from $50,000 to $100,000. FY 2003 awards to the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands are expected to be approximately $10,000 to $20,000 per year. Funding will be subject to the availability of federal appropriations.

2. Funding Mechanism

Funds will be administered though cooperative agreements between eligible organizations and NCCOS. FY 2003 awards to Puerto Rico, Florida, U.S. Virgin Islands, Hawaii, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands may submit proposals up to 3 years in duration, at funding levels between $50,000 to $100,000 per year (e.g., up to $300,000 for 3–year continuation proposal). FY 2003 awards to the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands may submit proposals up to three years in duration, at funding levels between $10,000 - $20,000 per year (i.e., $60,000 for three year continuation proposal). FY 2003 awards, however, will only provide funding for the monitoring activities proposed for FY 2003, and funding for out years is contingent on subsequent years' appropriations. Multiple-year proposals must specify the budget and activities for each year. Annual projects should follow the Federal fiscal year, beginning on October 1 and ending September 30.

D. Matching Funds

The requirements for matching funds under Section VIII(3) of the Guidance are applicable to Funding Availability under this program. Specific information to be submitted in regard to matching funds can be found in the Application Content and Format section below.

E. Application Content and Format

1. Content

Application Content should be developed and submitted according to the following guidelines:

a. *First time applicants for monitoring awards*: Eligible activities for the first year of proposed funding (i.e., FY 2003) include an initial characterization of baseline ecosystem condition, an inventory/mapping of biotic resources, and an assessment of anthropogenic stressors (e.g., contaminants in lagoon sediments, sedimentation conditions, eutrophication, etc.) if these studies are prerequisite to establishing new long-term monitoring sites. Activities can also include database development and training of field crew. Proposed second and third year work should follow the guidelines for previous recipients below.

b. *Previous recipients of NCCOS monitoring awards*: Proposals from previous recipients should detail the monitoring design, sampling parameters and protocols, data management, and the need/context for establishing new long-term monitoring sites. Proposals should describe how the proposed monitoring meets local coral conservation needs and fits into ongoing long-term assessments, inventories, and monitoring within the jurisdiction and/or region. Each proposal must provide enough specificity on the parameters to be monitored, the design and frequency of sampling, methods used, data management and quality assurance, and other information for peer-reviewers to judge the quality of proposed work. Of particular importance to creating a National Coral Reef Monitoring Network, each proposal should also address (1) how compatible the proposed data (e.g., data confidence limits, standardized protocols) will be with other jurisdictional and regional databases, and (2) when and in what format the data will be available to NOAA. The information produced through these awards is intended to fill gaps in knowledge of coral reef ecosystems nationwide, track and predict changes in coral reef ecosystems nationwide, and serve as the foundation for biennial reporting in the *Report of the Health of U.S. Coral Reef Ecosystems*.

In addition, each jurisdiction's proposal for FY 2003 must include the preparation of a comprehensive assessment of coral reef ecosystem health. This will be each jurisdiction's contribution to the *Report on the Health of U.S. Coral Reef Ecosystems: 2004*. Toward this end, FY 2003 proposals may budget for travel to at least one national workshop, costs for preparing and printing a jurisdictional report on the condition of coral reef ecosystems, and related expenses.

In light of the October 2002 U.S. Coral Reef Task Force resolution to implement a regional process to address six key focus areas, jurisdictions are encouraged to propose funding under this program for local projects and participation in support of this effort.

2. Application Format

Applicants must submit initial applications, inclusive of elements a-e below, by the date established in the DATES section above. Applications are limited to 15 standard letter size pages, including attachments, and font should be Times New Roman, 12 point or larger.

a. *A Cover Page* as described in the SUPPLEMENTAL INFORMATION section at the beginning of this Guidance;

b. *A Project Description* (i.e., narrative description) for each proposed task that includes: the specific priority management questions that are driving the effort, how data collected will be translated and transferred to the local management community, project objectives, and a timetable with project milestones;

c. *A Summary Budget* that includes a detailed breakdown of costs by category and a description of the amount of matching funds available to the applicant, as described in Section VIII of the Guidelines. Each subcontract or subgrant should be listed as a separate item. Describe the products or services to be obtained and indicate the applicability or necessity of each to the project. Provide separate budgets for each subcontract or subgrant and indicate the basis for the cost estimates. More detailed budget instructions are available at http://biogeo.nos.noaa.gov/~jchristensen/mon__web/. Intended

sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit letter(s) of commitment to fund from the organization(s) providing matching funds with the final application. Multiple-year proposals must specify the budget and activities for each year;

d. *Curriculum Vitae* for principal investigators;

e. *Summary Project Abstract*; and,

f. *All required NOAA Federal financial assistance awards* - forms (see below). One original and two copies of the jurisdiction's application must be submitted to NOAA by the date established in the DATES section at the beginning of this Guidance.

Final applications must include all elements of the initial application, any responses to comments and edits, all required NOAA Federal financial assistance forms (element f above), and must be received by NOAA on or before the date established in the DATES section above. One original and two signed hard copies of the final applications are required.

The NOAA Grants Management Division program web site, *http://www.rdc.noaa.gov/~grants/index.html*, provides detailed application instructions and electronic versions of Federal financial assistance forms. The two most relevant sections at this web site are, ''C. Instructions and Guidelines,'' and, ''D. Application Forms for Initial Proposal Submission.'' Applicants should review their application package prior to submission and be sure that all blocks on forms SF–424, SF–424A, SF–424B, CD–511, CD–512, and if applicable, CD–346 and/or SF-LLL have been filled in completely. Monitoring program Applicants should reference http://biogeo.nos.noaa.gov?~jchristensen/mon__web/ for instructions on filling out forms SF–424 and SF–424A.

F. Application Evaluation and Selection Criteria

1. Evaluation Criteria

Applications will be peer-reviewed by a small panel of representatives from relevant U.S. State, Territory, and Federal, and Freely Associated State agencies, as well as the jurisdictional coral reef Points of Contact (POCs). Each POC will be asked to review one or more proposals from other jurisdictions, but never their own. Proposals will be peer-reviewed on the following criteria:

a. The jurisdiction's need for such work to fill gaps in monitoring coverage and build local capacity for long-term monitoring of coral reef ecosystems;

b. The quality of the proposed science and potential for the resulting data to be incorporated into a National Monitoring Network;

c. The ability of the principal investigators to conduct such work; and,

d. Support for the All Islands Coral Reef Initiative, in applicable jurisdictions.

Reviewer results will be shared with applicants, and applicants will be given the opportunity to revise their application and/or respond to reviewer comments.

Taking into consideration comments received from peer reviewers, NCCOS will evaluate each proposal and develop funding recommendations based on the criteria in Section X(3) of the Guidelines. In evaluating the technical merit and adequacy of the implementation plan, NCCOS will apply the following 3 equally weighted criteria:

a. *Relevance to establishing a national monitoring network*. The principal objective of the proposals should be to fill priority gaps or needs in coral reef monitoring and assessment programs, such that they contribute to the creation of a comprehensive and coordinated network of monitoring sites for U.S. coral reef ecosystems. In subsequent years, the project should be monitoring the ''minimum suite of key biotic and abiotic parameters,'' (as listed in the program description) at least once a year, at one or more sites;

b. *Quality assurance and error estimates for parameter measurements*. Flexibility of methodologies for acquiring measurements is allowable, as long as they are done *in situ* and are quantitatively reliable within a jurisdiction and across a region. Where possible, NOAA favors a stratified random sampling design for site selection (i.e., ideally based on reliable habitat maps), multi-methodological monitoring of the ecosystem (i.e., line transects for cryptic species, point-count surveys for large pelagic species), and sample archiving (i.e., species reference collections, transect/survey videographic records); and

c. *Potential to meet data reporting requirements and the ability of transferring the data to the local or regional management community*. Data from proposals must be useful in preparing the biennial report on the *Health of U.S. Coral Reef Ecosystems*. Grant recipients will provide raw or synthesized data to NCCOS no later than 3 months after data collection. The data generated in the National Coral Reef Ecosystem Monitoring Program will by used by NOAA and its partners to develop regional and national state of the reef reports and disseminated to the public via NOAA's Coral Reef Information (CoRIS) Web site development (*http://www.coris.noaa.gov*). Biotic data integrity is critical for sharing of information and detection of national/regional trends and hotspots. Each jurisdiction will need to have basic data management quality controls and quality assurances for its data. Funding eligibility for future funding years will be contingent on meeting data submission deadlines including all performance and financial reporting requirements and data transfers.

2. Proposal Selection

Based on these reviews, NCCOS will provide a preliminary funding recommendation and proposal comments to each selected applicant. These comments will include input from peer reviewers and the Federal agency team and are intended for use in the applicant's development of the final application.

Upon receipt of the final application, complete with the requisite Federal forms, the Federal agency team will review the complete package and make final funding recommendations based on the incorporation and/or response to comments that were returned to the applicant. NCCOS will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Proposals will be reviewed and awarded by NCCOS under title, *Financial Assistance for National Centers of Coastal Ocean Science*, CFDA 11.426.

IV. Coral Reef Ecosystem Research

A. Program Description

In FY 2003, the Program is providing $600,000 to NOAA's Undersea Research Program (NURP) to cooperatively administer NURP coral reef grant programs for the Caribbean, Florida, Hawaii, and the Western Pacific. Three separate requests for proposals will be announced. The Hawaii Undersea Research Laboratory will administer and announce the program for Hawaii and the Western Pacific; the Caribbean Marine Research Center will address research needs in the U.S. Caribbean; and the Southeastern U.S. and Gulf of Mexico Center will announce a joint program in partnership with the U.S. Environmental Protection Agency and the Sanctuary Friends of the Florida Keys, which will support research in the

Florida Keys National Marine Sanctuary. All three requests for proposals and program descriptions are available at *http://www.nurp.noaa.gov/noaacoral.html* or by contacting the appropriate regional contact persons identified in the contact information section (C) below. The grant eligibility and matching requirements and review process will be consistent with the NOAA Coral Reef Conservation Grant Program Guidelines.

Please Note: Proposals are not being solicited for Coral Reef Research at this time. Separate solicitations will be made at a later date. For more information see ''C. Contact Information'' below. Funding will be subject to the availability of federal appropriations.

B. Research Priorities

Research supported through this program will address priority information needs identified by coral reef ecosystem managers and scientists. FY 2003 priorities include research on coral disease and bleaching, fisheries population dynamics and ecology, effects of anthropogenic stressors on benthic invertebrates, impacts and spread of invasive species, and evaluation of management actions and strategies. Specific priorities within these broad areas, and geographic preferences, will be indicated in each NURP Center's request for proposals.

C. Contact Information

For overall information regarding the NURP Coral Reef Grants Program contact: Kimberly Puglise, 301–713–2427, extension 199 or e-mail at *kimberly.puglise@noaa.gov*, or see: *http://www.nurp.noaa.gov/noaacoral.html*.

For information regarding the NURP Center for the Caribbean contact: Craig Dahlgren, 561–741–0192, extension 231 or e-mail at *cdahlgren@cmrc.org.*

For information regarding the NURP Center for the Southeastern United States and the Gulf of Mexico contact: Andrew Shepard, 910–962–2446 or e-mail at *sheparda@uncw.edu*.

For information regarding the NURP Center for Hawaii and the Western Pacific contact: Keith Crook, 808–956–9429 or e-mail at *Crook@soest.hawaii.edu*.

V. General Coral Reef Conservation

A. Program Description

This description provides guidance for applying for funding appropriated by Congress to NOAA in FY 2003 to support efforts by educational and non-governmental institutions to conserve the coral reef ecosystems of the United States and the Freely Associated States in the Pacific (Republic of Palau, the Republic of the Marshall Islands, and the Federated States of Micronesia). This program will be administered by the National Marine Fisheries Service (NMFS) Office of Habitat Conservation (OHC).

The objective of this program is to support educational and non-governmental institution led programs and projects in U.S. States and Territories and the Freely Associated States to:

1. Help preserve, sustain and restore the condition of coral reef ecosystems;

2. Promote the wise management and sustainable use of coral reef resources; and,

3. Increase public knowledge and awareness of coral reef ecosystems and issues regarding their conservation.

B. Criteria Changes in FY 2003

Please note the following criteria changes in the FY 2003 General Coral Reef Conservation program:

1. Applicant Eligibility: Government agencies of U.S. States, Territories, and Commonwealths, and Freely Associated States are not eligible under this category in FY 2003. U.S. State and Territory government agencies are eligible under section II and III, and government agencies of the Freely Associated States are eligible under section III and VII.

2. Project Eligibility: Applications for research activities will not be eligible under this category in FY 2003. Applicants interested in submitting coral research proposals should consult section IV. Coral Reef Ecosystem Research.

3. Award size: It is expected that most awards will range from a minimum of $15,000 to a maximum of $50,000. This is less than the maximum in FY 2002.

C. Eligibility Criteria

Eligible applicants include institutions of higher education, non-profit organizations, commercial organizations, and local and Indian tribal governments. U.S. State, Territory, and Commonwealth, and Freely Associated State Government Agencies are not eligible under this category in FY 2003. Federal agencies are eligible under this program; however, pursuant to Section IV of the Guidelines, such applications will be a low priority unless they are an essential part of a cooperative project with other eligible educational or non-governmental institutions. In order for a Federal agency to receive an award under this program, it must provide the requisite statutory authority to receive funds from a Federal agency for these purposes. Please note that the Economy Act, 31 U.S.C. 1535, is not sufficient legal authority because NOAA is not procuring goods or services from the federal agency. Regional Fishery Management Councils are not eligible under this program.

D. Funding Availability and Mechanisms

1. Funding Availability

Approximately $400,000 in funding is available in FY 2003 for awards under this program. It is expected that most awards will range from a minimum of $15,000 to a maximum of $50,000. Funding will be subject to the availability of federal appropriations.

2. Funding Mechanism

Applications selected for funding from non-Federal applicants will be funded through a project grant or cooperative agreement under the terms of this document. Applications selected for funding from Federal agencies will be funded through an interagency agreement. Generally, NMFS will make awards only to those projects where requested funding will be used to complete proposed activities within a 18–month period from the approved start date of the project.

E. Matching Funds

The requirements for matching funds under Section VIII(3) of the Guidance are applicable to Funding Availability under this program. Specific information to be submitted in regard to matching funds can be found in the Application Content and Format section here.

F. Application Content and Format

1. Application Content

Applications should support the *National Coral Reef Action Strategy* and the following goals of the U.S. Coral Reef Task Force *National Action Plan to Conserve Coral Reefs*: A.II. Assess and Monitor Reef Health; A.IV. Understand Social and Economic Factors; B.I. Improve Use of Marine Protected Areas (MPAs); B.II. Reduce Impacts of Fishing; B.IV. Reduce Pollution; B.V. Restore Damaged Reefs; and B.VI. Improve Education. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA mapping, monitoring, and coral reef or fishery management initiatives, and DOI Fish and Wildlife Service and National Park Service coral reef activities.

Applicants must consult with all relevant state, territory, and local

governmental and non-governmental entities involved in coral reef activities in developing the application. Local government agencies that must be consulted include coastal zone management, water quality, and wildlife and/or marine resource agencies.

Applicants may submit applications covering a 12–to 18–month period, and must meet all applicable DOC grant requirements. One copy of the initial application, submitted electronically or by surface mail, must be received by NOAA by the date established in the DATES section above.

One original and two signed copies of the final application, complete with all required Federal financial assistance forms (SF–424, SF–424A, SF–424B,, CD–511, CD–512, and, if applicable, CD–346 and/or SF-LLL) must be received by NOAA by the date established in the DATES section above. In addition, applicants may choose to submit an electronic copy (in Word Perfect, Microsoft Word, or PDF) with the required original and hard copies of the final application.

2. Application Format

In developing the application, the applicant must catagorize proposed tasks into the following 7 categories, which are based on a subset of those found in the *National Action Plan*:

a. *Monitoring and assessment of coral reefs or reef resources*; e.g., community or non-governmental organization monitoring or assessment programs that complement State or Territorial coral reef monitoring programs funded out of the NCCOS Coral Reef Monitoring Award,

b. *Socio-economic and resource valuation*, e.g., community assessments, economic valuations, alternative income generation workshops, etc.,

c. *Marine Protected Areas and associated management activities*, especially assessment of the gaps in protection of existing marine protected area systems, and outreach and education efforts,

d. *Coral reef fisheries management*, e.g., resource assessments, collection of fishery information, outreach to fishers, co-management of coral reef fisheries by fishing communities, etc.,

e. *Reducing pollution*, e.g., marine debris prevention and removal, reducing impacts from land-based/watershed pollution sources, etc.,

f. *Coral reef restoration*, e.g., restoration of coral reef habitats resulting from physical and biological disturbances such as orphan vessel groundings, storm events, coral disease and coral predator outbreaks, and anthropogenic disturbances, particularly projects utilizing innovative coral restoration technologies and/or comprehensive evaluation of restoration sites, and

g. *Public education and outreach activities*, e.g., brochures and other informational materials, public meetings and workshops, etc., particularly those which address the needs of local user groups.

Please Note: Coral reef research activities are not eligible for funding under this General Coral Reef Conservation program. Applicants interested in submitting coral reef research proposals should consult section IV. Coral Reef Ecosystem Research of this Guidance.

In addition, the following projects will not be eligible for funding:

(1) Activities that constitute legally required mitigation for the adverse effects of an activity regulated or otherwise governed by state or Federal law;

(2) Activities that constitute mitigation for natural resource damages under Federal or state law; and,

(3) Activities that are required by a separate consent decree, court order, statute or regulation.

Applications for the coral reef conservation activities beyond the scope of those legally required by mitigation or restoration activities as described above, are eligible under this program. For each project proposed, the applicant should not exceed 20 pages, including descriptions of qualification, letters of support and no more than five pages of other attachments, and should use 12–point font on letter size paper. Each application must include the following:

1. The cover page described in the **SUPPLEMENTARY INFORMATION** section at the beginning of this Guidance.

2. An introduction, not to exceed one page, that describes:

a. The status and magnitude of the issues in the jurisdiction where the project will take place;

b. Recent actions undertaken to address the issues, with a focus on federally funded tasks; and

c. How the project fits into the jurisdiction's strategy to addressing critical coral reef conservation needs the next 2–to 3–years.;

3. A description of each proposed task that includes:

a. Clear identification of the work to be completed and who will perform the work;

b. How the project coordinates with relevant state, territorial, or local governmental and non-governmental agencies, and if applicable, NOAA regional activities;

c. A narrative Budget Summary that includes a detailed breakdown of costs by category and information regarding the amount of matching funds available to the applicant, pursuant to Section VIII(3) of this Guidance. Intended sources of matching funds must be identified in the application. Applicants whose proposals are selected for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds; and

d. Task timetable with interim benchmarks and clearly defined work products.

G. Application Evaluation and Selection Criteria

1. Evaluation Criteria

Applications will be peer-reviewed on the following equally weighted evaluation criteria by individuals with coral reef conservation experience:

a. Documented need for the proposed coral reef activity in the jurisdiction;

b. Demonstrated coordination with applicable ongoing local, state, territorial, and Federal coral reef management activities;

c. Technical merit of the proposed activity;

d. Ability of the work to be completed for the funding and timing proposed (projects that can be completed within 18- months of the start date will receive a higher score for this criterion); and,

e. Evidence presented of the capacity of the applicant to conduct the proposed work, including past performance on similar projects or programs involving coral reef ecosystems. NOAA will request and consider written comments on proposed projects from each agency with jurisdiction over coral reef ecosystems in the area where the project is to be conducted, pursuant to Section X(1) of the Guidelines.

NMFS will then review the applications, consistent with the equally weighted criteria listed in Section X(3) of the Guidelines and comments received from peer reviewers and jurisdictions.

2. Selection Criteria

In addition to these peer review criteria and comments from jurisdictions, NMFS will strive for a balanced selection of projects among jurisdictions and subject areas. Based on these cumulative reviews, NMFS will make preliminary funding recommendations which may not be the highest scoring proposals. NMFS will provide a summary of review comments to each selected applicant. These summary comments will include input from peer reviewers, the solicited

jurisdictions, and the NMFS review, and are intended to be used in the applicant's development of the final application.

Upon receipt of the final application, complete with the requisite Federal forms, NMFS will review the complete package and make final funding recommendations based on the incorporation of, and/or response to, comments that were returned to the applicant. NMFS will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines. The review panel will ensure that funding decisions are consistent with the geographic distribution requirements of 16 U.S.C. 6403(d). As a result, awards may not necessarily be made to the highest scoring applications.

If insufficient eligible projects are received, NOAA may reallocate residual funds from this program area to a different funding category under the Program.

H. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Proposals will be reviewed and awarded by the National Marine Fisheries Service Office of Habitat Conservation under title, *Habitat Conservation*, CFDA 11.463.

VI. Projects to Improve or Amend Coral Reef Fishery Management Plans

A. Program Description

This description provides guidance for applying for funding appropriated by Congress to NOAA in FY 2003 to support conservation and management of coral reef fisheries by Regional Fishery Management Councils with responsibilities for Fishery Management Plans (FMP) that include coral reefs or fishery resources that depend on these reef ecosystems, as established under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*). This program will be administered by the NMFS Office of Habitat Conservation (OHC).

The objective of this program is to support value-added studies or projects by the Councils that will enhance the conservation of coral reef fishery resources. It is not intended to support normal Council activities or responsibilities.

B. Eligibility Criteria

Applicants are limited to the Western Pacific Regional Fishery Management Council, South Atlantic Fishery Management Council, Gulf of Mexico Fishery Management Council, and Caribbean Fishery Management Council.

C. Funding Availability and Mechanisms

1. Funding Availability

NMFS OHC will provide approximately $1,350,000 in FY 2003 funding for cooperative agreements to support coral reef conservation activities under this program. In order to ensure the regional balance called for by the Coral Reef Conservation Act of 2000, a maximum of $750,000 will be available for activities in the Western Pacific, and a maximum of $600,000 will be available for activities in the South Atlantic, Gulf of Mexico, and Caribbean. Funding will be subject to the availability of federal appropriations.

2. Funding Mechanism

Cooperative agreements will be awarded to successful applicants from each eligible Regional Fishery Management Council for eligible activities. Activities approved by NOAA will be awarded either as new cooperative agreements or amendments to existing cooperative agreements by either the Southeast Region or the Pacific Islands Area Office. Proposals should cover a project period of 12–to 18–month period with an anticipated start date of October 1, 2003.

D. Matching Funds

The Administrator has waived the matching requirement of Section X of the Guidance for the Fishery Management Councils. This waiver is based on the fact that the Councils are funded solely by awards from the U.S. Federal Government, and, therefore, do not have the ability to generate matching funds.

E. Application Content and Format

1. Application Content

Applications should support the *National Coral Reef Action Strategy* and the U.S. Coral Reef Task Force *National Action Plan to Conserve Coral Reefs*. In addition, proposed activities should be coordinated, where appropriate, with ongoing and proposed NOAA mapping, monitoring, and fishery management initiatives, and State and Territorial coral reef conservation initiatives in their own waters contiguous to the Federal Exclusive Economic Zone.

Fishery Management Councils must consult with state and territorial agencies and all other relevant local governmental and non-governmental entities involved in coral reef activities in developing applications. Councils are strongly encouraged to coordinate project proposal development with NMFS Regions and Science Centers to ensure mutually supportive coral reef conservation programs.

Councils may submit applications covering a 12–to 18–month period, and must meet all applicable DOC grant requirements. One copy of the initial application, submitted electronically or by surface mail, must be received by NOAA on or before the date established in the DATES section above.

One original and two signed copies of the final application, complete with all required Federal financial assistance forms(SF–424, SF–424A, SF–424B,, CD–511, CD–512, and, if applicable, CD–346 and/or SF-LLL) must be received by NOAA on or before the date established in the DATES section above.

a. Eligible activities: Eligible activities are those that support the Strategy's goal of Reducing the Adverse Impacts of Fishing and other Extractive Uses on Coral Reefs and incorporating these objectives into existing or new Federal fishery management plans. While first priority will be given to proposals for coral reef activities in the Council's jurisdiction, proposals for complementary activities of high conservation value within state waters that are fully coordinated with appropriate state, territory or commonwealth management authorities will also be accepted. Proposed activities should be in addition to those currently supported by NMFS and should not replace support for existing Council staff. The following represent priority activities for funding:

(1) Studies that identify, map and characterize important essential fish habitat, habitat areas of particular concern, and spawning populations in U.S. coral reef ecosystems. Special priority will be given to studies associated with coral reef areas that are currently, permanently, or seasonally closed to fishing or that may merit inclusion in an expanded network of no-take ecological reserves. Eligible activities would include multi-beam or sidescan sonar mapping and characterization of such areas on deeper coral reefs, banks and beds;

(2) Monitoring reef fish stocks in existing no-take marine reserves and reference sites on coral reefs in the Council's jurisdiction to evaluate the effectiveness of reserves;

(3) Studies needed to develop proposals to reduce over-fishing of coral reef resources, including compilation of existing background information on currently unassessed coral reef fishery stocks, or targeted assessments of such coral reef fishery stocks for which overfishing is strongly suspected;

(4) Studies needed to identify adverse effects of fishing and fishing gear on

essential fish habitat and implementing actions to reduce these effects;

(5) Studies, workshops, or consultations with fishers needed to eliminate destructive and habitat-damaging fishing practices;

(6) Studies, workshops, or consultations with fishers needed to assess the adequacy of current fishing regulations and the need for additional gear and anchoring restrictions to reduce habitat damage on coral reefs within the Council's jurisdiction;

(7) Enhanced education and outreach to recreational and commercial fishers specifically targeted to reduce the adverse impacts of fishing on coral reef ecosystems;

(8) Studies needed to understand ecosystem-scale considerations into coral reef fishery management plans;

(9) Studies needed to understand ecosystem effects of fishing, including: the development of models and studies to improve our understanding of larval pathways, trophic interactions and their ecosystem impacts associated with fishing, and habitat impacts associated with certain types of fishing gear and practices; and

(10) Studies needed to reduce the overexploitation of reef organisms for the aquarium trade.

b. Ineligible Activities: The following categories of activities or expenses are not eligible for funding:

(1) Meetings and travel necessary to conduct normal Council business including regular Advisory Panel, Stock Assessment Panel or Scientific and Statistical Committee meetings, Environmental Impact Statement hearings; other public hearings; Fishery Management Council meetings; etc.

(2) Regular Council reports and information dissemination, including annual FMP reports, FMP amendments, public notices, advertisements, etc.

(3) Council staff aside from a maximum of one full-time equivalent working exclusively on Council coral reef conservation activities.

(4) Activities related to FMPs that do not directly include shallow coral reef resources.

2. Application Format

Cooperative Agreement proposals must include:

a. A cover page as described in the **SUPPLEMENTARY INFORMATION** section at the beginning of this Guidance.

b. An introduction, not exceeding one page, that describes:

(1) The status and magnitude of the coral reef fisheries conservation issues in the Council's jurisdiction; and

(2) The Council's strategy to address critical coral reef fisheries conservation needs over the medium term (the next 2- to 3–years) and how the proposed activities support this strategy.

c. A summary, not exceeding three pages, of the status and accomplishments of activities by the Council funded under the Coral Reef Conservation Grant Program in FY 2002.

d. A description of each proposed task that should include:

(1) Objective of the task of study;

(2) Clear identification of the work to be completed, who will perform the work, brief description of the methods to be used, specific study sites (for field projects), expected deliverables, and how the project fits into the Council's strategy for addressing the larger coral reef fisheries conservation issue;

(3) How the project coordinates with relevant local governmental and non-governmental agencies and, if applicable, NOAA regional activities;

(4) Summary budget for each discrete task item including personnel costs (contract and Council staff), other contract costs, travel, supplies or equipment;

(5) Task timetable with interim benchmarks and clearly defined work products; and,

(6) Project priority as compared to all other proposed projects.

F. Application Evaluation and Selection Criteria

1. Evaluation Criteria

Applications will be peer-reviewed on the following equally weighted evaluation criteria by individuals with coral reef conservation experience:

a. Documented need for the proposed coral reef activity in the jurisdiction of the Council;

b. Demonstrated coordination with applicable ongoing local, state, territorial, and Federal coral reef management activities;

c. Technical merit of the proposed activity;

d. Ability of the work to be completed for the funding and timing proposed and cost effectiveness of proposed activity; and,

e. Evidence presented of the capacity of the applicant to conduct the proposed work, including past performance on similar projects or programs involving coral reef ecosystems, and progress on Coral Reef Conservation Grant activities funded in FY 2002.

NOAA will also request and consider written comments on proposed projects from each agency with jurisdiction over coral reef ecosystems in the area where the project is to be conducted, pursuant to Section X(1) of the Guidelines.

A NMFS team of representatives from the OHC, the Southeast Region, the Southeast Fishery Science Center, the Pacific Islands Area Office and the Honolulu Laboratory will review the applications, consistent with the equally weighted criteria listed in Section X(3) of the Guidelines and consider comments received from peer reviewers and appropriate management authorities.

Based on this review, the team will make preliminary funding recommendations. These preliminary funding recommendations will be submitted to the NOAA review team, pursuant to Section X(4) of the Guidelines.

2. Selection Criteria

Based on these cumulative reviews, NMFS will provide comments to each selected applicant. These comments will include input from peer reviewers, solicited jurisdictions, and the NMFS review team, and are intended to be used in the applicant's development of the final proposal.

Upon receipt of the final application, complete with the requisite Federal financial assistance forms, the NMFS team will review the complete package and make final funding recommendations based on the incorporation of and/or response to comments that were returned to the applicant. The team will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines.

If proposals from one or more Councils are ineligible to receive funding, NOAA may award those residual funds for eligible activities proposed by another Council or move the residual funds to a different funding category under the Program. NOAA will work with each Council to ensure the greatest degree of success in meeting the goals of the Strategy.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. These cooperative agreements will be reviewed and awarded by the NMFS under title, *Regional Fishery Management Councils*, CFDA Number: 11.441.

VII. International Coral Reef Conservation

A. Program Description

This description provides guidance for applying for funding appropriated by Congress to NOAA in FY 2003 to support the international conservation and management of coral reef ecosystems. These funds will be administered by NOS International Program Office (IPO).

The Coral Reef Conservation Act of 2000 authorizes cooperative conservation and management of coral reefs and coral reef ecosystems with local, regional or international programs and partners. The *National Action Plan to Conserve Coral Reefs* (National Action Plan) calls on the United States to, ''exercise global leadership in the international arena in shaping and developing environmentally sound and comprehensive coral reef policy, strengthen international conventions and foster strategic partnerships with other countries, international organizations and institutions, the public and private sectors, and non-governmental organizations to address international threats to coral reef ecosystems.''

In FY 2003, the International program consists of the following four project categories:

1. *Promote Watershed Management in Wider Caribbean Island Nations*: The National Action Plan encourages the U.S. to ''provide assistance in managing and conserving reef ecosystems and their watersheds.'' Further, the U.S. and its partners are launching the White Water to Blue Water Initiative presented at the World Summit on Sustainable Development. This Partnership emphasizes a cross-sectoral approach to marine resources management beginning with the upstream watershed and extending to the adjacent marine environment, including coral ecosystems. It is intended to help implement international agreements and programs, for example, the Barbados Programme of Action for the Sustainable Development of Small Island Developing States, The Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region (the Cartagena Convention) and its three protocols (including The Protocol concerning Pollution from Land-based Sources and Activities), and the International Coral Reef Initiative. Therefore, IPO will fund activities that implement best management practices that reduce or control runoff to near shore coral reef ecosystems in the Wider Caribbean; assess effectiveness of these management practices; engage stakeholders and government agencies in collaborative partnerships to implement these practices; and recommend a set of best management practices that can be applied to small island Caribbean systems.

2. *Enhance Management Effectiveness of Marine Protected Areas (MPAs)*: The *National Action Plan* calls for strengthening the protection of resources within existing MPAs. NOAA has launched a strategic partnership with the World Conservation Union's (IUCN) World Commission on Protected Areas (WCPA) and World Wildlife Fund (WWF)International to improve the management of MPAs by providing managers, planners and other decision makers with methods for assessing the effectiveness of MPA sites. Therefore, IPO will fund activities at coral MPA sites that are building an adaptive management and evaluation program and will conduct an assessment of management effectiveness in order to strengthen and achieve the site goals and objectives.

3. *Encourage Regional Approaches to Further No-Take Marine Reserves in the Wider Caribbean and Southeast Asia*: The *National Action Plan* highlights the role that highly protected areas play in creating a network of coral marine protected areas for biodiversity, conservation and sustainable fisheries management. Through this program, IPO will fund regional level activities that benefit existing marine reserves in the Wider Caribbean and Southeast Asia. Southeast Asia shall be defined by Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. Furthermore, proposed regional level activities must involve sites in two or more countries and address the needs of no-take marine reserves in the regions as identified in the WCPA - Marine Caribbean Regional Coordination Plan and the WCPA-Marine Southeast Asia Regional Action Plan. The plans with the priority themes can be found at *http://ipo.nos.noaa.gov/coralgrants.html*.

4. *Promote Socio-Economic Monitoring in Coral Reef Management*: The *National Action Plan* highlights that the human dimension is often overlooked in developing coral reef management strategies and calls for measures to enhance understanding of stakeholder benefits and resolve important user conflicts. Recognizing the importance of the human dimension, the GCRMN published *The Socioeconomic Manual for Coral Reef Management*, in partnership with NOAA, WCPA, and the Australian Institute of Marine Science (AIMS), a guide to conducting socioeconomic assessments of reef user groups.

As follow-up, the GCRMN, WCPA-Marine and NOAA are working with ICLARM, the University of West Indies and other partners in the regions to develop socioeconomic monitoring programs specific to Southeast Asia and the Wider Caribbean. These regional programs include three key phases: (1) development of SocMon, i.e., standardized, simple socioeconomic monitoring guidelines for each region; (2) socioeconomic training workshops for reef managers to learn how to conduct SocMon, specifically how to establish socioeconomic monitoring programs at their sites; and, (3) establishment of socioeconomic monitoring programs at participants' coral reef management programs.

Under this project category, IPO will fund phase three - the establishment of socioeconomic monitoring programs at coral reef sites in Southeast Asia and the Wider Caribbean. Proposals for such work in the Wider Caribbean must utilize the SocMon-Wider Caribbean Guidelines; and similarly, proposals for work in Southeast Asia must utilize the SocMon-Southeast Asia Guidelines. For the purpose of this project category, Southeast Asia shall be defined as Brunei, Cambodia, Indonesia, Laos, Malaysia, Philippines, Singapore, Thailand, and Vietnam. Both sets of Guidelines can be found at *http://ipo.nos.noaa.gov/coralgrants.html*.

B. Eligibility Criteria

Eligible applicants include all international, governmental, and non-governmental organizations, including the Federated States of Micronesia, Republic of Palau, and the Republic of the Marshall Islands. Eligibility is also contingent upon whether activities undertaken with respect to the application would be consistent with any applicable conditions or restrictions imposed by the U.S. governments. Specific guidance for each International program project category is noted below:

1. Projects proposed under ''Promote Watershed Management in Wider Caribbean Island Nations'' must include:

a. Activities that support the implementation of the annexes of The Protocol concerning Pollution from Land Based Sources and Activities to the Cartagena Convention (for details, refer to *http://ipo.nos.noaa.gov/coralgrants.html*);

b. A letter of support from the government agency responsible for planning and development;

c. A project site which includes near shore fringing reef system (with description of project site uniqueness) that is impacted by agricultural runoff or intensive land-based development associated with tourism sector activities;

d. Evidence of local stakeholder support, for example, agricultural businesses, NGOs, tourism sector, and port facilities;

e. Demonstration of local or national potential for developing enforceable policies and mechanisms for long term watershed management; and,

f. Evidence of potential organizational capacity to promote coordination of governmental agencies and stakeholder involvement.

2. Projects proposed under ''Enhance Management Effectiveness of Marine Protected Areas'' must:

a. Incorporate the approach being developed by the WCPA-Marine/WWF International MPA Management Effectiveness Initiative. The approach can be found in the working draft of *How is Your MPA Doing? Guidebook for Evaluating Effectiveness of MPA's* posted at *http://ipo.nos.noaa.gov/mgmteffect/guidebook.html*.

In order to be selected, project sites must:

b. Have a management program in place, including a management plan, on-site staff, and infrastructure to carry out effectiveness assessments;

c. Be able to implement the guidebook to conduct a comprehensive assessment including use of indicators from each of the biophysical, socioeconomic and governance categories;

d. Demonstrate the intent to incorporate the assessment of indicators into management planning and review process; and,

e. Include a letter of support from the MPA managing authority or site supervisor, that also demonstrates the involvement of the authority/supervisor in the project if the agency is not proposing the work.

3. Projects proposed under ''Encourage Regional Approaches to Further Marine Reserves in the Wider Caribbean and Southeast Asia'' must:

a. Follow the themes of the Caribbean Regional Coordination Plan and the Southeast Asia Regional Action Plan posted at *http://ipo.nos.noaa.gov/coralgrants.html*;

b. Benefit sites in two or more countries in the region;

c. Involve managers from the reserves; and,

d. Include letters of support from the marine reserve management authorities from all sites that are involved in the project.

4. Projects proposed under ''Promote Socio-Economic Monitoring in Coral Reef Management'' must:

a. Demonstrate a link with an existing or planned marine resource management program (e.g., MPA, fisheries management, or coastal management program) with clearly defined socioeconomic goals as suggested in the SocMon Guidelines (e.g., improve livelihood, increase environmental awareness);

b. Include a letter of support from the marine resource management authority;

c. Describe the plan for socioeconomic monitoring, including preparatory activities, data collection and analysis and long-term monitoring after the first assessment. For Southeast Asia sites, the plan should reflect the variables and methods in the SocMon-Southeast Asia Guidelines. For the Wider Caribbean sites, the plan should reflect the variables and methods in SocMon-Caribbean Guidelines. Both SocMon-Caribbean and Southeast Asia Guidelines can be found at *http://ipo.nos.noaa.gov/coralgrants.html*.;

d. Include a social scientist that will be actively engaged in the socioeconomic monitoring, planning, data collection, and analysis either from staff or elsewhere (e.g., local university);

e. Demonstrate involvement of coral management staff in the proposed monitoring even if personnel not engaged in site-management are overseeing the monitoring; and,

f. Explain how the assessment team will translate the socioeconomic data into useful information for coral reef managers and decision makers (e.g., making written management recommendations to policy makers or managers, and presenting results and recommendations to management staff and other stakeholders).

C. Funding Availability and Mechanisms

1. Funding Availability

Approximately $300,000 will be available in FY 2003 to support grants and cooperative agreements under this program. Approximately $75,000 will be allocated to each of the four project categories listed below, with the following award ranges:

a. Watershed Management: Up to $75,000

b. Management Effectiveness: $20,000 - $40,000

c. Marine Reserves: $25,000 - $40,000

d. Socio-economic Monitoring: $15,000 - $25,000

Applications with requests of over $40,000 will not be accepted, except for the Watershed Management category. Funding will be subject to the availability of federal appropriations. Support in out-years after FY 2003 is contingent upon the availability of funds and any new guidance published in the **Federal Register**.

2. Funding Mechanism

Grants and cooperative agreements will be reviewed by the NOS International Program Office. Applicants may submit applications covering a 12–to 18–month period with an anticipated start date of October 1, 2003.

D. Matching Funds

The requirements for matching funds under section VIII(3) of the Guidance are applicable to Funding Availability under this program. Specific information to be submitted in regard to matching funds can be found in the Application Content and Format Section below.

E. Application Content and Format

1. Application Content

The four International program categories are priorities of the *National Action Plan*. Applicants may submit applications covering a 12–to 18–month period and must meet all applicable DOC grant requirements. Initial applications may be submitted by email, fax (301–713–4389), or express air courier and must be received by NOAA on or before the date established in the DATES section above. Federal financial assistance forms SF–424, SF–424A, SF–424B, CD–511, CD–512, and if applicable CD–346 and/or SF-LLL are not required until the applicant is notified and invited to submit a final application. One original and two signed complete hard copies of the jurisdiction's final application, including federal forms, must be received by NOAA on or before the due date established in the DATES section above.

2. Application Format

Each application must clearly describe the proposed work in 20 pages or less, including letters of support and attachments. Font size should be 12 point. Applications should not be bound or stapled, but can be bundled, for example, by rubber bands or binder clips. All applications, letters of support and attachments must be written in the English Language. Each application must include the following elements (a-d):

a. A cover sheet with the following information:

(1) Project Title;

(2) Applicant organization: nonprofit, university, government, etc.;

(3) Principal investigator or contact responsible for conducting the project;

(4) Contact information including address, phone number, fax and email;

(5) Program Category (i.e., International Coral Reef Conservation) and the appropriate International grant program project category from the following choices: Watershed Management, Management Effectiveness, Marine Reserves, or Socioeconomic Monitoring;

(6) Geographic location of project (countries and sites);

(7) Grant Request and matching funds; and,

(8) One paragraph project summary.

b. A description of the qualifications of the individual(s) who will conduct the project

c. Project Description which must address the specific project category eligibility criteria described in Part B. Eligibility Criteria above and also include:

(1) Project need;

(2) Objectives;

(3) Implementation strategy;

(4) Identification of how project fits into applicant (and site) strategy for management;

(5) Project products and outcomes;

(6) Partner justification and roles;

(7) A methodology to evaluate the success of the project;

(8) A Summary Budget that includes a detailed breakdown of costs by category and a description of the amount of matching funds available to the applicant, as described in section VIII(3) of this Guidance. Intended sources of matching funds and whether they have been secured must be stated in the application. The application must also state whether the project has been submitted for funding consideration elsewhere. Applicants whose applications are recommended for funding will be required to submit with the final application, letter(s) of commitment to fund from the organization(s) providing matching funds; and,

(9) Task timetable with interim benchmarks linked to clearly defined work projects.

d. Evidence of support for the project from the local management authority where the work is conducted at specific sites must indicate that the project supports local management objectives. In those cases where training is proposed, indication that participants will apply these techniques at their local sites is requested. Please include evidence of coordination with relevant national and regional project partners, including a list of agencies consulted in developing the proposal and assurances that any necessary permits will be secured prior to the use of U.S. Federal funds.

F. Application Evaluation and Selection Criteria

1. Evaluation Criteria

IPO will provide for a merit-based peer review and standardized documentation of that review for proposals that meet the eligibility requirements. Each application will be reviewed by a minimum of three individuals with knowledge of the subject of the proposal. Each reviewer will submit a separate and individual review and reviewers will not provide a consensus opinion. The identities of the peer reviewers will be kept anonymous to the degree permitted by law. Peer reviewers will apply the following equally weighted evaluation criteria:

a. Documented need for the proposed coral reef activity in the jurisdiction;

b. Demonstrated coordination with applicable ongoing national and regional reef management activities;

c. Technical merit of the proposed activity;

d. Ability of the work to be completed for the funding and timing proposed; and,

e. Evidence presented of the capacity of the applicant to conduct the proposed work, including past performance on similar projects or programs involving coral reef ecosystems.

NOAA may also request and consider written comments on proposed projects from agencies with jurisdiction over coral reef ecosystems in the area where the project is to be conducted, as described in Section X(1) of the Guidelines. Under the international grant program, NOAA will request and consider written comments on the proposal from relevant U.S. government agencies such as the Agency for International Development and Department of the Interior; foreign governments and their coral management agencies; and other international entities as necessary. Each entity will be provided 21 days to review and comment on subject proposals. Comments submitted will be part of the public record.

2. Selection Criteria

IPO will then review the applications, consistent with the equally weighted criteria listed in Section X(3) of the Guidelines, taking into consideration comments received from peer, agency, and jurisdiction reviewers. Based on these reviews, IPO will rank order the applications, and provide preliminary funding recommendations, and summary comments on each selected proposal to each applicant. These comments will include input from peer reviewers, agencies, jurisdictions, and IPO, and are intended to be used in the applicant's development of the final proposal.

Upon receipt of the final application, complete with the requisite Federal forms, IPO will review the complete package and make final funding recommendations based on the incorporation of, and response to, comments that were returned to the applicant. IPO will submit these funding recommendations to the NOAA review panel for final review, pursuant to Section X(4) of the Guidelines to ensure that the Coral Reef Conservation Act requirements for geographic funding distribution and consistency with the overall program goals outlined in the Strategy.

G. Program Authority

Specific authority for this program is found in 16 U.S.C. 6403. Grants and cooperative agreements will be reviewed and awarded by the NOS International Program Office under title, *Habitat Conservation*, CFDA: 11.463.

VIII. General Information for All Applicants

A. Indirect Costs

The budget may include an amount for indirect costs if the applicant has an established indirect cost rate with the Federal government. Indirect costs are essentially overhead costs for basic operational functions (e.g., lights, rent, water, insurance) that are incurred for common or joint objectives and, therefore, cannot be identified specifically within a particular project. For this solicitation, the Federal share of the indirect costs awarded will not exceed the lesser of either the indirect costs the applicant would be entitled to if the negotiated Federal indirect cost rate were used or 25 percent of the Federal direct costs proposed. For those situations in which the use of the applicant's indirect cost rate would result in indirect costs greater than 25 percent of the Federal direct costs proposed, the difference may be counted as part of the non-Federal share. A copy of the current, approved negotiated indirect cost agreement with the Federal Government should be included with the application. If the applicant does not have a current negotiated rate and plans to seek reimbursement for indirect costs, documentation necessary to establish a rate must be submitted within 90 days of receiving an award.

B. Performance and Financial Reports

Recipients receiving funding will be required to submit semiannual performance reports and copies of all products that are developed under the award. The specific information, products, or data contained in the performance report can be determined by the NOAA office responsible for the program and applicant in pre-award negotiations or, the recipient will submit performance reports according to the Department of Commerce, Financial

Assistance Standard Terms and Conditions. Performance report will be submitted to the NOAA office responsible for the program.

Unless otherwise authorized, semi-annual financial reports will be submitted in accordance with the Department of Commerce, Financial Assistance Standard Terms and Conditions t the Grants Officer at NOAA GMD.

C. Matching Funds

For ease of reference, the matching funds requirements described in section VIII of the Guidelines have been included here. With the exception of section VI. Projects to Improve or Amend Coral Reef Fishery Management Plans, all other program areas are subject to the matching fund requirements stated here, pursuant to section VIII of the Guidelines.

As per section 6403(b)(1) of the Coral Reef Conservation Act of 2000, Federal funds for any coral conservation project funded under this Program may not exceed 50 percent of the total cost of the projects. The matching funds may comprise a variety of public and provide sources and can include in-kind contributions and other non-cash support. NOAA strongly encourages applicants to leverage as much investment as possible. Federal funds may not be considered as matching funds.

As per section 6403(b)(2) of the Conservation Act, the NOAA Administrator may waive all or part of the matching requirement if the Administrator determines that the project meets the following two requirements;

1. No reasonable means are available through which an applicant can meet the matching requirement, and

2. The probable benefit of such project outweighs the public interest in such matching requirement.

Applicants must specify in their proposal the source and may be asked to provide letters of commitment to confirm stated contributions. In the case of a waiver request, the applicant must provide a detailed justification explaining the need for the waiver including attempts to obtain sources of matching funds, how the benefit of the project outweighs the public interest in providing match and any other extenuating circumstances preventing the availability of match.

Notwithstanding any other provisions herein, and in accordance with 48 U.S.C. 1469a(d), the Program shall waive any requirement for local matching funds for any project under $200,000 (including in-kind contribution) to the governments of Insular Areas, defined as the jurisdictions of the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Marina Islands.

D. General Information

If an application is selected for funding, NOAA has no obligation to provide any additional prospective funding in connection with that award in subsequent years. Any subsequent proposal to continue work on an existing project must be submitted to the competitive process for consideration and will not receive preferential treatment. Renewal of an award to increase funding or to extend the period of performance is at the total discretion of NOAA.

Unsuccessful applications will be destroyed and not returned to the applicant.

The recipients must comply with Executive Order 12906 regarding any and all geospatial data collected or produced under grants or cooperative agreements. This includes documenting all geospatial data in accordance with the Federal Geographic Data Committee Content Standard for digital geospatial data.

Classification

This Program will be added to the Catalog of Federal Domestic Assistance under the Coastal Zone Management Act (11.419), Financial Assistance for National Centers for Coastal Ocean Science (11.426), and Habitat Conservation (11.463). The Program uses only the existing NOAA Federal financial assistance awards package requirements per 15 CFR parts 14 and 24.

The Department of Commerce Pre-Award Notification of Requirements for Grants and Cooperative Agreements contained in the **Federal Register** Notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), is applicable to solicitation. The program will determine National Environmental Policy Act (NEPA) compliance on a project by project basis.

Executive Order 12866

This action has been determined to be ''not significant'' for purposes of Executive Order 12866, Regulatory Planning and Review.''

Executive Order 12372

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Paperwork Reduction Act

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection-of-information, subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, unless that collection of information displays a currently valid OMB control number. Forms SF–424, SF–424A, SF–424B, and SF-LLL and CD–346 have been approved by OMB under the respective control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046 and 0605–0001, respectively.

This notice also contains a collection-of-information requirement subject the Paperwork Reduction Act and which has been approved by OMB under control number 0648–0448. The public reporting burden is estimated to average one hour per response for comments on a proposed project from each agency with jurisdiction over coral reef ecosystems in the area where the project is to be conducted and one hour per response for a request for a waiver of matching funds. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of these data collections, including suggestions for reducing the burden, to the NOAA Office of Response and Restoration, N/ORR, National Ocean Service, 1305 East-West Highway, Silver Spring, MD 20910.

Notice and Comment are not required under 5 U.S.C. 553(a)(2), or any other law, for rules relating to public property, loans, grants, benefits or contract. Because notice and comment are not required, a regulatory flexibility analysis is not required and has not been prepared for this notice 5 U.S.C. 601 *et seq.*

Dated: January 13, 2003.

Jamison S. Hawkins,

Acting Assistant Administrator for National Ocean Service.

[FR Doc. 03–1153 Filed 1–16–03; 8:45 am]

BILLING CODES 3510–JE–S and 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 030109007–3007–01; I.D. 111802D]

RIN 0648–AQ62

New England Fishery Management Council; Notice and Request for Sea Scallop Research Proposals

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

ACTION: Notice of solicitation for applications.

SUMMARY: NMFS issues this document to describe how you, the researcher, may submit a proposal for and be selected to perform sea scallop research projects during the 2003 fishing year (March 1, 2003, through February 29, 2004), and how NOAA and the New England Fishery Management Council (Council) will determine whether to select your proposal. Because of the time required to complete the grants process, the document explains that it is likely that project activities will not be authorized until 1–2 months after the start of the fishing year on March 1, 2003. Research projects would be funded by a 1–percent set-aside of the scallop total allowable catch (TAC) that is proposed under Framework Adjustment 15 to the Council's Atlantic Sea Scallop Fishery Management Plan (FMP). Funding of projects under the TAC set-aside is contingent upon approval of Framework 15 by NMFS.

DATES: To be considered under this solicitation, all research proposals that would utilize the fishing year 2003 TAC set-aside must be received between January 17, 2003 and 5 p.m., EDT, on February 7, 2003. Postmarks indicating the proposals were mailed on this date will not be sufficient. Facsimile applications will not be accepted. For further information related to the timeframe and procedures for submission, review, and selection of proposals to be conducted with TAC set-aside funds from the Hudson Canyon and Virginia Beach Areas, see Section A, Background, under **SUPPLEMENTARY INFORMATION** of this document.

ADDRESSES: Proposals must be submitted to Patricia A. Kurkul, Regional Administrator, NMFS, Northeast Regional Office, One Blackburn Drive, Gloucester, MA 01930. Mark proposals ''Attention--Sea Scallop Research Proposals.''

Copies of the Standard Forms for submission of research proposals may be found on the Internet in a PDF (Portable Document Format) version at *http://www.ofa.noaa.gov/~grants/index.html* under the title ''Grant Application Forms and Budget Guidelines,'' or by contacting the NMFS office (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Patricia M. Fiorelli, New England Fishery Management Council, (978) 465–0492, or Peter Christopher, NMFS, (978) 281–9288.

SUPPLEMENTARY INFORMATION:

A. Background

On September 29, 2002, the Council approved Framework 15 and voted to submit the action to the Secretary of Commerce for approval. A proposed rule for Framework 15 will be published in the **Federal Register** following review by NMFS. Framework 15 would continue a Scallop Area Access Program for the Hudson Canyon and Virginia Beach Areas. Under the proposed area access program, limited access sea scallop vessels would be allowed to land scallops in excess of the proposed possession limit, or to take additional trips above those proposed in the program, and use the proceeds of the excess catch or additional trips to offset the costs of the research proposals submitted in response to this notice. The proposed areas would remain open until one of three events triggered a closure: (a) The fishing year ends (February 29, 2004); (b) the scallop landings from an area exceed the TAC and it is closed by the Regional Administrator, Northeast Region, NMFS (Regional Administrator); or (c) the vessels use all authorized trips to fish for scallops within one or both of the areas. Framework 15 would authorize three trips per vessel for each area unless modified by action taken by the Regional Administrator. NOAA, in cooperation with the Council, is soliciting proposals for sea scallop research for the 2003 fishing year utilizing proposed TAC set-aside from the Hudson Canyon and Virginia Beach Areas. Contingent upon approval of Framework 15 by NMFS, vessels participating in an approved project and fishing in the Sea Scallop Access Areas would be authorized by the Regional Administrator to take additional trips into the areas and/or to land scallops in excess of the proposed 21,000–lb (9,525.4–kg) possession limit.

All research proposals to be conducted with TAC set-aside funds from the Hudson Canyon and Virginia Beach Areas must be received during the submission period identified in the DATES section of this document. Applicants must submit one signed original and two signed copies of the completed application (including supporting information). Once the applications are received, NOAA will either seek comments from the Council through the Council's public review process, or convene a Review Team, which will include representatives from the Council and may include independent technical experts, for the purpose of reviewing proposals in closed meetings under the direction of NOAA.

The total set-aside available for research is 172,953 lb (78.05 mt), an amount of scallops that has an approximate value of $579,392 (based on a projected scallop value of $3.35 per pound, with prices varying according to season and availability). The TAC set-aside for sea scallop research would be as follows: 170,638 lb (77 mt) for the Hudson Canyon Area; and 2,315 lb (1.05 mt) for the Virginia Beach Area.

B. Authority

Issuing grants is consistent with sections 303(b)(11), 402(e), and 404(c) of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1853(b)(11), 16 U.S.C. 1881a(e), and 16 U.S.C. 1881c(c), respectively.

C. Catalog of Federal Domestic Assistance

11.454, Unallied Management Projects.

D. Funding Instrument and Project Period

NOAA will award a grant to applicants with approved proposals through its grant award process. The project period for sea scallop research can not predate the beginning of the Atlantic sea scallop fishing year, March 1, 2003. The project period may not extend beyond February 29, 2004. Any portion of the 2003 fishing year TAC awarded must be caught for compensation by February 29, 2004. Proposals to fund research started on or after the project period are eligible for consideration. However, if the project is not approved, any research or expenditures related to this project will be the sole responsibility of the researcher without any further compensation from the TAC set-aside funds. Because of the time required to complete the grants process, it is likely that project activities will not be authorized until 1–2 months after the start of the fishing year on March 1, 2003.

E. Funding Availability

No Federal funds are provided for sea scallop research under this notice. The Federal Government's contribution to the project will be a Letter of Authorization (LOA) that will provide special fishing privileges in response to sea scallop research proposals selected to participate in this program. The Federal Government shall not be liable for any costs incurred in the conduct of the project. The funds generated from the additional landings authorized in the LOA shall be used to cover the cost of the sea scallop research, including vessel costs, and to compensate vessel owners for expenses incurred. Therefore, the owner of each fishing vessel selected to land scallops in excess of the trip limit or from additional authorized trips must use the proceeds of the sale of the excess catch to compensate the researcher for costs associated with the research activities and use of the vessel. Any additional funds above the cost of the research activities (or excess program income) shall be retained by the vessel owner as compensation for the use of his/her vessel.

F. Scope of Sea Scallop Research

Projects funded under the proposed sea scallop TAC set-aside program should enhance understanding of the scallop resource or contribute to the body of information on which management decisions are made. Sea scallop research may be conducted in or outside of the Hudson Canyon and Virginia Beach Areas, within or outside of the Sea Scallop Area Access Program timeframe, and on board a fishing or other type of vessel. Sea scallop research conducted with these TAC set-aside funds also may or may not involve the harvest of scallops. Funds generated from the set-aside landings shall be used to cover the cost of the research activities, including vessel costs, and to compensate boats for expenses incurred during the collection of set-aside scallops. For example, these funds could be used to pay for gear modifications, monitoring equipment, additional provisions (e.g., fuel, ice, food for scientists) or the salaries of research personnel. The Federal Government is not liable for any costs incurred by the researcher or vessel owner, should the sale of the excess catch not fully reimburse the researcher or vessel owner for their expenses.

G. Eligibility Criteria

All commercial organizations; non-profit organizations; state, local or tribal governments; institutions of higher education; and individuals are eligible to apply, provided that all proposal requirements are satisfied and the proposal is received by the date specified in this document.

Pursuant to Executive Orders 12876, 12900, and 13021, the Department of Commerce, National Oceanic and Atmospheric Administration (DOC/NOAA) is strongly committed to broadening the participation of Historically Black Colleges and Universities, Hispanic Serving Institutions and Tribal Colleges and Universities in its educational and research programs. The DOC/NOAA vision, mission and goals are to achieve full participation by Minority Serving Institutions (MSIs) in order to advance the development of human potential, to strengthen the nation's capacity to provide high-quality education, and to increase opportunities for MSIs to participate in, and benefit from, Federal Financial Assistance programs. DOC/NOAA encourages all applicants to include meaningful participation of MSIs.

H. Proposal Requirements

Proposals must be submitted to NOAA and must identify the sea scallop research to be conducted and the Sea Scallop Access Area within which the research and/or compensation trip is to be conducted, and the total amount of scallops requested for the project, including, using a scallop meat value of $3.35 per pound, their average estimated monetary value based on Framework 15 analyses. Additionally, each proposal must identify the requirements for the participating vessel(s) that would make a Sea Scallop Access Area trip to collect the scallop set-aside. The vessel selected by the applicant should be listed in the proposal, if possible, or specifically identified prior to final approval by NOAA. The proposal must also include the agreement between the vessel owner and researcher that shows exactly how the research activity is to be paid for, if possible, or such agreement must be provided prior to final approval by NOAA. Proposals may request that the scallop set-aside be collected separately from the sea scallop research trip or other related research trip. The separate sea scallop research compensation trips do not necessarily have to be conducted by the same vessel. The Council or NMFS contact person may provide assistance to researchers who are seeking vessels to participate in the collection of set-aside scallops or directly in research projects. The Council or NMFS may publish a list of those vessel owners willing to participate through their respective homepages.

I. Confidentiality of Information

In the event that an application contains information or data that the applicant does not want disclosed prior to award for purposes other than the evaluation of the application, the applicant should mark each page containing such information or data with the words ''Privileged, Confidential, Commercial, or Financial Information - Limited Use'' at the top of the page to assist NOAA in making disclosure determinations. DOC regulations implementing the Freedom of Information Act (FOIA) are found at 15 CFR part 4, ''Public Information,'' which sets forth rules for DOC to make requested materials, information, and records publicly available under FOIA. To the extent permitted under FOIA, the contents of applications and proposals submitted by successful applicants may be released in response to FOIA requests. Based on the confidential information identified by the applicant, the confidentiality of the information provided will be protected to the degree possible.

J. Project Funding Priorities

Sea scallop research projects that identify and evaluate gear to reduce groundfish bycatch and habitat impacts and that provide improved information concerning scallop abundance estimates are considered high priority by the Council. Sea scallop research that involves evaluating the distribution, size composition, and density of scallops also will be considered high priority. Other research needs (not listed in order of priority) that also will be considered by the Council and NOAA follow:

1. Evaluation of ways to control predation on scallops; research to actively manage spat collection and seeding of sea scallops;

2. Social and economic impacts and consequences of closing areas to enhance productivity and improve yield of sea scallops and other species;

3. High resolution surveys that include distribution, recruitment, mortality and growth rate information;

4. Estimation of factors affecting fishing power for each limited access vessel;

5. Demonstration projects to identify ways to reduce discard mortality, increase efficiency without increasing fishing power (e.g., decreasing processing time with sorters) and improve safety;

6. Research to identify scallop habitat and ecological relationships that affect

reproduction, recruitment mortality and growth, including those enhanced/impeded by area closures;

7. Quantification of fishing costs related to fishing for sea scallops in specific areas (e.g., fishing gear modification, steaming time, and opportunity cost);

8. Experimental designs with control areas using alternative management strategies, such as area licensing and rotational closures (projects should include an analysis of yield improvement, habitat impacts and social impacts, including conflict resolution across fisheries);

9. Identification of fishermen's perceptions about area-based management and alternative strategies;

10. Processing and analyzing of data that will be collected or that have already been collected;

11. Broader investigations of variability in dredging efficiency across habitats (substrates, current velocities, etc.) times, areas, and gear designs; and

12. Research that provides more detailed sea scallop life history information (especially on age-and area-specific natural mortality and growth) and to identify stock-recruitment relationships.

K. Evaluation Criteria

The Council or the Review Team convened by NOAA will evaluate proposals based on the assigned score for each of the following criteria:

1. A clear definition of the problem, need, issue or hypothesis to be addressed (10 points);

2. A clear definition of the approach to be used, including theoretical studies, laboratory analyses, and/or field work (15 points);

3. Adequate justification as to how the project is likely to achieve its stated objectives (20 points);

4. Identification of anticipated benefits, potential users and methods of disseminating results (10 points);

5. Relevance of the project to the research needs identified by the Council (20 points);

6. Demonstration of support, cooperation and/or collaboration with the fishing industry (15 points); and

7. Cost-effectiveness of the project (10 points).

L. Selection Procedures

Applications may be reviewed and evaluated by either the Council, at the request of NOAA, or by the Review Team convened by NOAA. Both the Council review and the NOAA review are included to allow the Council to retain its responsibility to consider research in fishery management plans and to allow NOAA to conduct the reviews if the overall Council process prohibits their review in a timely manner. If the Council is requested to review the proposals, the proposals will be reviewed in a public meeting process by representatives of the Council, based on the criteria contained in Section K of this notice. The Council's representatives would then make recommendations to the Council. The Council would consider recommendations of its representatives, the Evaluation Criteria identified in Section K of this notice, and may also consider the time of year the research activities are to be conducted, ability to meet requirements under Section O of this notice, and logistic concerns. The Council would then make its recommendations to the Regional Administrator through a formal vote or by consensus recommendations, as determined appropriate by the Council. Recommendations from the Council would be given to the Regional Administrator in rank order based on average scores of the projects, taking into consideration numerical scores based on Section K of this notice and considerations of other factors listed above. In deciding the projects to select, the Regional Administrator will take into account the recommendations of the Council, the time of year the research activities are to be conducted, ability to meet requirements under Section O of this notice, including evaluations of proposals through the Experimental Fishery Procedures contained in 50 CFR 600.745 and 648.12, and logistic concerns. As a result, projects may not be selected in the order recommended by the Council. NOAA will authorize selected vessel(s) to exceed the possession limit, take additional trips, or be exempt from the regulations specified in the FMP through written notification to the applicant.

If the Council does not participate in the evaluation of the proposals, NOAA will solicit written technical evaluations based on the evaluation criteria contained in Section K of this notice from three or more private and/or public sector experts to determine the technical merit of the proposal and to provide a rank score of the project based on the evaluation criteria specified in Section K of this notice. Following completion of the technical evaluation, NOAA will convene a Review Team to review and individually critique the scored proposals to enhance NOAA's understanding of the proposals. No consensus recommendations will be made. Based on the results of the technical review, rank order based on averages scores, comments provided by the review panel, and the following program policy factors, NOAA will select the successful proposals and inform the Council of its recommendations. The program policy factors are: (1) The time of year the research activities are to be conducted; (2) the ability of the proposal to meet the experimental fishery requirements discussed under Section O of this notice; and (3) redundancy of research projects. Therefore the highest scoring projects may not necessarily be selected for an award. The Regional Administrator will provide final approval of the projects to allow NMFS to exempt selected vessel(s) from regulations of the Scallop FMP. All sea scallop research must be conducted in accordance with provisions approved by NOAA and provided in an LOA or EFP issued by NMFS.

Approval of proposals submitted in response to the subject RFP would be contingent upon approval of Framework 15 by NMFS. Framework 15 will be reviewed by NMFS and published as a proposed and final rule in the **Federal Register**. Should Framework 15 be disapproved by NMFS, projects would not be funded and notification would be sent to applicants. In addition, unsuccessful applications will be returned to the submitter. Successful applications will be incorporated into the award document.

M. Proposal Format

Proposals should be limited to 6 pages, excluding item 5 under this Section M. The format may vary, but must include:

1. A project summary;

2. A narrative project description to include: (a) Project goals and objectives; (b) the relationship of the proposed project to management needs or priorities identified by the Council; (c) a statement of work (project design and management--who is responsible, expected products, participants other than applicant); and (d) a summary of the existing state of knowledge related to project and contribution and relevance of the proposed work;

3. A description of all funding sources (including revenues derived from the sale of scallops harvested under the research TAC set-aside) and funding needs. This element of the proposal must include: (a) the amount of scallop TAC set-aside requested; (b) state which scallop closed area the research and/or compensation trip is to be conducted in, and the expected funds to be generated by the sale of those scallops; and (c) state the expected percentage of funds to

be allocated to the researcher and any involved fishing vessel;

4. A budget that includes a breakdown of costs (vessel expenses, permit costs, equipment, supplies, overhead, as applicable); applicants must submit a Standard Form 424 ''Application for Federal Assistance'' including a detailed budget using Standard Form 424A, ''Budget Information--Non-Construction Programs,'' Standard Form 424B, ''Assurances--Non-Construction Programs,'' and Commerce Department Form CD–511, ''Certifications Regarding Debarment, Suspension and Other Responsibility Matters: Drug Free Workplace Requirements and Lobbying.'' Copies of these Standard Forms may be found on the Internet in a PDF version at *http://www.ofa.noaa.gov/~grants/index.html* under the title ''Grant Application Forms and Budget Guidelines,'' or by contacting the NMFS office (see **FOR FURTHER INFORMATION CONTACT**); and

5. Supporting documents (resumes, cooperative research agreements, contracts, etc.).

N. Final Reports

NOAA and the Council will require project researchers to submit semi-annual progress reports and a completion report describing their research project results and other acceptable deliverable(s), in a timeframe that is specific to the type of research conducted. The format of the final report may vary, but must contain:

1. A brief abstract or summary of the project;

2. A description of the issue/problem that was addressed;

3. A detailed description of methods of data collection and analyses;

4. A discussion of results and any relevant conclusions, presented in a format that is understandable to a non-technical audience; this should include benefits and/or contributions to management decision-making;

5. A list of entities, firms or organizations that actually performed the work, and a description of how that was accomplished; and

6. A detailed final accounting of all funds used to conduct sea scallop research, including those provided through the research set-aside. The financial information must be submitted on Office of Management and Budget Standard Form–269. Copies of this Standard Form may be found on the Internet in a PDF version at *http://www.ofa.noaa.gov/~grants/index.html* under the title ''Grants Management Forms'', or by contacting the NMFS office (see **FOR FURTHER INFORMATION CONTACT**).

7. Projects designed to collect new data for inclusion in NMFS' or ACCSP's databases must submit the data in electronic format with appropriate documentation. Certain databases will have highly specific requirements as to required fields and content. Applicants must agree to provide newly collected data in a format acceptable to the administrators of the receiving databases.

O. Other Requirements

Evaluations of the impacts of sea scallop research, which involve exemptions to the current fishing regulations, other than those stated in the FMP, will be made by NMFS. Vessels conducting certain types of sea scallop research requiring relief from fishery regulations may be required to obtain an Exempted Fishing Permit (EFP). To apply for an EFP, interested parties must submit an application to NMFS at least 60 days before the effective date of the EFP. Additional time could be necessary for NMFS to make determinations regarding requirements under the National Environmental Policy Act (NEPA) and other applicable laws.

P. Other Requirements of Recipients

The Department of Commerce Pre-Award Notification of Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (66 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), is applicable to this solicitation.

Q. Future Awards

If we select your application to perform sea scallop research to be conducted with the scallop TAC set-aside, we have no obligation to provide any additional TAC set-aside obligations in connection with that award.

Classification

Prior notice and opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. 553(a)(2)).

Because a general notice of proposed rulemaking as specified in 5 U.S.C. 553, or any other law, was not required for this action, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are not applicable.

This notice contains collection-of-information requirements subject to the Paperwork Reduction Act. The use of Standard Forms 269, 424, 424A, 424B, and SF-LLL have been approved by OMB under the respective control numbers 0348–0039, 0348–0043, 0348–0044, 0348–0040, and 0348–0046.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the Paperwork Reduction Act, unless that collection displays a currently valid OMB control number.

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

This action has been determined to be not significant for purposes of Executive Order 12866.

Dated: January 13, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 03–1152 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011303C]

Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Groundfish Management Team (GMT) will hold a working meeting to plan the annual management cycle and strategize 2003 Council initiatives. This meeting is open to the public.

DATES: The GMT working meeting will convene on Monday, February 3, 2003 at 1 p.m. and may go into the evening until business for the day is completed. The GMT meeting will reconvene from 8 a.m. to 5 p.m. Tuesday, February 4 through Friday, February 7 until business for the day is completed.

ADDRESSES: The GMT working meeting will be held at the Pacific Fishery Management Council office, West Conference Room, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220; 503–820–2280.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Pacific Fishery Management Council Staff Officer for Groundfish; 503–820–2280.

SUPPLEMENTARY INFORMATION: The primary purpose of the GMT working meeting is to plan the GMT's annual schedule and strategies to effectively aid the Council in managing 2003 West Coast groundfish fisheries and Council initiatives expected to arise in 2003. Additionally, the GMT will discuss groundfish management measures in place for the winter and spring months, respond to assignments relating to implementation of the Council's groundfish strategic plan, consider technical aspects of draft stock rebuilding plans and analyses, and address other assignments relating to groundfish management.

Although nonemergency issues not contained in this agenda may come before the GMT for discussion, those issues may not be the subject of formal GMT action during this meeting. GMT action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice requiring emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the GMT's intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at 503–820–2280 at least 5 days prior to the meeting date.

Dated: January 13, 2003.

Richard W. Surdi,

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

[FR Doc. 03–1154 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 011303B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Salmon Technical Team (STT) and Scientific and Statistical Committee (SSC) Salmon Subcommittee will hold a joint work session, which is open to the public, to review proposed salmon methodology changes.

DATES: The work session will be held Wednesday, February 5, 2003, from 8:30 a.m. to 5 p.m.

ADDRESSES: The work session will be held at the Holiday Inn Portland Airport Hotel, 8439 NE Columbia Boulevard, Portland, OR 97220; (503) 256–5000.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Staff Officer for Salmon and Pacific Halibut, Pacific Fishery Management Council; (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to brief the STT and SSC on changes made to or proposed for the chinook and coho Fishery Regulation Assessment Models (FRAM), review the scientific bases for those changes, and compare results from the updated model with those from the previous version.

Although nonemergency issues not contained in the meeting agendas may come before the STT and the SSC subcommittee for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Carolyn Porter at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: January 13, 2003.

Richard W. Surdi,

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

[FR Doc. 03–1155 Filed 1–16–03; 8:45 am]

BILLING CODE 3510–22–S

CONSUMER PRODUCT SAFETY COMMISSION

Submission for OMB Review; Comment Request—Flammability Standards for Children's Sleepwear

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In the **Federal Register** of October 29, 2002 (67 FR 65958), the Consumer Product Safety Commission published a notice in accordance with provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) to announce the agency's intention to seek extension of approval of collections of information in the flammability standards for children's sleepwear and implementing regulations. No comments were received in response to that notice. By publication of this notice, the Commission announces that it has submitted to the Office of Management and Budget (OMB) a request for extension of approval of those collections of information without change for three years from the date of approval.

The standards and regulations are codified as the Flammability Standard for Children's Sleepwear: Sizes 0 Through 6X, 16 CFR part 1615; and the Flammability Standard for Children's Sleepwear: Sizes 7 Through 14, 16 CFR part 1616. The flammability standards and implementing regulations prescribe requirements for testing and recordkeeping by manufacturers and importers of children's sleepwear subject to the standards. The information in the records required by the regulations allows the Commission to determine if items of children's sleepwear comply with the applicable standard. This information also enables the Commission to obtain corrective actions if items of children's sleepwear fail to comply with the applicable standard in a manner which creates a substantial risk of injury.

Additional Information About the Request for Reinstatement of Approval of Collections of Information

Agency address: Consumer Product Safety Commission, Washington, DC 20207.

Title of information collection: Standard for the Flammability of Children's Sleepwear: Sizes 0 Through 6X, 16 CFR Part 1615; Standard for the Flammability of Children's Sleepwear: Sizes 7 Through 14, 16 CFR Part 1616.

Type of request: Extension of approval without change.

General description of respondents: Manufacturers and importers of children's sleepwear in sizes 0 through 14.

Estimated number of respondents: 53.

Estimated average number of hours per respondent: 6,000 per year.

Estimated number of hours for all respondents: 318,000 per year.

Estimated cost of collection for all respondents: $9,550,000 per year.

Comments: Comments on this request for extension of approval of information collection requirements should be submitted by February 18, 2003, to (1) the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for CPSC, Office of Management and Budget, Washington, DC 20503; telephone: (202) 395–7340, and (2) the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207. Written comments may also be sent to the Office of the Secretary by facsimile at (301) 504–0127 or by e-mail at *cpsc-os@cpsc.gov.*

Copies of this request for extension of the information collection requirements and supporting documentation are available from Linda Glatz, Management and Program Analyst, Office of Planning and Evaluation, Consumer Product Safety Commission, Washington, DC 20207; telephone: (301) 504–0416, ext. 2226.

Dated: January 13, 2003.

Todd A. Stevenson,

Secretary, Consumer Product Safety Commission.

[FR Doc. 03–1024 Filed 1–16–03; 8:45 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Department of the Army

Armed Forces Epidemiological Board; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of partially-closed meeting.

SUMMARY: In accordance with section 10(a)(2) of Public Law 92–463, The Federal Advisory Committee Act, announcement is made of the following meeting:

Name of Committee: Armed Forces Epidemiological Board (AFEB).

Dates: February 18, 2003. February 19, 2003 (Partially-closed meeting).

Times: 7:30 a.m.—16:30 p.m. (February 18, 2003); 7:30 a.m.—17:30 p.m. (February 19, 2003).

Location: The Phillips Space Conference Center, Building 201, 1750 Kirtland Drive, Kirtland Air Force Base, Albuquerque, New Mexico 87117.

Agenda: The purpose of the meeting is to address pending and new Board issues, provide briefings for Board members on topics related to ongoing and new Board issues, conduct subcommittee meetings, and conduct an executive working session.

FOR FURTHER INFORMATION CONTACT: Colonel James R. Riddle, Executive Secretary, Armed Forces Epidemiological Board, Skyline Six, 5109 Leesburg Pike, Room 682, Falls Church, Virginia 22041–3258, (703) 681–8012/3.

SUPPLEMENTARY INFORMATION: This meeting will be partially-closed to the public. Open sessions of the meeting will be limited by space accommodations. The meeting will be open to the public in accordance with Section 522b(c) of Title 5, U.S.C., specifically subparagraph 91) thereof and Title 5, U.S.C., appendix 1, subsection 10(d). Any interested person may attend, appear before or file statements with the committee at the time and in the manner permitted by the committee.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–1113 Filed 1–16–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Mid-Chesapeake Bay Island, MD, Environmental Restoration Feasibility Study

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice of intent.

SUMMARY: The Baltimore District, U.S. Army Corps of Engineers (Corps) in partnership with the State of Maryland Department of Transportation, Maryland Port Administration has initiated an environmental restoration feasibility study for the restoration of island habitat in the Mid-Chesapeake Bay region. The study focuses on restoring hundreds of acres of aquatic and wildlife island habitat in the Mid-Chesapeake Bay region through the beneficial use of dredged materials from the Port of Baltimore channel system. As part of this study and in accordance with the National Environmental Policy Act (NEPA) of 1969, an Environmental Impact Statement (EIS) will be prepared to document the plan formulation process and recommendations of this study.

FOR FURTHER INFORMATION CONTACT: Questions or information about the proposed action and draft EIS can be addressed to Ms. Michele (Mimi) Bistany, U.S. Army Corps of Engineers, ATTN: CENAB–PL, 10 South Howard Street, P.O. Box 1715, Baltimore, MD 21203–1715, telephone 410–962–4934; e-mail address: *michele.a.bistany@usace.army.mil.*

SUPPLEMENTARY INFORMATION: The Mid-Chesapeake Bay study area is defined by the confluence of the Chester River south to the confluence of the Potomac River with the Chesapeake Bay, Maryland.

Land subsidence, rising sea level, and wave action have caused valuable island habitats to be lost through erosion throughout the Chesapeake Bay. Through the beneficial use of dredged material, a restored island can be constructed to replace hundreds of acres of wetland and upland habitat. Therefore, the goal for this feasibility study is to restore valuable aquatic and terrestrial resting, foraging, and nursery habitat that has been lost in the Chesapeake Bay for many migratory birds, fish, and wildlife species through the beneficial use of dredged material. This habitat will afford improved productivity to the surrounding area, while providing an environmentally sound method for the use of dredged material removed from Bay channels.

Corps feasibility studies are conducted using a six-stage planning approach that incorporates the NEPA process: (1) Identify problems, opportunities, goals, and objectives; (2) Inventory baseline conditions; (3) Formulate alternatives; (4) Evaluate effects of the alternatives; (5) Compare alternatives; and (6) Select a recommended plan or set of alternative plans that are environmentally, economically, and engineering sound.

The project delivery team is actively seeking public opinion, participation, and advice to be incorporated into the planning process and the selection of an island for restoration. At this time, the islands that are under consideration within the Mid-Chesapeake Bay region include Barren, Bloodsworth, James, Holland, Lower Eastern Neck, Parson's and Sharp's islands. The team is open to any additional islands for consideration in the Mid-Bay region. As part of the initial phase of the study, an objective screening criteria will be developed based on information obtained for the State of Maryland's Dredged Material Management Program, public and agency input, available data, and best professional judgment. Following the Corps and NEPA processes, once the island is selected for restoration, a detailed analysis of the current existing conditions will be undertaken; alternative restoration plans will be developed, analyzed and compared; the impacts of those plans

will be analyzed; and a recommended plan will be selected.

To solicit public input into the study and into the island selection, up to three public scoping meetings are planned for the late January/early February 2003 timeframe. A newsletter broadcasting the dates, times, and locations will be sent to agencies, groups and individuals on the study's mailing list once the meetings have been scheduled. To verify your inclusion, or to be added in the mailing list, please contact the study team leader, Ms. Michele Bistany (*see* **FOR FURTHER INFORMATION CONTACT**).

The study will be conducted in compliance with Section 404 and Section 401 of the Clean Water Act, Section 7 of the Endangered Species Act, the Clean Air Act, the U.S. Fish and Wildlife Coordination Act, Section 106 of the National Historic Preservation Act, Prime and Unique Farmlands, the Magnuson-Stevens Fishery Conservation and Management Act, and National Pollutant Discharge Elimination System Act. All appropriate documentation (*i.e.,* Section 7, Section 106 coordination letters, and public and agency comments) will be obtained and included as part of the EIS.

As part of the EIS process, recommendations will be based on an evaluation of the probable impact of the proposed activity on the public interest. The decision will reflect the national concern for the protection and utilization of important resources. The benefit, which may reasonably be expected to accrue from the proposal, will be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, among these are wetlands; fish and wildlife resources; cultural resources; land use; water and air quality; hazardous, toxic, and radioactive substances; threatened and endangered species; regional geology; aesthetics; environmental justice; cumulative impacts; and the general needs and welfare of the public.

The draft EIS for the Mid-Chesapeake Bay Island environmental restoration study is expected for public release in July 2005.

Robert W. Lindner,

Chief, Planning Division.

[FR Doc. 03–1112 Filed 1–16–03; 8:45 am]

BILLING CODE 3710–41–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Leader, Regulatory Information Management, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: An emergency review has been requested in accordance with the Act (44 U.S.C. chapter 3507 (j)), since public harm is reasonably likely to result if normal clearance procedures are followed. Approval by the Office of Management and Budget (OMB) has been requested by February 18, 2003.

ADDRESSES: Written comments regarding the emergency review should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Acting Desk Officer: Department of Education, Office of Management and Budget; 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that the Director of OMB provide interested Federal agencies and the public an early opportunity to comment on information collection requests. The Office of Management and Budget (OMB) may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.*, new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. ED invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on respondents, including through the use of information technology.

Dated: January 13, 2003.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Federal Student Aid

Type of Review: New Collection.

Title: EZ-Audit: Electronic Submission of Financial Statements and Compliance Audits.

Abstract: EZ-Audit will support the conversion and electronic submission of financial statements and existing compliance audits as required by 34 CFR 668.23 for all institutions participating in the Title IV, FSA programs.

Additional Information: Schools receiving Title IV funding must submit an audit in order to prove that they are financially solvent. Emergency clearance is requested for this collection because if submission is not done in a timely manner, Title IV institutions will be in jeopardy of noncompliance and will also lose funding.

Frequency: Annually.

A*ffected Public:* Not-for-profit institutions (primary), State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 4000.

Burden Hours: 4000.

Requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address *OCIO_RIMG@ed.gov* or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joe Schubart at (202) 708–9266. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–1058 Filed 1–16–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Regulatory Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before February 18, 2003.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Lauren Wittenberg, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address *Lauren.Wittenberg@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: January 13, 2003.

John D. Tressler,

Leader, Regulatory Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services

Type of Review: Extension of a currently approved collection.

Title: Annual Protection & Advocacy of Individual Rights (PAIR) Program Performance Report (SC).

Frequency: Annually .

Affected Public: Not-for-profit institutions (primary). State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 342.

Abstract: Form RSA–509 will be used to analyze and evaluate the Protection & Advocacy of Individual Rights (PAIR) Program administered by eligible systems in states. These systems provide services to eligible individuals with disabilities to protect their legal and human rights.

Written requests for information should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW., Room 4050, Regional Office Building 3, Washington, DC 20202–4651 or directed to her e-mail address *Vivian.Reese@ed.gov.* Requests may also be faxed to (202) 708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Joseph Schubart at his e-mail address *Joe.Schubart@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 03–1026 Filed 1–16–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.038, 84.033, and 84.007]

Federal Student Aid; Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions to file an Application for Approval to Participate in Federal Student Financial Aid Programs for the 2003–2004 award year; to participate in the Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant programs (known collectively as the campus-based programs).

SUMMARY: We invite currently non-participating institutions of higher education who filed a Fiscal Operations Report and Application to Participate (FISAP) (ED Form 646–1), to submit to the U.S. Department of Education (Department) an Application for Approval to participate in Federal Student Financial Aid Programs. In order to participate in one or more of the campus-based programs for the 2003–2004 award year, non-participating institutions must submit an Application for Approval to Participate in Federal Student Financial Aid Programs and all required supporting documents for an eligibility and certification determination by the Department.

The campus-based programs are authorized by title IV of the Higher Education Act of 1965, as amended (HEA). The 2003–2004 award year is July 1, 2003, through June 30, 2004.

CLOSING DATE: To participate in the campus-based programs in the 2003–2004 award year, a currently non-participating institution must electronically submit its Application for Approval to Participate in Federal Student Financial Aid Programs on or before February 17, 2003. (ED Form E40–34P, OMB# 1845–0012).

ADDRESSES: Applications. The Department no longer accepts paper applications in these programs. An eligible institution must submit an electronic application to Case Management and Oversight through the ED website: *www.eligcert.ed.gov.*

Required Supporting Documents. The applicant must submit required supporting documents by mail, addressed to the U.S. Department of Education, Case Management and Oversight, Data Management and Analysis, Document Receipt and Control Center, 830 First Street, NE., Room 71I1, Washington, DC 20002–5402.

In the case of required supporting documents, the applicant must show proof of mailing consisting of one of the following: (1) A legibly dated U.S. Postal Service postmark; (2) a legible mail receipt with the date of mailing stamped by the U.S. Postal Service; (3) a dated shipping label, invoice, or receipt from a commercial carrier; or (4) any other proof of mailing acceptable to us.

If documents are sent through the U.S. Postal Service, we do not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

The applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office. An applicant is encouraged to use

certified or at least first class mail. An institution that submits an Application for Approval to participate in Federal Student Financial Aid Programs and required supporting documents after the closing date of February 17, 2003, will not be considered for funding under the campus-based programs for award year 2003–2004.

Required Supporting Documents Delivered by Hand. An applicant may deliver supporting documents by hand to the U.S. Department of Education, Case Management and Oversight, Data Management and Analysis, Document Receipt and Control Center, 830 First Street, NE., Room 71I1, Washington, DC 20002–5402. We will accept hand-delivered documents between 8 a.m. and 4:30 p.m. (eastern time) daily, except Saturdays, Sundays, and Federal holidays. A hand-delivered application will not be accepted after 4:30 p.m. on February 17, 2003.

SUPPLEMENTARY INFORMATION: We allocate funds to eligible higher education institutions in each of the campus-based programs. We will not allocate funds under the campus-based programs for award year 2003–2004 to any currently non-participating institution unless the institution files its Application for Approval to Participate in Federal Student Financial Aid Programs and required supporting documents by the closing date. If the institution submits its Application for Approval to Participate in Federal Student Financial Aid Programs or other required supporting documents after the February 17, 2003, closing date, we will use this application in determining the institution's eligibility to participate in the campus-based programs beginning with the 2004–2005 award year. For purposes of this notice, ineligible institutions include only: (1) An institution that has not been designated as an eligible institution by the Department, but has previously filed a FISAP; or (2) An additional location of an eligible institution that is currently not included in the Department's eligibility certification for that eligible institution, but has been included in the institution's 2003–2004 FISAP.

Applicable Regulations: The following regulations apply to the campus-based programs: (1) Student Assistance General Provisions, 34 CFR part 668. (2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673. (3) Federal Perkins Loan Program, 34 CFR part 674. (4) Federal Work-Study Program, 34 CFR part 675. (5) Federal Supplemental Opportunity Grant Program, 34 CFR part 676. (6) Institutional Eligibility Under the Higher Education Act of 1965, as amended, 34 CFR part 600. (7) New Restrictions on Lobbying, 34 CFR part 82. (8) Government wide Debarment and Suspension (Nonprocurement) and Government wide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85. (9) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: For information concerning designation of eligibility, contact the appropriate ED Case Management and Oversight (CMO) case management team by telephone, fax, or the Internet. The case management teams are listed with telephone and fax numbers and Internet addresses in the Application for Approval to Participate in Federal Student Financial Aid Programs on pages 5, 6, and 7 of the Introduction. For technical assistance concerning the FISAP or other operational procedures of the campus-based programs, contact: Campus-Based Operations, Call Center, Telephone: (877) 801–7168, fax: (703) 761–0220.

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 by contacting Center at (202) 260–9895 between 8:30 a.m. and 4:30 p.m., eastern time, Monday through Friday.

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.*

Program Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

Dated: January 14, 2003.

Theresa S. Shaw,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 03–1162 Filed 1–16–03; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory; Notice of Availability of a Financial Assistance Solicitation

AGENCY: National Energy Technology Laboratory (NETL), Department of Energy (DOE).

ACTION: Notice of availability of a financial assistance solicitation.

SUMMARY: Notice is hereby given of the intent to issue Financial Assistance Solicitation No. DE–PS26–03NT41731 entitled ''Development of Novel Sensors for Ultra High Temperature Fossil Fuel Applications.'' The specific objective of this solicitation is to seek out new fundamental approaches to sensor concepts, materials, design, and fabrication that have potential application in the harsh environment of the advanced fossil fuel-based energy production systems. The types of projects sought through this solicitation include laboratory and bench-scale testing as well as fundamental research that addresses the barriers associated with ultra-high temperature operation.

DATES: The solicitation will be available on the ''Industry Interactive Procurement System'' (IIPS) webpage located at *http://e-center.doe.gov* on or about January 24, 2003. Applicants can obtain access to the solicitation from the address above or through DOE/NETL's Web site at *http://www.netl.doe.gov/business.*

FOR FURTHER INFORMATION CONTACT: Kelly A. McDonald, MS I07, U.S. Department of Energy, National Energy Technology Laboratory, 3610 Collins Ferry Road, P.O. Box 880, Morgantown, WV 26507–0880, E-mail Address: *kelly.mcdonald@netl.doe.gov,* Telephone Number: (304) 285–4113.

SUPPLEMENTARY INFORMATION: NETL's Advanced Research Program is leading the effort in innovative sensor development for fossil fuel applications including the power systems conceived under the Vision 21 Program, such as oxygen blown gasification and combustion systems. Real time monitoring, diagnostics and control are critical for the safe and efficient operation of the energy conversion systems. However, due to the harsh conditions, current instrumentation and sensor technology is inadequate for the

systems. The lack of suitable on-line measurement technology represents the primary motivation for seeking out new developments in sensor technology. The specific objective of this solicitation is to seek out new fundamental approaches to sensor concepts, materials, design, and fabrication that have potential application in the harsh environment of the advanced fossil fuel-based energy production systems. The types of projects sought through this solicitation include laboratory and bench-scale testing as well as fundamental research that addresses the barriers associated with ultra-high temperature operation.

The research objectives are to:

(1) Develop an understanding of the sensor mechanisms acquired by nano-scale design,

(2) Develop technology for fusion of high temperature materials and advanced sensors,

(3) Develop long term high temperature data for life prediction and reliability,

(4) Devise life assessment models and experimental verification,

(5) Obtain a quantitative description of the evolutionary processes that lead to failure and predict response of sensor materials in complex environments,

(6) Miniaturize sensors, and

(7) Explore self-contained sensor intelligence based on smart materials.[1]

While the solicitation seeks out fundamental developments, the ultimate goal of the sensor program is to develop devices that can used for the measurement of temperature, pressure, and detection of various gases (O_2, H_2, N_2, H_2S, CH_4, etc.) under conditions of high temperature (1000°C) and elevated pressures (up to 500 psi). Low cost, in situ or embedded sensors that survive approximately one year of service in the presence corrosive and erosive conditions are ideal. The incorporation of self diagnostics/smart sensor functions is desired to verify performance and accuracy.

It is anticipated that this program solicitation will result in three (3) to six (6) awards. The period of performance for each award will range from one to three years with budget periods to be established independently based on the logical technical phases of each individual project. Cost sharing is encouraged, but not required under the subject program solicitation.

Once released, the solicitation will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov.* The solicitation will only be made available in IIPS, no hard (paper) copies of the solicitation and related documents will be made available. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the solicitation package will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the solicitation. The actual solicitation document will allow for requests for explanation and/or interpretation. However, all questions relating to the solicitation must be submitted electronically through IIPS. All responses to questions, as well as all amendments to the solicitation, will be released on the IIPS homepage.

Issued in Pittsburgh, Pennsylvania, on January 9, 2003.

Dale A. Siciliano,

Acting Director, Acquisition and Assistance Division.

[FR Doc. 03–1096 Filed 1–16–03; 8:45 am]

BILLING CODE 6450–01–P

[1] Smart materials may be defined as the materials that respond to environmental changes at optimal conditions and manifest their functions according to the changes. The generic term ''smart materials'' includes the materials and probes that can provide information on a coating or process material while in service. The information can be used via a suitable process control mechanism to assess remaining life as well as to regulate the operating conditions. Examples of smart materials are shape memory alloys, optical fiber hybrid composites, and piezoelectric hybrid composites.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–232–000]

Eastern Shore Natural Gas Company; Notice of Tariff Filing

January 13, 2003.

Take notice that on January 9, 2003, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with a proposed effective date of February 1, 2003:

Forty-Second Revised Sheet No. 7
Forty-Second Revised Sheet No. 8

ESNG states that the purpose of this instant filing is to track rate changes attributable to a storage service purchased from Columbia Gas Transmission Corporation (Columbia) under its Rate Schedule FSS. The costs of the above referenced storage service comprises the rates and charges payable under ESNG's Rate Schedule CFSS. This tracking filing is being made pursuant to section 3 of ESNG's Rate Schedule CFSS.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: January 22, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1173 Filed 1–16–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–6564]

Jane A. Horning; Notice of Site Visit

January 13, 2003.

Jane A. Horning, exemptee, for the Brunswick Creek Hydroelectric Project (project), in Washington County, North Plains, Oregon, requests to surrender her exemption. On January 30, 2003, the

staff of the Office of Energy Projects (OEP) will conduct a site visit of the project. Representatives of the project will accompany the OEP staff. All interested parties may meet at 9 a.m. at the project powerhouse located near the Brunswick Creek dam. Attendees must provide their own transportation.

For further information, please contact Blake Condo at (202) 502–8914 or the Commission's Office of External Affairs at (866) 208–FERC.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1171 Filed 1–16–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–210–001]

New England Power Pool; Notice of Filing

January 13, 2003.

Take notice that on January 10, 2002, the New England Power Pool (NEPOOL) Participants Committee amended its November 22, 2002, filing in Docket No. ER03–210–000 by filing for acceptance Original Tariff Sheet No. 288A to the NEPOOL Tariff, which was inadvertently omitted from the revised tariff sheets included with the November 22 filing.

The Participants Committee states that copies of these materials were sent to the New England state governors and regulatory commissions and the Participants in NEPOOL.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866)208–3676, or for TTY, contact (202)502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: January 21, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1169 Filed 1–16–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–10359]

Snoqualmie River Hydro Inc.; Notice of Site Visit

January 13, 2003.

Snoqualmie River Hydro Inc., licensee, for the Youngs Creek Hydroelectric Project (Project), Snonomish County, Washington State, requests to surrender its license. On January 27, 2003, the staff of the Office of Energy Projects (OEP) will conduct a site visit of the Project. Representatives of the licensee will accompany the OEP staff. All interested parties may meet at 2 p.m. at the dam site. Attendees must provide their own transportation.

For further information, please contact Blake Condo at (202) 502–8914 or the Commission's Office of External Affairs at (866) 208–FERC.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1170 Filed 1–16–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–162–000]

Trailblazer Pipeline Company; Notice of Technical Conference

January 13, 2003.

In the Commission's order issued on December 31, 2002,[1] the Commission directed that a technical conference be held to address certain issues, as set forth in the Commission's order.

Take notice that the technical conference will be held on Thursday, February 6, 2003, at 10:30 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

All interested parties and Staff are permitted to attend.

Magalie R. Salas,

Secretary.

[FR Doc. 03–1172 Filed 1–16–03; 8:45 am]

BILLING CODE 6717–01–P

[1] Trailblazer Pipeline Company, 101 FERC ¶ 61,405 (2002).

ENVIRONMENTAL PROTECTION AGENCY

[IN 150–1; FRL–7440–3]

Notice of Final Determination for Nucor Steel in Crawfordsville, IN

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: This notice announces that on October 11, 2002, the Environmental Appeals Board (EAB) of the EPA dismissed a petition for review of a permit issued for Nucor Steel (Nucor) by the Indiana Department of Environmental Management (IDEM) pursuant to the regulations under the Federal prevention of significant deterioration (PSD) program. The EAB dismissed the petition for failure to file a petition within 30 days of permit issuance.

DATES: The effective date for the EAB's decision is October 11, 2002. Judicial review of this permit decision, to the extent it is available pursuant to section 307(b)(1) of the Clean Air Act, 42 U.S.C. 7607(b)(1), may be sought by filing a petition for review in the United States Court of Appeals for the Seventh Circuit within 60 days of January 17, 2003.

ADDRESSES: The documents relevant to the above action are available for public inspection during normal business hours at the following address: EPA, Region 5, 77 West Jackson Boulevard (AR–18J), Chicago, Illinois 60604. To arrange viewing of these documents, call Sam Portanova at (312) 886–3189.

FOR FURTHER INFORMATION CONTACT: Sam Portanova, EPA, Region 5, 77 W. Jackson Boulevard (AR–18J), Chicago, Illinois 60604. Anyone who wishes to review the EAB decision can obtain it at *http://www.epa.gov/eab/orders/nucor.pdf.*

SUPPLEMENTARY INFORMATION: This supplemental information is organized as follows:

A. What Action Is EPA Taking?
B. What is the Background Information?
C. What did EPA Determine?

A. What Action Is EPA Taking?

We are notifying the public of a final decision by EPA's EAB on a permit issued by IDEM pursuant to the Federal PSD program.

B. What Is the Background Information?

On June 6, 2002, IDEM issued a PSD permit (permit number 107–14297–00038) to Nucor for existing unpermitted burners in the preheat section of its galvanizing line. In addition, the PSD permit provided for the modification of 36 natural gas-fired main burners, 3 auxiliary natural gas-fired burners in the preheat furnace section of its galvanizing line, and 44 burners in the radiant tube section. The permit also contains a condition that requires Nucor to install continuous emissions monitors to verify compliance with nitrogen oxides (NO_X) emission standards. On the same date, IDEM also issued to Nucor an administrative amendment to a minor source modification of a part 70 permit (administrative amendment permit). The cover letter to the PSD permit provided instructions for filing an appeal with the EAB and the cover letter to the administrative amendment permit provided instructions for filing an appeal with Indiana's Office of Environmental Adjudication (OEA).

On June 24, 2002, Nucor filed a petition for review of the PSD permit with the OEA following the instructions for filing the administrative amendment permit appeal. Nucor subsequently filed its petition for review of the PSD permit with the EAB on September 10, 2002. Nucor raised the following issues. First, that a continuous emissions monitoring system should not be required. Second, that the use of a 24-hour NO_X average is unreasonable and unsupported by Federal or Indiana law. Third, that the selective catalytic reduction/selective non-catalytic reduction systems are incorrectly identified as best available control technology. Finally, that the PSD permit's optimum temperature requirements are unnecessary and duplicative.

Interested parties may petition the EAB for review of a PSD permit condition within 30 days after issuance of the final permit decision (40 CFR 124.19(a)). In accordance with this regulation, petitions filed more than 30 days after permit issuance are untimely. In this case, Nucor's deadline for filing a petition for review with the EAB was July 12, 2002 (30 days after the June 6, 2002, permit issuance plus 5 additional days since service was by mail). However, Nucor did not file its appeal with the EAB until September 10, 2002.

C. What Did the EAB Determine?

On October 11, 2002, the EAB dismissed the petition for review as untimely because Nucor was properly notified of the filing requirements and there is no good cause for Nucor's failure to file its petition within the 30 days of permit issuance allowed by regulation.

Dated: January 2, 2003.

Bharat Mathur,

Acting Regional Administrator, Region 5.

[FR Doc. 03–1146 Filed 1–16–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6636–7]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/*

Weekly receipt of Environmental Impact Statements.

Filed January 06, 2003 Through January 10, 2003.

Pursuant to 40 CFR 1506.9.

EIS No. 030006, Draft EIS, IBR, WA, Banks Lake Drawdown Project, Proposal to Lower the Water Surface Elevation from 1565 feet to 1560 feet in August of Each Year, Columbia River, Douglas and Grant Counties, WA, Comment Period Ends: March 03, 2003, *Contact:* Jim Blanchard (509) 754–0226.

EIS No. 030007, Draft Supplement COE, NY, Irondequoit Creek at Panorama Valley Flood Damage Reduction Project, New Information concerning Resumption and Evaluation of a Flood Damage Reduction Project, Town of Penfield, Monroe County, NY, Comment Period Ends: March 03, 2003, *Contact:* Tod Smith (716) 879–4175.

EIS No. 030008, Final EIS, AFS, WV, VA, Appalachian Power Company (APCo), Construction, Proposal from Wyoming Station to Cloverdale Station, Right-of-Way, Special-Use-Permit, Federal and Non Federal Land, George Washington and Jefferson National Forests, Several County WV and VA, Wait Period Ends: February 18, 2003, *Contact:* Kenneth Landgraf (540) 265–5170.

EIS No. 030009, Final EIS, FHW, AL, Industrial Parkway Connector Project, Transportation Improvement, from Lott Road (AL–217) to US 45, Funding, COE Section 404 Permit and NPDES Permit, Mobile County, AL, Wait Period Ends: February 18, 2003, *Contact:* Joe D. Wilkerson (334) 223–7370.

EIS No. 030010, Final EIS, COE, KS, KS–10 Highway (commonly known as South Lawrence Trafficway) Relocation, Issuance or Denial of U.S. Army COE section 404 Permit Request, Lawrence City, Douglas County, KS, *Wait Period Ends:* February 18, 2003, *Contact:* Robert J. Smith (816) 983–3656.

EIS No. 030011, Draft EIS, AFS, CA, North Fork Fire Salvage Project, To Salvage Harvest and Sell Merchantable Timber Volume and to Implement the Sierra National Forest Land and Resource Management Plan, Bass Lake Ranger District, Madera County, CA, *Comment Period Ends:* March 03, 2003, *Contact:* Michael Price (559) 877–2218.

EIS No. 030012, Draft EIS, BIA, CA, Jamul Indian Village (Tribe) 101 Acre Fee-to-Trust Transfer and Casino Project, Implementation, San Diego County, CA, *Comment Period Ends:* March 03, 2003, *Contact:* William Allan (916) 978–6043.

EIS No. 030013, Final EIS, NPS, NV, AZ, Lake Mead National Recreation Area, Long-Term Management of Lake Mead and Mohave and Associated Shoreline and Development Area, Lake Management Plan, Clark County. NV and Mohave County, AZ, *Wait Period Ends:* February 18, 2003, *Contact:* Jim Holland (702) 293–8986.

EIS No. 030014, Draft EIS, AFS, MT, Canyon Lake Dam and Wyant Lake Dam Project, Proposal to Authorize Access to their Facilities with Prescribe Terms and Conditions, Canyon Creek Irrigation District (CCID), Bitterroot National Forest, Selway Bitterroot Wilderness, Ravalli County, MT, *Comment Period Ends:* March 03, 2003, *Contact:* Pete Zimmerman (406) 363–7100.

This document is available on the Internet at: *http://www.fs.fed.us/r1/bitterroot/planning/decisiondocs/decisiondocs.htm1.*

EIS No. 030015, Draft EIS, BLM, AK, Northwest National Petroleum Reserve–Alaska (NPR–A) Integrated Plan, Multiple-Use Management of 8.8 million Acres, Lands within the North Slope Borough, AK, *Comment Period Ends:* March 03, 2003, *Contact:* Curtis Wilson (907) 271–5546.

This document is available on the Internet at: *http://www.ak.blm.gov/nwnpra*

EIS No. 030016, Draft EIS, NRC, NB, Generic EIS—Fort Calhoun Station, Unit 1, Renewal of the Operating Licenses (OLs) for an Additional 20 Years, Supplement 12 (NUREG–1437) Omaha Public Power District, Washington County, NB, *Comment Period Ends:* March 03, 2003, *Contact:* Jack Cushing (301) 415–1424.

EIS No. 030017, Final EIS, BLM, WY, Powder River Basin Oil and Gas Project, Extraction, Transportation and Oil and Natural Gas Resources Sale, Application for a Permit to Drill (APD), Special Use Permit and Right-of-Way Grants, Campbell, Converse, Johnson and Sheridan Counties, WY, *Wait Period Ends:* February 18, 2003, *Contact:* Paul Beels (307) 684–1168.

This document is available on the Internet at: *http://www.wy.blm.gov/nepa/prb-feis* or *http://www.prb-eis.org.*

EIS No. 030018, Final EIS, JUS, CA, Juvenile Justice Campus (JJC) Construction and Operation of a 1,400 Bed and Related Functions Facility, Conditional Use Permit, Fresno County, CA, *Wait Period Ends:* February 18, 2003, *Contact:* Paul V. Dehameter (202) 514–7903.

This document is available on the Internet at: *http://www.fresno.ca.gov/4360/index.htm.*

EIS No. 030019, Draft Supplement, FTA, VA, Norfolk Light Rail Transit Project, To Provide an 8-mile Light Rail Transit System from the West Terminus near Eastern Virginia Medical Center through Eastern Terminus on Kempsville Road, Hampton Roads Transit, City of Norfolk, VA, *Comment Period Ends:* March 3, 2003, *Contact:* Patricia Kampf (215) 656–7100.

EIS No. 030020, Final EIS, BLM, MT, Montana Statewide Conventional Oil and Gas and Coal Bed Methane Gas Exploration and Development Management Plan within the Bureau of Land Powder River and Billings Resources Management Plan Areas and the State of Montana, Implementation, MT , *Wait Period Ends:* February 18, 2003, *Contact:* Brenda William (202) 452–5045.

This document is available on the Internet at: *http://www.mt.blm.gov/mcfo.*

EIS No. 030021, Final EIS, NOA, WA, CA, OR, 2003 Pacific Coast Groundfish Fishery, Proposed Groundfish Acceptable Biological Catch and Optimum Yield Specifications and Management Measures, Implementation, WA, OR and CA, *Wait Period Ends:* February 18, 2003, *Contact:* Roberta Lohn (206) 526–6150.

EIS No. 030022, Final EIS, FAA, MD, VA, DC, Potomac Consolidated Terminal (PCT) Radar Approach Control Facility (TRACON) Airspace Redesign in the Baltimore-Washington Metropolitan Area. Newly Consolidated TRACON, Aircraft Performance Improvements and Emerging PCT Technologies, PA, MD, DE, VA, WV and DC, *Wait Period Ends:* February 18, 2003, *Contact:* William Carver (800) 762–9531.

Amended Notices

EIS No. 020474, DRAFT EIS, FHW, AK, South Extension of the Coastal Trail Project, To Extend the Existing Tony Knowles Coastal Trail from Kincaid Park through the Project Area to the Potter Weigh Station, COE Section 10 and 404 Permit, Municipality of Anchorage, Anchorage, Alaska, *Comment Period Ends:* March 07, 2003, *Contact:* Tim A. Haugh (907) 586–7418. Revision of FR Notice Published on 11/11/2002: CEQ Comment Period Ending 1/8/2003 has been Extended to 3/7/2003.

Dated: January 13, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–1047 Filed 1–16–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6636–8]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 564–7167. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 12, 2002 (67 FR 17992).

Draft EISs

ERP No. D–AFS–L65405–AK Rating NS, Shoreline Outfitter/Guide Plan, Commercial Permits Issuance for Shoreline-Based Activities on National Forest System Lands, Admiralty Island National Monument, Hoonah, Sitka and Juneau Ranger Districts, Tongass National Forest, AK.

Summary: EPA Region 10 used a screening tool to conduct a limited review of this action. Based on the screen, EPA does not foresee having major environmental objections to the proposed project. Therefore, EPA will not be conducting a detailed review.

ERP No. D–APH–A99222–00 Rating LO, Importation of Solid Wood Packing Material to Exclude, Eradicate and/or Control Invasive Alien Agricultural Pest, Implementation, United States.

Summary: EPA expressed no objection to the draft EIS and the Animal and Plant Health Inspection Service's (APHIS) proposal to adopt the International Plant Protection Convention (IPPC) ''Guidelines for Regulating Wood Packaging Material in International Trade''.

ERP No. D–BLM–G65084–00 Rating LO, El Camino Real De Tierra Adentro National Historic Trail, Comprehensive Management Plan, Implementation, TX and NM.

Summary: EPA has no objection to the selection of the preferred alternative.

ERP No. D–BLM–L65402–OR Rating EC2, Cascade—Siskiyou National Monument (CSNM) Resource Management Plan, Implementation, Klamath and Rouge River Basins, Jackson County, OR.

Summary: EPA expressed environmental concerns that the draft EIS lacked sufficient information related to: the Purpose and Need Statement, Tribal consultation and coordination efforts, livestock grazing impacts, habitat connectivity, CWA section 303(d) Protocols, and indirect or cumulative effects and should be addressed in the final EIS.

ERP No. D–DOE–K08024–CA Rating EC2, Sacramento Area Voltage Support Project, System Reliability and Voltage Support Improvements, Sierra Nevada Region, Alameda, Contra Costa, Placer, Sacramento, San Joaquin and Sutter Counties, CA.

Summary: EPA has environmental concerns about impacts to air quality, water resources and with the scope of the cumulative impacts analysis. EPA urged Western Area Power Administration to commit to follow-up environmental analysis, a discription and evaluation of the funding process, and how funding and project cost will be integrated with the environmental analysis.

ERP No. D–FHW–B40092–NH Rating EO2, I–93 Highway Improvements, Salem to Manchester, Funding, NPDES and U.S. Army COE Section 404 Permits

Issuance, Hillsborough and Rockingham Counties, NH.

Summary: EPA expressed environmental objections to impacts to the aquatic environment which should be addressed through additional analysis, mitigation and other commitments in the FEIS. Specifically, EPA recommends that risks to surface and ground waters from road salt and air quality impacts be addressed in greater detail. Mitigation plans should also be enhanced in addition to the inclusion of more information regarding commuter bus and high occupancy vehicle services in the project plans.

ERP No. DS–FHW–F40118–MI Rating EC2, US–31 Freeway Connection, Napier Road to I–94, Updated Information concerning Transportation Improvements, Berrien County, MI.

Summary: EPA expressed environmental concerns regarding project impacts to wetlands and wildlife connectivity.

Additional information regarding wetlands minimization and mitigation measures should be included in the final EIS.

ERP No. DS–FTA–E40777–FL Rating EC2, Miami-Miami Beach (Bay Link) Transportation Corridor Study, Transportation Improvements Connecting Government Center and Downtown Miami Beach Convention Center, Dade County, FL.

Summary: EPA expressed environmental concerns regarding social impacts, noise exposure, and aquatic resource impacts and recommends minimization or mitigation of these impacts.

Final EISs

ERP No. F–AFS–L65400–ID, The West Gold Creek Project, Forest Management Activities Plan, Implementation, Idaho Panhandle National Forests, Sandpoints Ranger District, Bonner County, ID.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–L03012–AK, Renewal of Federal Grant for the Trans-Alaska Pipeline System, Right-of-Way Grant and Approvals, AK.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–BLM–L60107–OR, Coos County Natural Gas Transmission Pipeline Construction, Operation and Maintenance, Roseburg to Coos Bay, Right-of-Way Grant, Coos Bay District, Coos County, OR.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–FHW–C40151–NY, County Road (Mill Hill Road and Glen Road) Improvements, Howard Drive to NY–9N including a New Bridge over the East Branch of the Ausable River, Funding and U.S. Army COE Section 404 Permit Issuance, Essex County, NY.

Summary: EPA continued to express environmental concerns with the project's cumulative impacts and impacts to wetlands.

ERP No. F–FTA–K59002–AZ, Central Phoenix/East Valley Light Rail Transit Corridor Construction, Operation and Maintenance, Funding, Cities of Phoenix, Tempe and Mesa, Maricopa County, AZ.

Summary: No formal comment letter was sent to the preparing agency.

ERP No. F–SFW–K70008–AZ, Roosevelt Habitat Conservation Plan, Issuance of an Incidental Take Permit to Allow Continued Operation of Roosevelt Dam and Lake, Implementation, Gila and Maricopa Counties, AZ.

Summary: No formal comment letter was sent to the preparing agency.

Dated: January 13, 2003.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 03–1048 Filed 1–16–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7440–4]

Extension of Public Comment Period on the General National Pollutant Discharge Elimination System Permits for Log Transfer Facilities in Alaska: AK–G70–0000 and AK–G70–1000

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of public comment period on two general National Pollutant Discharge Elimination System (NPDES) permits for log transfer facilities in Alaska.

SUMMARY: The Director, Office of Water, EPA Region 10, is extending the public comment period on the proposed modifications of the two general National Pollutant Discharge Elimination System (NPDES) permits for Alaskan log transfer facilities (LTFs) and the project area zone of deposit to January 27, 2003.

DATES: Interested persons may submit written comments on the proposed modifications to general NPDES permits AK–G70–0000 and AK–G70–1000 and on the project area zone of deposit on or before January 27, 2003.

ADDRESSES: Comments must be sent to the attention of Alaskan LTF Public Comments, EPA Region 10 (OW–130), 1200 Sixth Avenue, Seattle, WA 98101. All comments should include the name of the commenter, a concise statement of the comment, and the relevant facts upon which the comment is based.

FOR FURTHER INFORMATION CONTACT: The NPDES Permits Unit, EPA Region 10 Office of Water, Seattle, Washington, at (206) 553–0775.

SUPPLEMENTARY INFORMATION: On October 22, 2002, the EPA published the public notice of its request for comment on proposed modifications to two general permits for Alaskan log transfer facilities and a project area zone of deposit (67 FR 64885). On November 13, 2002, the EPA provided supplemental information and extended the public comment period for 60 days (67 FR 68869). That comment period ends January 13, 2003. On January 8, 2003, Sealaska submitted a request to extend the public comment period to January 27, 2003. This notice grants that request.

Administrative Record: The two draft general NPDES permit nos. AK–G70–0000 and AK–G70–1000, the October 22, 2002, **Federal Register** notice, the November 13, 2002, **Federal Register** notice, and this **Federal Register** notice are available for inspection and copying at six locations: (a) EPA–Juneau, 709 West 9th Street, room 223A; (b) ADEC–Juneau, 410 Willoughby Avenue, suite 200; (c) EPA–Anchorage, 222 West 7th Avenue, room 19; (d) ADEC–Anchorage, 555 Cordova Street; (e) ADEC–Ketchikan, 540 Water Street; and (f) EPA–Seattle, 1200 Sixth Avenue, 10th floor library. These documents are also available on EPA Region 10's internet site at *http://www.epa.gov/r10earth/.* The administrative record for the proposed modifications reflected in the draft general NPDES permits AK–G70–0000 and AK–G70–1000 and the project area zone of deposit can be reviewed in the EPA's Seattle Office, 1200 Sixth Avenue, 13th Floor.

Dated: January 9, 2003.

Randall F. Smith,

Director, Office of Water, Region 10.

[FR Doc. 03–1147 Filed 1–16–03; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

RIN 3052–AC13

Loan Policies and Operations; Loan Syndication Transactions

AGENCY: Farm Credit Administration.

ACTION: Notice.

SUMMARY: The Farm Credit Administration (FCA) is seeking public

comment on the regulatory treatment of Farm Credit System (FCS or System) loan syndication transactions. The FCA has received requests to provide guidance about the scope of System institutions' authorities to engage in syndications that non-System lenders originate, and the FCA seeks input from the public before it responds.

DATES: Please send your comments to the FCA by February 18, 2003.

ADDRESSES: You may send comments by electronic mail to *reg-comm@fca.gov* or through the Pending Regulations section of FCA's Web site, *http://www.fca.gov.* You may also send comments to Thomas G. McKenzie, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or by facsimile to (703) 734–5784. You may review copies of all comments we receive at our office in McLean, Virginia.

FOR FURTHER INFORMATION CONTACT: Dennis K. Carpenter, Senior Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TTY (703) 883–4434; or Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TTY (703) 883–2020.

SUPPLEMENTARY INFORMATION:

I. Background

System institutions have asked the FCA to provide guidance on the regulatory treatment of loan syndications that they enter into with non-System lenders. The FCA Board recognizes the importance of funding to agriculture and rural America through multilender transactions, including loan syndications and participations.

The Board acknowledges that System institutions may desire to engage in loan syndications for many different reasons, some of which would include:

- Diversification of an institution's portfolio, which is often concentrated in certain industries or geographic regions;
- Diversification of an institution's portfolio relative to loan size and risk exposure limits;
- Increased revenue and in many cases, cooperative patronage arising from lower cost of credit delivery;
- Networking—strengthening cooperation and relationships between FCS institutions and non-System lenders;
- Increased knowledge of specific industries;
- Support for existing and potential customer bases; and
- Expanded opportunities to provide complementary services such as appraisal services, industry expertise, loan origination and payment collection expertise, and administrative capacity.

Several System institutions have suggested that loan syndications should be treated as part of their participation authority. However, we have previously indicated that loan syndication transactions come within the System's direct loan authorities. If loan syndications were treated as within the System's direct loan authority, the System's share of a loan syndication would be subject to the stock purchase, borrower rights, and territorial concurrence requirements of the Farm Credit Act of 1971, as amended (Act) and applicable regulations. In addition, Farm Credit banks operating under title I of the Act that have transferred their direct lending authority to their affiliated associations would not be authorized to enter into loan syndications. Finally, System institutions would not be authorized to purchase assignments of loan syndications from outside the System.

II. Questions

We recognize that the financial markets and the funding needs of agriculture continue to evolve. We support the need of the System to evolve with agriculture and the financial markets. Therefore, we seek your comments on the following:

1. What is the proper regulatory treatment of loan syndications?

2. Assuming syndication transactions are within the System's loan-making authority, should the FCA consider regulatory changes that allow: (a) Borrowers to waive borrower rights in syndication transactions; and (b) associations to take part in syndications to eligible borrowers who are located in the chartered territories of other associations without consent?

3. If the FCA would choose to recommend legislative changes to Congress regarding the System's authority to engage in various types of multilender transactions with non-System lenders, what specifically should the FCA include in its recommendation?

Dated: January 14, 2003.

Jeanette C. Brinkley,

Secretary, Farm Credit Administration Board.

[FR Doc. 03–1136 Filed 1–16–03; 8:45 am]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 9:35 a.m. on Tuesday, January 14, 2003, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director James E. Gilleran (Director, Office of Thrift Supervision), seconded by Vice Chairman John M. Reich, concurred in by Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2) and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2) and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: January 15, 2003.

Federal Deposit Insurance Corporation:

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 03–1233 Filed 1–15–03; 1:06 pm]

BILLING CODE 6714–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1450–DR]

Arkansas; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Arkansas (FEMA–1450–DR), dated January 6, 2003, and related determinations.

EFFECTIVE DATE: January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 6, 2003, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of Arkansas, resulting from a severe ice storm on December 3–4, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act). I, therefore, declare that such a major disaster exists in the State of Arkansas.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance in the designated areas, and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under section 408 of the Stafford Act is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alexander S. Wells of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Arkansas to have been affected adversely by this declared major disaster:

Baxter, Clay, Cleburne, Craighead, Fulton, Greene, Independence, Izard, Jackson, Lawrence, Newton, Poinsett, Randolph, Searcy, Sharp, Stone, Van Buren, and White Counties for Public Assistance.

All counties within the State of Arkansas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560 Individual and Household Program-Other Needs, 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program)

Joe M. Allbaugh,

Director.

[FR Doc. 03–1088 Filed 1–16–03; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1449–DR]

Federated States of Micronesia; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the Federated States of Micronesia (FEMA–1449–DR), dated January 6, 2003, and related determinations.

EFFECTIVE DATE: January 6, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 6, 2003, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the Federated States of Micronesia, resulting from Typhoon Pongsona on December 5–7, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (Stafford Act). I, therefore, declare that such a major disaster exists in the Federated States of Micronesia.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide assistance for debris removal and emergency protective measures (Categories A and B), including direct Federal assistance, under Public Assistance in the designated areas, and any other forms of assistance under the Stafford Act you may deem appropriate subject to completion of Preliminary Damage Assessments. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under section 408 of the Stafford Act and Hazard Mitigation are later warranted, Federal funding under these programs will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint David Fukutomi of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the Federated States of Micronesia to have been affected adversely by this declared major disaster:

Chuuk State for debris removal and emergency protective measures (Categories A and B) under the Public Assistance program, including direct Federal assistance at 75 percent Federal funding.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560 Individual and Household Program-Other Needs, 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 03–1089 Filed 1–16–03; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1448–DR]

North Carolina; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of North Carolina, (FEMA–1448–DR), dated December 12, 2002, and related determinations.

EFFECTIVE DATE: January 8, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of North Carolina is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of December 12, 2002:

Richmond County for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560 Individual and Household Program-Other Needs, 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 03–1090 Filed 1–16–03; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–1451–DR]

South Carolina; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Carolina (FEMA–1451–DR), dated January 8, 2003, and related determinations.

EFFECTIVE DATE: January 8, 2003.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Response and Recovery Directorate, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705 or *Magda.Ruiz@fema.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated January 8, 2003, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act), as follows:

I have determined that the damage in certain areas of the State of South Carolina, resulting from a severe ice storm on December 4–6, 2002, is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121–5206 (the Stafford Act).

I, therefore, declare that such a major disaster exists in the State of South Carolina.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Public Assistance limited to debris removal (Category A), emergency protective measures (Category B), and utilities (Category F) in the designated areas, and Hazard Mitigation throughout the State, and any other forms of assistance under the Stafford Act you may deem appropriate. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance and Hazard Mitigation will be limited to 75 percent of the total eligible costs. If Other Needs Assistance under section 408 of the Stafford Act is later requested and warranted, Federal funds provided under that program will also be limited to 75 percent of the total eligible costs.

Further, you are authorized to make changes to this declaration to the extent allowable under the Stafford Act.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Charles M. Butler of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Carolina to have been affected adversely by this declared major disaster:

Cherokee, Greenville, Laurens, Spartanburg, Union, and York Counties for debris removal (Category A), emergency protective measures (Category B), and public utilities (Category F) under the Public Assistance program.

All counties within the State of South Carolina are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 83.537, Community Disaster Loans; 83.538, Cora Brown Fund Program; 83.539, Crisis Counseling; 83.540, Disaster Legal Services Program; 83.541, Disaster Unemployment Assistance (DUA); 83.556, Fire Management Assistance; 83.558, Individual and Household Housing; 83.559, Individual and Household Disaster Housing Operations; 83.560 Individual and Household Program-Other Needs, 83.544, Public Assistance Grants; 83.548, Hazard Mitigation Grant Program.)

Joe M. Allbaugh,

Director.

[FR Doc. 03–1087 Filed 1–16–03; 8:45 am]

BILLING CODE 6718–02–P

FEDERAL HOUSING FINANCE BOARD

[No. 2003–N–2]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (Bank) members it has selected for the 2002–03 fourth quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which Bank members selected for review must submit Community Support Statements to the Finance Board.

DATES: Bank members selected for the 2002–03 fourth quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before March 3, 2003.

ADDRESSES: Bank members selected for the 2002–03 fourth quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail at the Office of Supervision, Community Investment & Affordable Housing, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006, or by electronic mail at *FITZGERALDE@FHFB.GOV.*

FOR FURTHER INFORMATION CONTACT: Emma J. Fitzgerald, Program Analyst, Office of Supervision, Community Investment & Affordable Housing, by telephone at (202) 408–2874, by electronic mail at *FITZGERALDE@FHFB.GOV,* or by regular mail at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at (202) 408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the

Finance Board to promulgate regulations establishing standards of community investment or service Bank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1). The regulations promulgated by the Finance Board must take into account factors such as the Bank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board has promulgated a community support requirement regulation that establishes standards a Bank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR part 944. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. 12 CFR 944.3. Only members subject to the CRA must meet the CRA standard. 12 CFR 944.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. 12 CFR 944.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each Bank district for community support review each calendar quarter. 12 CFR 944.2(a). The Finance Board will not review an institution's community support performance until it has been a Bank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each Bank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the March 3, 2003 deadline prescribed in this notice. 12 CFR 944.2(b)(1)(ii) and (c). On or before January 31, 2003, each Bank will notify the members in its district that have been selected for the 2002–03 fourth quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. 12 CFR 944.2(b)(2)(i). The member's Bank will provide a blank Community Support Statement Form, which also is available on the Finance Board's Web site: *WWW.FHFB.GOV.* Upon request, the member's Bank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 2002–03 fourth quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Union Savings Bank, Danbury, Connecticut
Jewett City Savings Bank, Jewett City, Connecticut
The First National Bank of Litchfield, Litchfield, Connecticut
Naugatuck Valley Savings and Loan Association, Inc., Naugatuck, Connecticut
New Haven Savings Bank, New Haven, Connecticut
Newtown Savings Bank, Newtown, Connecticut
Fairfield County Savings Bank, Norwalk, Connecticut
Ridgefield Bank, Ridgefield, Connecticut
Cornerstone Bank, Stamford, Connecticut
First County Bank, Stamford, Connecticut
Patriot National Bank, Stamford, Connecticut
Dutch Point Credit Union, Wethersfield, Connecticut
Windsor Locks Federal Credit Union, Windsor Locks, Connecticut
Bangor Federal Credit Union, Bangor, Maine
Bangor Savings Bank, Bangor, Maine
Bar Harbor Savings and Loan Association, Bar Harbor, Maine
Northeast Bank FSB, Lewiston, Maine
First Citizens Bank, N.A., Presque Isle, Maine
York County Federal Credit Union, Sanford, Maine
South Adams Savings Bank, Adams, Massachusetts
Athol Credit Union, Athol, Massachusetts
Barre Savings Bank, Barre, Massachusetts
Taupa Lithuanian Federal Credit Union, Boston, Massachusetts
Horizon Bank and Trust Company, Braintree, Massachusetts
Cambridgeport Bank, Brighton, Massachusetts
Crescent Credit Union, Brockton, Massachusetts
Brookline Savings Bank, FSB, Brookline, Massachusetts
Boston Federal Savings Bank, Burlington, Massachusetts
Cambridge Trust Company, Cambridge, Massachusetts
North Cambridge Co-operative Bank, Cambridge, Massachusetts
Canton Cooperative Bank, Canton, Massachusetts
Meetinghouse Co-operative Bank, Dorchester, Massachusetts
The Edgartown National Bank, Edgartown, Massachusetts
Fidelity Cooperative Bank, Fitchburg, Massachusetts
Fitchburg Savings Bank, FSB, Fitchburg, Massachusetts
Greenfield Co-operative Bank, Greenfield, Massachusetts
Haverhill Co-operative Bank, Haverhill, Massachusetts
Hyde Park Cooperative Bank, Hyde Park, Massachusetts
Ipswich Co-operative Bank, Ipswich, Massachusetts
Leominster Credit Union, Leominster, Massachusetts
Lowell Co-operative Bank, Lowell, Massachusetts
Marlborough Savings Bank, Marlborough, Massachusetts
The Milford National Bank and Trust Company, Milford, Massachusetts
Natick Federal Savings Bank, Natick, Massachusetts
Institution for Savings, Newburyport, Massachusetts
North Abington Co-operative Bank, North Abington, Massachusetts
Rockland Federal Credit Union, Rockland, Massachusetts
South Coastal Bank, Rockland, Massachusetts
Heritage Co-operative Bank, Salem, Massachusetts
Salem Five Cents Savings Bank, Salem, Massachusetts
Southbridge Credit Union, Southbridge, Massachusetts
Stoneham Savings Bank, Stoneham, Massachusetts
First Federal Savings Bank of America, Swansea, Massachusetts
Country Bank for Savings, Ware, Massachusetts
Wellesley Co-operative Bank, Wellesley, Massachusetts
South Shore Co-operative Bank, Weymouth, Massachusetts
Winchester Co-operative Bank, Winchester, Massachusetts
Bay State Savings Bank, Worcester, Massachusetts
Cape Cod Cooperative Bank, Yarmouth Port, Massachusetts
Centrix Bank and Trust, Bedford, New Hampshire
The Berlin City Bank, Berlin, New Hampshire
Village Bank & Trust Company, Gilford, New Hampshire
Granite Bank, Keene, New Hampshire
Lancaster National Bank, Lancaster, New Hampshire
Holy Rosary Regional Credit Union, Rochester, New Hampshire
Profile Bank, FSB, Rochester, New Hampshire
Bank of Newport, Newport, Rhode Island

Citizens Bank of Rhode Island, Providence, Rhode Island
Greenwood Credit Union, Warwick, Rhode Island
Westerly Savings Bank, Westerly, Rhode Island
Brattleboro Savings & Loan Association, FA, Brattleboro, Vermont
Lyndonville Savings Bank & Trust Company, Lyndonville, Vermont
First Community Bank, Woodstock, Vermont

Federal Home Loan Bank of New York—District 2

Cape Savings Bank, Cape May Court House, New Jersey
United Roosevelt Savings Bank, Carteret, New Jersey
Commerce Bank, N.A., Cherry Hill, New Jersey
Unity Bank, Clinton, New Jersey
1st Constitution Bank, Cranbury, New Jersey
Delanco Federal Savings Bank, Delanco, New Jersey
Pinnacle Federal Credit Union, Edison, New Jersey
Columbia Bank, Fair Lawn, New Jersey
Haven Savings Bank, Hoboken, New Jersey
National Union Bank of Kinderhook, Kinderhook, New Jersey
Manasquan Savings Bank, Manasquan, New Jersey
Equity Bank NA, Marlton, New Jersey
West Essex Bank, Pinebrook, New Jersey
1st Bank of Sea Isle City, Sea Isle City, New Jersey
Somerset Valley Bank, Somerville, New Jersey
Union Center National Bank, Union, New Jersey
Wawel Savings Bank, SLA. Wallington, New Jersey
Crest Savings Bank, Wildwood, New Jersey
Bridgehampton National Bank, Bridgehampton, New York
Atlas Savings and Loan Association, Brooklyn, New York
Visions Federal Credit Union, Endicott, New York
Tompkins Trust Company, Ithaca, New York
Mid-Hudson Valley Federal Credit Union, Kingston, New York
Medina Savings & Loan Association, Medina, New York
Emigrant Savings Bank, New York, New York
Greenpoint Bank, New York, New York
Isreal Discount Bank of New York, New York, New York
NBT Bank, N.A., Norwich, New York
The Oneida Savings Bank, Oneida, New York
The Suffolk County National Bank, Riverhead, New York
Adirondack Bank, N.A., Saranac Lake, New York
Sawyer Savings Bank, Saugerties, New York
Bank of Smithtown, Smithtown, New York
Walden Federal Savings and Loan Association, Walden, New York
Fourth Federal Savings Bank, White Plains, New York
First Central Savings Bank, Whitestone, New York
City & Suburban Federal Savings Bank, Yonkers, New York
Westernbank Puerto Rico, Mayaguez, Puerto Rico
Banco Bilbao Vizcaya Argentaria Puerto Rico, San Juan, Puerto Rico

Federal Home Loan Bank of Pittsburgh—District 3

Christiana Bank & Trust Company, Greenville, Delaware
ING Bank, F.S.B., Wilmington, Delaware
First National Bank of Wyoming, Wyoming, Delaware
American Bank, Allentown, Pennsylvania
Iron Workers Savings Bank, Aston, Pennsylvania
Brentwood Bank, Bethel Park, Pennsylvania
Madison Bank, Blue Bell, Pennsylvania
National Penn Bank, Boyertown, Pennsylvania
Union Building and Loan Savings Bank, Bridgewater, Pennsylvania
Community Bank and Trust Company, Clarks Summit, Pennsylvania
Clearfield Bank & Trust Company, Clearfield, Pennsylvania
First Financial Savings Bank, Downingtown, Pennsylvania
Suburban Community Bank, Feasterville, Pennsylvania
Vartan National Bank, Harrisburg, Pennsylvania
The Dime Bank, Honesdale, Pennsylvania
Indiana First Savings Bank, Indiana, Pennsylvania
Jim Thorpe National Bank, Jim Thorpe, Pennsylvania
FirstService Bank, Lansdale, Pennsylvania
Manor National Bank, Manor, Pennsylvania
Province Bank, FSB, Marietta, Pennsylvania
First National Bank of Marysville, Marysville, Pennsylvania
Standard Bank, PaSB, Monroeville, Pennsylvania
Commonwealth Bank, Norristown, Pennsylvania
American Heritage Federal Credit Union, Philadelphia, Pennsylvania
Commerce Bank Pennsylvania NA, Philadelphia, Pennsylvania
Philadelphia Trust Company, Philadelphia, Pennsylvania
Roxborough Manayunk Bank, Philadelphia, Pennsylvania
SB1 Federal Credit Union, Philadelphia, Pennsylvania
New Century Bank, Phoenixville, Pennsylvania
Allegheny Valley Bank of Pittsburgh, Pittsburgh, Pennsylvania
Mt. Troy Savings Bank, FSB, Pittsburgh, Pennsylvania
PNC Bank, NA, Pittsburgh, Pennsylvania
Schuylkill Savings & Loan Association, Schuylkill Haven, Pennsylvania
Somerset Trust Company, Somerset, Pennsylvania
Omega Bank, N.A., State College, Pennsylvania
Mechanics Savings Bank, Steelton, Pennsylvania
First County Bank, Warrington, Pennsylvania
Guard Security Bank, Wilkes-Barre, Pennsylvania
Compass Federal Savings Bank, Wilmerding, Pennsylvania
Sovereign Bank, FSB, Wyomissing, Pennsylvania
Capital State Bank, Charleston, West Virginia
Hancock County Savings Bank FSB, Chester, West Virginia
Citizens National Bank of Elkins, Elkins, West Virginia
Monongahela Valley Bank, Inc., Fairmont, West Virginia
Fayette County National Bank, Fayetteville, West Virginia
Rock Branch Community Bank, Nitro, West Virginia
The Bank of Romney, Romney, West Virginia
Traders Bank, Spencer, West Virginia
Progressive Bank, Wheeling, West Virginia

Federal Home Loan Bank of Atlanta—District 4

Alabama Central Credit Union, Birmingham, Alabama
America's First Federal Credit Union, Birmingham, Alabama
Citizens Federal Savings Bank, Birmingham, Alabama
First Educators Credit Union, Birmingham, Alabama
Sloss Federal Credit Union, Birmingham, Alabama
SouthTrust Bank, Birmingham, Alabama
First Bank of Boaz, Boaz, Alabama
Town-Country National Bank, Camden, Alabama
Coosa Pines Federal Credit Union, Childersburg, Alabama
Heritage Bank, Decatur, Alabama
Escambia County Bank, Flomaton, Alabama

First Federal Bank, Fort Payne, Alabama
Traders and Farmers Bank, Haleyville, Alabama
City Bank of Hartford, Hartford, Alabama
First National Bank of Jasper, Jasper, Alabama
Pinnacle Bank, Jasper, Alabama
Marion Bank and Trust Company, Marion, Alabama
Merchants & Farmers Bank, Millport, Alabama
Farmers and Merchants Bank, Piedmont, Alabama
Bank of Pine Hill, Pine Hill, Alabama
Alabama Credit Union, Tuscaloosa, Alabama
First Federal Bank, A Federal Savings Bank, Tuscaloosa, Alabama
Alabama Exchange Bank, Tuskegee, Alabama
AmeriFirst Bank, Union Springs, Alabama
Small Town Bank, Wedowee, Alabama
Bank of York, York, Alabama
Department of Veterans Affairs FCU, Washington, D.C.
Independence Federal Savings Bank, Washington, D.C.
Community National Bank of Bartow, Bartow, Florida
First Southern Bank, Boca Raton, Florida
Platinum Bank, Brandon, Florida
Citizens and Peoples Bank, N.A., Cantonment, Florida
Crown Bank, A Federal Savings Bank, Casselberry, Florida
First National Bank of Nassau County, Fernandian Beach, Florida
Harbor Federal Savings Bank, Fort Pierce, Florida
Citizens Bank of Frostproof, Frostproof, Florida
Millennium Bank, Gainesville, Florida
Homosassa Springs Bank, Homosassa Springs, Florida
The Jacksonville Bank, Jacksonville, Florida
Columbia County Bank, Lake City, Florida
Premier Community Bank of Florida, Largo, Florida
City National Bank of Florida, Miami, Florida
Intercredit Bank, N.A, Miami, Florida
Interamerican Bank, a Federal Savings Bank, Miami, Florida
Metro Bank of Dade County, Miami, Florida
Northern Trust Bank of Florida, N.A., Miami, Florida
Pacific National Bank, Miami, Florida
Farmers and Merchants Bank, Monticello, Florida
The First National Bank of Mount Dora, Mount Dora, Florida
Citizens National Bank of S.W. Florida, Naples, Florida
Fairwinds Credit Union, Orlando, Florida
First Commercial Bank of Florida, Orlando, Florida
Southern Community Bank, Orlando, Florida
Lydian Private Bank, Palm Beach Gardens, Florida
Union Bank of Florida, Plantation, Florida
GulfStream Community Bank, Port Richey, Florida
First Peoples Bank, Port St. Lucie, Florida
Community Educators Credit Union of Brevard, Rockledge, Florida
Suncoast National Bank, Sarasota, Florida
Public Bank, St. Cloud, Florida
Cornerstone Community Bank, St. Petersburg, Florida
First Community Bank of America, St. Petersburg, Florida
GTE Federal Credit Union, Tampa, Florida
The Terrace Bank of Florida, Tampa, Florida
Valrico State Bank, Valrico Florida
Premier Community Bank, Venice Florida
Fidelity Federal Bank & Trust, West Palm Beach, Florida
Grand Bank & Trust of Florida, West Palm Beach, Florida
The Perkins State Bank, Williston, Florida
Albany Bank and Trust, Albany, Georgia
Bank of North Georgia, Alpharetta, Georgia
North Atlanta National, Bank, Alpharetta, Georgia
Sun Trust Bank, Atlanta, Atlanta, Georgia
United Americas Bank, NA, Atlanta, Georgia
First Port City Bank, Bainbridge, Georgia
Peoples State Bank and Trust, Baxley, Georgia
The Coastal Bank of Georgia, Brunswick, Georgia
Peoples Bank of West Georgia, Carrollton, Georgia
West Georgia National, Bank Carrollton,Georgia
Unity National, Bank, Cartersville, Georgia
Tippins Bank and Trust Company, Claxton, Georgia
Liberty National Bank, Conyers, Georgia
The Citizens Bank of Forsyth County, Cumming, Georgia
Alliance National Bank, Dalton, Georgia
Dalton Whitfield Bank, Dalton, Georgia
First Bank of Dalton, Dalton, Georgia
Decatur First Bank, Decatur, Georgia
Farmers and Merchants Bank, Dublin, Georgia
The Peachtree Bank, Duluth, Georgia
The Bank of Edison, Edison, Georgia
Colony Bank of Fitzgerald, Fitzgerald, Georgia
Community Banking Co. of Fitzgerald, Fitzgerald, Georgia
Farmers State Bank, Lumpkin, Georgia
F&M Bank and Trust Company, Manchester, Georgia
Riverside Bank, Marietta, Georgia
Southern National Bank, Marietta, Georgia
The Security State Bank, McRae, Georgia
First Bank of Coastal Georgia, Pembroke, Georgia
First Peoples Bank, Pine Mountain, Georgia
Colony Bank Quitman, FSB, Quitman, Georgia
Citizens Bank of Washington County, Sandersville, Georgia
Bank of Hancock County, Sparta, Georgia
Eagle National Bank, Stockbridge, Georgia
First National Bank of Johns Creek, Suwancee, Georgia
Colony Bank Worth, Sylvester, Georgia
Thomas County FS&LA, Thomasville, Georgia
Stephens Federal Bank, Toccoa, Georgia
Bank of Dade, Trenton, Georgia
Mountain National Bank, Tucker, Georgia
Altamaha Bank and Trust Company, Uvalda, Georgia
Commercial Banking Company, Valdosta, Georgia
Darby Bank and Trust Company, Vidalia, Georgia
Vidalia Federal Savings and LA, Vidalia, Georgia
Bank of Dooly, Vienna, Georgia
The Peoples Bank of Willacoochee, Willacoochee, Georgia
The Peoples Bank, Winder, Georgia
Talbot State Bank, Woodland, Georgia
Hartford National Bank, Aberdeen, Maryland
Arundel Federal Savings Bank, Baltimore, Maryland
Chesapeake Bank of Maryland, Baltimore, Maryland
Fairmount Federal Savings Bank, Baltimore, Maryland
Golden Prague Federal FS&LA, Baltimore, Maryland
Hopkins Federal Savings Bank, Baltimore, Maryland
Madison Square Federal Savings Bank, Baltimore, Maryland
Municipal Employees CU of Baltimore, Baltimore, Maryland
Parkville Federal Savings Bank, Baltimore, Maryland
Rosedale Federal Savings & LA, Baltimore, Maryland
Westview Savings Bank, Baltimore, Maryland
Bay Net, A Community Bank, Bel Air, Maryland

Chevy Chase Bank, Bethesda, Maryland
Marriott Employees FCU, Bethesda, Maryland
The Washington Savings Bank, F.S.B., Bowie, Maryland
The National Bank of Cambridge, Cambridge, Maryland
U.S. Postal Service Credit Union, Clinton, Maryland
The Bank of Delmarva, N.A., Delmar, Maryland
The Patapsco Bank, Dundalk, Maryland
Farmers and Mechanics National Bank, Frederick, Maryland
Montgomery County Teachers FCU, Gaithersburg, Maryland
OBA Federal Savings Bank, Gaithersburg, Maryland
Suburban Federal Savings Bank, Crofton, Maryland
Library of Congress FCU, Lanham, Maryland
Maryland Permanent Bank and Trust, Owings Mills, Maryland
National Institute of Health FCU, Rockville, Maryland
Senator Savings Bank, FSB, Towson, Maryland
Community Bank of Tri-County, Waldorf, Maryland
Woodsboro Bank, Woodsboro, Maryland
Asheville Savings Bank, Asheville, North Carolina
The Bank of Asheville, Asheville, North Carolina
First State Bank, Burlington, North Carolina
Crescent State Bank, Cary, North Carolina
Charlotte Metro Credit Union, Charlotte, North Carolina
First Trust Bank, Charlotte, North Carolina
Sharonview Federal Credit Union, Charlotte, North Carolina
Cherryville Federal S&L Association, Cherryville, North Carolina
First Federal Savings Bank, Dunn, North Carolina
Mutual Community SB, SSB, Durham, North Carolina
Seymour Johnson Federal Credit Union, Goldsboro, North Carolina
First Federal Savings Bank, Lincolnton, North Carolina
Progressive Savings Bank, Lumberton, North Carolina
Mooresville Savings Bank, SSB, Mooresville, North Carolina
Lumbee Guaranty Bank, Pembroke, North Carolina
North Carolina Local Government Employees, Raleigh, North Carolina
Paragon Commercial Bank, Raleigh, North Carolina
Roanoke Valley Savings Bank, SSB, Roanoke Rapids, North Carolina
Roxboro Savings Bank, SSB, Roxboro, North Carolina
First South Bank, Washington, North Carolina
WNC Community Credit Union, Waynesville, North Carolina
Truliant Federal Credit Union, Winston-Salem, North Carolina
Abbeville Savings and LA, Abbeville, South Carolina
The Bank of Abbeville, Abbeville, South Carolina
South Carolina Federal Credit Union, North Charleston, South Carolina
First Federal Savings and LA, Cheraw, South Carolina
The Conway National Bank, Conway, South Carolina
First Piedmont FS&LA, Gaffney, South Carolina
First Savers Bank, Greenville, South Carolina
S.C. Telco Federal Credit Union, Greenville, South Carolina
Citizens Building and Loan Association, Greer, South Carolina
Mutual Savings Bank, Hartsville, South Carolina
Atlantic Savings Bank, FSB, Hilton Head Island, South Carolina
The Commercial Bank, Honea Path, South Carolina
Founders Federal Credit Union, Lancaster, South Carolina
First Community Bank, N.A., Lexington, South Carolina
Pee Dee Federal Savings Bank, Marion, South Carolina
Coastal Federal Bank, Myrtle Beach, South Carolina
Family Trust Federal Credit Union, Rock Hill, South Carolina
Oconee Federal S&LA, Seneca, South Carolina
Seneca National Bank, Seneca, South Carolina
New Commerce Bank, NA, Greenville, South Carolina
Community First Bank, Walhalla, South Carolina
Bank of Walterboro, Walterboro, South Carolina
First Federal of South Carolina, FSB, Walterboro, South Carolina
James Monroe Bank, Arlington,Virginia
Citizens Bank and Trust Company, Blackstone, Virginia
First Community Bank, N.A., Bluefield, Virginia
Albemarle First Bank, Charlottesville, Virginia
Monarch Bank, Chesapeake, Virginia
Alliance Bank Corporation, Fairfax, Virginia
Cardinal Bank, N.A., Fairfax, Virginia
Acacia Federal Savings Bank, Falls Church, Virginia
First Virginia Bank, Falls Church, Virginia
Virginia Savings Bank, F.S.B., Front Royal, Virginia
Virginia Community Bank, Louisa, Virginia
Community First Bank, Lynchburg, Virginia
First Federal S&LA, Martinsville, Virginia
Community Bankers' Bank, Midlothian, Virginia
Harbor Bank, Newport News, Virginia
Newport News Shipbuilding Employees Credit Union, Inc., Newport News, Virginia
1st Advantage FCU, Newport News, Virginia
Essex Savings Bank, F.S.B., Norfolk, Virginia
TowneBank, Portsmouth, Virginia
Community National Bank, Pulaski, Virginia
Millennium Bank, N.A. Reston, Virginia
Richmond Federal Credit Union, Richmond, Virginia
First-Citizens Bank, a Virginia Corp., Roanoke, Virginia
Shenandoah Life Insurance Company, Roanoke, Virginia
Bank of Tazewell County, Tazewell, Virginia
Approved Federal Savings Bank, Virginia Beach, Virginia
Shenandoah Valley National Bank, Winchester, Virginia
Fort Belvoir Federal Credit Union, Woodbridge, Virginia

Federal Home Loan Bank, of Cincinnati—District 5

Home Federal Savings and Loan Association of Ashland, Ashland, Kentucky
Bank of Buffalo, Buffalo, Kentucky
The First National Bank of Columbia, Columbia, Kentucky
Kentucky Federal Savings and Loan Association, Covington, Kentucky
Fort Campbell Federal Credit Union, Fort Campbell, Kentucky
First National Bank of Northern Kentucky, Ft. Mitchell, Kentucky
South Central Bank of Barre, Glasgow, Kentucky
Greensburg Deposit Bank and Trust Company, Greensburg, Kentucky
First Security Bank of Lexington, Lexington, Kentucky
The Casey County Bank, Liberty, Kentucky
Independence Bank, Livermore, Kentucky
Laurel National Bank, London, Kentucky
Commonwealth Bank and Trust Company, Louisville, Kentucky
Louisville Community Development Bank, Louisville, Kentucky
PRP National Bank, Louisville, Kentucky
Home Savings Bank, fsb, Ludlow, Kentucky

Community First Bank, Madisonville, Kentucky
First Guaranty Bank, Martin, Kentucky
Bank of Maysville, Maysville, Kentucky
Hart County Bank and Trust Company, Munfordville, Kentucky
The Farmers Bank, Nicholasville, Kentucky
First Security Bank of Owensboro, Owensboro, Kentucky
Owingsville Banking Company, Owingsville, Kentucky
Family Bank, FSB, Paintsville, Kentucky
Community Trust Bank, National Association, Pikeville, Kentucky
Madison Bank, Richmond, Kentucky
Cumberland Security Bank, Somerset, Kentucky
Citizens National Bank, Somerset, Kentucky
Commercial Bank, West Liberty, Kentucky
The Antwerp Exchange Bank Company, Antwerp, Ohio
Hocking Valley Bank, Athens, Ohio
Rockhold Brown and Company Bank, Bainbridge, Ohio
Citizens Federal Savings and Loan Association of Bellefontaine, Bellefontaine, Ohio
The Citizens Bank Company, Beverly, Ohio
Castalia Banking Company, Castalia, Ohio
Mercer Savings Bank, Celina, Ohio
The Cheviot Building and Loan Company, Cheviot, Ohio
Cincinnati Federal Savings and Loan Association, Cincinnati, Ohio
Cincinnati Police Federal Credit Union, Cincinnati, Ohio
Kemba Cincinnati Credit Union, Cincinnati, Ohio
The North Side Bank and Trust Company, Cincinnati, Ohio
National City Bank, Cleveland, Ohio
Ohio Savings Bank, Cleveland, Ohio
The Home Loan Savings Bank, Coshocton, Ohio
The Covington Savings and Loan Association, Covington, Ohio
The Citizens Bank of De Graff, De Graff, Ohio
Employees Own Federal Credit Union, Defiance, Ohio
The Delaware County Bank & Trust Company, Delaware, Ohio
The Northern Savings and Loan Company, Elyria, Ohio
The Genoa Savings and Loan Company, Genoa, Ohio
The First National Bank, Germantown, Ohio
Indian Village Community Bank, Gnadenhutten, Ohio
Chaco Credit Union, Hamilton, Ohio
The Hicksville Bank, Hicksville, Ohio
The Citizens Bank of Higginsport, Higginsport, Ohio
Salt Creek Valley Bank, Laurelville, Ohio
The Home Builders Association, Lynchburg, Ohio
The Bank of Magnolia Company, Magnolia, Ohio
The Citizens Savings Bank, Martins Ferry, Ohio
Peoples Building, Loan and Savings Company, Mason, Ohio
Western Reserve Bank, Medina, Ohio
Bramble Federal Savings & Loan Association of Cincinnati, Milford, Ohio
First Clermont Bank, Milford, Ohio
The Commercial & Savings Bank of Millersburg, Millersburg, Ohio
The Nelsonville Home and Savings Association, Nelsonville, Ohio
Peoples National Bank, New Lexington, Ohio
Geauga Savings Bank, Newbury, Ohio
The First National Bank of Pandora, Pandora, Ohio
Century Bank, F.S.B., Parma, Ohio
Farmers Bank and Savings Company, Pomeroy, Ohio
The St. Henry Bank, St. Henry, Ohio
The Arlington Bank, Upper Arlington, Ohio
The Commercial Savings Bank, Upper Sandusky, Ohio
The First Citizens NB of Upper Sandusky, Upper Sandusky, Ohio
The Versailles Savings and Loan Company, Versailles, Ohio
First National Bank of Waverly, Waverly, Ohio
Commerce National Bank, Worthington, Ohio
Spring Valley Bank, Wyoming, Ohio
The Home Savings and Loan Company, Youngstown, Ohio
Century National Bank, Zanesville, Ohio
Athens Federal Community Bank, Athens, Tennessee
Bells Banking Company, Bells, Tennessee
Benton Banking Company, Benton, Tennessee
Bank of Bolivar, Bolivar, Tennessee
Premier Bank of Brentwood, Brentwood, Tennessee
People's Bank and Trust Company of Picket County, Byrdstown, Tennessee
Bank of Camden, Camden, Tennessee
Tennessee Valley Federal Credit Union, Chattanooga, Tennessee
Legends Bank, Clarksville, Tennessee
BankTennessee, Collierville, Tennessee
Greenfield Banking Company, Greenfield, Tennessee
First Peoples Bank of Tennessee, Jefferson City, Tennessee
Lawrenceburg FS&LA, Lawrenceburg, Tennessee
First Central Bank, Lenoir City, Tennessee
Community National Bank, Lexington, Tennessee
Union Bank & Trust Company, Livingston, Tennessee
City of Memphis Credit Union, Memphis, Tennessee
EFS National Bank, Memphis, Tennessee
Farmers State Bank, Mountain City, Tennessee
Citizens Savings Bank & Trust Company, Nashville, Tennessee
Community Bank, Nashville, Tennessee
Tennessee Teachers Credit Union, Nashville, Tennessee
First Trust & Savings Bank, Oneida, Tennessee
The FNB of Oneida, Tennessee, Oneida, Tennessee
Citizens Bank and Trust Company of Grainger County, Rutledge, Tennessee
The Bank of Waynesboro, Waynesboro, Tennessee

Federal Home Loan Bank of Indianapolis—District 6

Knisley National Bank of Butler, Butler, Indiana
Heritage Bank & Trust Company, Darlington, Indiana
Elberfeld State Bank, Elberfeld, Indiana
Dana Federal Credit Union, Fort Wayne, Indiana
Mutual Savings Bank, Franklin, Indiana
First State Bank, Greenwood, Indiana
Bank Calumet National Association, Hammond, Indiana
First Federal S&L, Hammond, Indiana
Citizens First State Bank, Hartford City, Indiana
Central Indiana School Educators Credit Union, Indianapolis, Indiana
First Indiana Bank, a FSB, Indianapolis, Indiana
FORUM Credit Union, Indianapolis, Indiana
Meridian Security Insurance Company, Indianapolis, Indiana
The Lafayette Life Insurance Company, Lafayette, Indiana
Farmers State Bank, LaGrange, Indiana
Linden State Bank, Linden, Indiana
MFB Financial, Mishawaka, Indiana
St. Joseph Capital Bank, Mishawaka, Indiana
Hometown National Bank, New Albany, Indiana
West End Savings Bank, Richmond, Indiana
Scott County State Bank, Scottsburg, Indiana
Communitywide Federal Credit Union, South Bend, Indiana
Indiana State University Federal Credit Union, Terre Haute, Indiana
Steel Parts Federal Credit Union, Tipton, Indiana
Home Building Savings Bank, FSB, Washington, Indiana
Purdue Employees Federal Credit Union, West Lafayette, Indiana

The Randolph County Bank, Winchester, Indiana
TLC Community Credit Union, Adrian, Michigan
School Employees Credit Union, Bay City, Michigan
Brighton Commerce Bank, Brighton, Michigan
Macomb Community, Clinton Township, Michigan
Community Bank of Dearborn, Dearborn, Michigan
Dearborn Federal Credit Union, Dearborn, Michigan
Communicating Arts Credit Union, Detroit, Michigan
First Independence, Detroit, Michigan
Michigan State University FCU, East Lansing, Michigan
Northern Michigan, Escanaba, Michigan
MetroBank, Farmington Hills, Michigan
Citizens Bank, Flint, Michigan
Grand Haven Bank, Grand Haven, Michigan
Grand Rapids Teachers Credit Union, Grand Rapids, Michigan
Mercantile Bank, of West Michigan, Grand Rapids, Michigan
Northpointe Bank, Grand Rapids, Michigan
Old Kent Bank, Grand Rapids, Michigan
Greenville Community Bank, Greenville, Michigan
Mainstreet Savings Bank, FSB, Hastings, Michigan
The Bank of Holland, Holland, Michigan
Honor State Bank, Honor, Michigan
Ionia County National Bank, Ionia, Michigan
First National Bank of Iron Mountain, Iron Mountain, Michigan
Capital National Bank, Lansing, Michigan
E&A Credit Union, Marysville, Michigan
Mayville State Bank, Mayville, Michigan
Dow Chemical Employee Credit Union, Midland, Michigan
Wolverine Bank, FSB, Midland, Michigan
First General Credit Union, Muskegon, Michigan
Northland Area Federal Credit Union, Oscoda, Michigan
Port Austin State Bank, Port Austin, Michigan
Portage Commerce Bank, Portage, Michigan
Central Savings Bank, Sault Ste. Marie, Michigan
Sturgis Bank and Trust Company, Sturgis, Michigan
First Savings Bank, a Federal Savings Bank, Three Rivers, Michigan
Howmet Credit Union, Whitehall, Michigan
Macatawa Bank, Zeeland, Michigan

Federal Home Loan Bank of Chicago—District 7

Citizens National Bank of Albion, Albion, Illinois
GreatBank, Algonquin, Illinois
Farmers State Bank of Western Illinois, Alpha, Illinois
Anna National Bank, Anna, Illinois
Apple River State Bank, Apple River, Illinois
Arcola Homestead Savings Bank, Arcola, Illinois
The First National Bank of Arcola, Arcola, Illinois
First National Bank of Arenzville, Arenzville, Illinois
Ben Franklin Bank of Illinois, Arlington Heights, Illinois
First Northwest Bank, Arlington Heights, Illinois
State Bank of Ashland, Ashland, Illinois
Farmers State Bank Astoria, Astoria, Illinois
The Atlanta National Bank, Atlanta, Illinois
First State Bank, Atwood, Illinois
Bartonville Bank, Bartonville, Illinois
Scott State Bank, Bethany, Illinois
First State Bank of Bloomington, Bloomington, Illinois
Midland Federal Savings and Loan Association, Bridgeview, Illinois
First National Bank of Brookfield, Brookfield, Illinois
Farmers and Merchants State Bank of Bushnell, Bushnell, Illinois
Byron Bank, Byron, Illinois
First State Bank of Campbell Hill, Campbell Hill, Illinois
The Egyptian State Bank, Carrier Mills, Illinois
Carrollton Bank, Carrollton, Illinois
BankIllinois, Champaign, Illinois
University of Illinois Employees Credit Union, Champaign, Illinois
State Bank of Cherry, Cherry, Illinois
Bank of Chestnut, Chestnut, Illinois
American Metro Bank, Chicago, Illinois
Associated Bank, Chicago, Illinois
Chesterfield Federal Savings and Loan Association, Chicago, Illinois
Chicago Patrolmens Federal Credit Union, Chicago, Illinois
Hoyne Savings Bank, Chicago, Illinois
Loomis Federal Savings & Loan Association, Chicago, Illinois
Mid-City National Bank of Chicago, Chicago, Illinois
North Side FS&LA of Chicago, Chicago, Illinois
Seaway National Bank, Chicago, Illinois
Second Federal Savings and Loan Association of Chicago, Chicago, Illinois
Royal Savings Bank, Chicago, Illinois
United Airlines Employees' Credit Union, Chicago, Illinois
Heritage Bank, Chicago Heights, Illinois
Central Federal Savings and Loan Association, Cicero, Illinois
Mid America Bank, FSB, Clarendon Hills, Illinois
DeWitt Savings Bank, Clinton, Illinois
First Federal Bank, Colchester, Illinois
First Collinsville Bank, Collinsville, Illinois
Crystal Lake Bank & Trust Company, N.A., Crystal Lake, Illinois
Soy Capital Bank & Trust Company, Decatur, Illinois
Baxter Credit Union, Deerfield, Illinois
Castle Bank, N.A., DeKalb, Illinois
Delafield State Bank, Delafield, Illinois
Downers Grove National Bank, Downers Grove, Illinois
Dunlap State Bank, Dunlap, Illinois
Erie State Bank, Erie, Illinois
Community First Bank, Fairview Heights, Illinois
Bank of Farmington, Farmington, Illinois
First United Bank, Frankfort, Illinois
Galena State Bank & Trust Company, Galena, Illinois
Community State Bank, Galva, Illinois
Gifford State Bank, Gifford, Illinois
Howard Savings Bank, Glenview, Illinois
The Bank of Godfrey, Godfrey, Illinois
Guardian Savings Bank FSB, Granite City, Illinois
Hamel State Bank, Hamel, Illinois
Security State Bank of Hamilton, Hamilton, Illinois
Harvard Savings Bank, Harvard, Illinois
Mutual Bank, Harvey, Illinois
WestBank, Hillside, Illinois
Community Bank of Hopedale, Hopedale, Illinois
Joy State Bank, Joy, Illinois
First Trust Bank of Illinois, Kankakee, Illinois
First National Bank of LaGrange, LaGrange, Illinois
Cambridge Bank, Lake Zurich, Illinois
Exchange State Bank, Lanark, Illinois
The Lemont National Bank & Trust Company, Lemont, Illinois
State Bank of Lincoln, Lincoln, Illinois
Bank & Trust Company, Litchfield, Illinois
Union Bank/West, Macomb, Illinois
Malden State Bank, Malden, Illinois
Prairie State Bank, Marengo, Illinois
First National Bank of Marshall, Marshall, Illinois
Continental Community Bank, Maywood, Illinois
A.J. Smith Federal Savings Bank, Midlothian, Illinois
Southeast National Bank, Moline, Illinois
Marquette Bank Monmouth, Monmouth, Illinois
Security Savings Bank, Monmouth, Illinois
Farmers State Bank Chadwick & Mt. Carroll, Mt. Carroll, Illinois

Farmers State Bank and Trust Company, Mt. Sterling, Illinois
The First National Bank, Mulberry Grove, Illinois
Hawthorn Bank, Mundelein, Illinois
First County Bank, New Baden, Illinois
Warren-Boynton State Bank, New Berlin, Illinois
The Peoples State Bank of Newton, Newton, Illinois
The Old Exchange National Bank of Okawville, Okawville, Illinois
First Personal Bank, Orland Park, Illinois
Ottawa Savings Bank, Ottawa, Illinois
Peoples Bank & Trust, Pana, Illinois
State Bank of Paw Paw, Paw Paw, Illinois
Farmers-Merchants National Bank of Paxton, Paxton, Illinois
First Capital Bank, Peoria, Illinois
The Heights Bank, Peoria Heights, Illinois
Central State Bank, Pleasant Hill, Illinois
Pleasant Plains State Bank, Pleasant Plains, Illinois
Northwest Community Bank, Prospect Heights, Illinois
Town & Country Bank of Quincy, Quincy, Illinois
Western Catholic Union, Quincy, Illinois
Rantoul First Bank, S.B., Rantoul, Illinois
First National Bank of Raymond, Raymond, Illinois
First Ridge Farm State Bank, Ridge Farm, Illinois
Lincoln State Bank, S.B., Rochelle, Illinois
Community State Bank of Rock Falls, Rock Falls, Illinois
Associated Bank Illinois, Rockford, Illinois
Rushville State Bank, Rushville, Illinois
American Chartered Bank, Schaumburg, Illinois
AmericaUnited Bank & Trust Company USAS chaumburg, Illinois
First FS&LA of Shelbyville, IL, Shelbyville, Illinois
State Bank of Speer, Speer, Illinois
Illini Bank, Springfield, Illinois
Union Bank of Illinois, Swansea, Illinois
Tuscola National Bank, Tuscola, Illinois
Petefish, Skiles and Company Bank, Virginia, Illinois
Bank of Warrensburg, Warrensburg, Illinois
Western Springs National Bank and Trust, Western Springs, Illinois
First DuPage Bank, Westmont, Illinois
First National Bank of Winnebago, Winnebago, Illinois
State Bank Winslow-Warren, Winslow, Illinois
Wyoming Bank and Trust, Wyoming, Illinois
State Bank, Wonder Lake, Illinois
Keystone Community Bank, Kalamazoo, Michigan
The Portage County Bank, Almond, Wisconsin
Bay Bank, Ashwaubenon, Wisconsin
Pioneer Bank, Auburndale, Wisconsin
The First National Bank of Baldwin, Baldwin, Wisconsin
The First National Bank and Trust Co. of Baraboo, Baraboo, Wisconsin
Black River Country Bank, Black River Falls, Wisconsin
Bonduel State Bank, Bonduel, Wisconsin
Red Cedar Bank, National Association, Boyceville, Wisconsin
Bank of Cashton, Cashton, Wisconsin
Chetek State Bank, Chetek, Wisconsin
Dairyman's State Bank, Clintonville, Wisconsin
Farmers & Merchants Union Bank, Columbus, Wisconsin
Wisconsin Community Bank, Cottage Grove, Wisconsin
Cumberland Federal Bank, FSB, Cumberland, Wisconsin
Community Bank of Grafton, Grafton, Wisconsin
Highland State Bank, Highland, Wisconsin
Park Bank, Holmen, Wisconsin
Security State Bank, Iron River, Wisconsin
East Wisconsin Savings Bank, S.A., Kaukauna, Wisconsin
Greenwood's State Bank, Lake Mills, Wisconsin
Heartland Credit Union, Madison, Wisconsin
State Capitol Credit Union, Madison, Wisconsin
First National Bank—Fox Valley, Menasha, Wisconsin
First Bank & Trust, Menomonie, Wisconsin
Associated Bank South Central, Middleton, Wisconsin
Bank of Milton, Milton, Wisconsin
Milwaukee Western Bank, Milwaukee, Wisconsin
Mutual Savings Bank, Milwaukee, Wisconsin
St. Francis Bank, FSB, Milwaukee, Wisconsin
Universal Savings Bank, Milwaukee, Wisconsin
Associated Bank, N.A., Neenah, Wisconsin
Clare Bank, N.A., Platteville, Wisconsin
First National Bank of Platteville, Platteville, Wisconsin
Mound City Bank, Platteville, Wisconsin
The FNB of River Falls, River Falls, Wisconsin
Intercity State Bank, Schofield, Wisconsin
Community Bank & Trust, Sheboygan, Wisconsin
Bank of Sun Prairie, Sun Prairie, Wisconsin
Superior National Bank, Superior, Wisconsin
Shoreline Credit Union, Two Rivers, Wisconsin
The State Bank of Viroqua, Viroqua, Wisconsin
Walworth State Bank, Walworth, Wisconsin
First Federal Savings Bank of Wisconsin, Waukesha, Wisconsin
Sunset Bank and Savings, Waukesha, Wisconsin
KeySavings Bank, Wisconsin Rapids, Wisconsin
River Cities Bank, Wisconsin Rapids, Wisconsin
Wood County National Bank, Wisconsin Rapids, Wisconsin

Federal Home Loan Bank of Des Moines—District 8

Gateway Savings Bank, Ankeny, Iowa
Landmands National Bank, Audubon, Iowa
Community Bank of Boone, Boone, Iowa
Commercial Savings Bank, Carroll, Iowa
Iowa Savings Bank, Carroll, Iowa
Page County State Bank, Clarinda, Iowa
Linn County State Bank, Coggon, Iowa
Farmers Savings Bank, Colesburg, Iowa
Columbus Junction State Bank, Columbus Junction, Iowa
Okey Vernon First National Bank, Corning, Iowa
Corydon State Bank, Corydon, Iowa
Fortress Bank of Cresco, Cresco, Iowa
Alliant Credit Union, Dubuque, Iowa
Valley Bank, Eldridge, Iowa
First National Bank in Fairfield, Fairfield, Iowa
Farmers Savings Bank, Fostoria, Iowa
Grinnell Mutual Reinsurance Company, Grinnell, Iowa
Security State Bank, Hubbard, Iowa
Farmers State Bank, Jesup, Iowa
American Interstate Bank, Manning, Iowa
First State Bank of Mapleton, Mapleton, Iowa
Maxwell State Bank, Maxwell, Iowa
Bridge Community Bank, Mechanicsville, Iowa
State Bank and Trust Company, Nevada, Iowa
New Vienna Savings Bank, New Vienna, Iowa
First Newton National Bank, Newton, Iowa
First State Bank, Nora Springs, Iowa
Farmers State Bank, Northwood, Iowa
First National Bank of Oelwein, Oelwein, Iowa
City State Bank, Ogden, Iowa
American State Bank, Osceola, Iowa
Panora State Bank, Panora, Iowa
Marion County State Bank, Pella, Iowa
Perry State Bank, Perry, Iowa

Savings Bank, Primghar, Iowa
Readlyn Savings Bank, Readlyn, Iowa
Community Savings Bank, Robins, Iowa
Premier Bank, Rock Valley, Iowa
Home State Bank, Royal, Iowa
Iowa State Bank, Sac City, Iowa
Sanborn Savings Bank, Sanborn, Iowa
Community State Bank, Spencer, Iowa
The State Bank, Spirit Lake, Iowa
Union Bank & Trust Company, Strawberry Point, Iowa
State Bank of Toledo, Toledo, Iowa
Farmers Savings Bank, Walford, Iowa
Iowa State Bank, Wapello, Iowa
Washington Federal Savings Bank, Washington, Iowa
Security State Bank, Waverly, Iowa
State Bank of Waverly, Waverly, Iowa
First State Bank, Webster City, Iowa
Freedom Financial Bank, West Des Moines, Iowa
Westside State Savings Bank, Westside, Iowa
Farmers & Merchants State Bank, Winterset, Iowa
Union State Bank, Winterset, Iowa
First State Bank of Alexandria, Alexandria, Minnesota
Altura State Bank, Altura, Minnesota
Lakewood Bank, N.A., Baxter, Minnesota
First State Bank of Bayport, Bayport, Minnesota
First National Bank Bemidji, Bemidji, Minnesota
American National Bank of Minnesota, Brainerd, Minnesota
State Bank of Bricelyn, Bricelyn, Minnesota
State Bank of Chanhassen, Chanhassen, Minnesota
Farmers and Merchants State Bank of Clarkfield, Clarkfield, Minnesota
The First National Bank of Coleraine, Coleraine, Minnesota
Farmers State Bank of Dent, Dent, Minnesota
Northwestern Bank, N.A., Dilworth, Minnesota
Western National Bank, Duluth, Minnesota
Fidelity Bank, Edina, Minnesota
State Bank of Fairmont, Fairmont, Minnesota
Franklin State Bank, Franklin, Minnesota
Commerce Bank, Geneva, Minnesota
First National Bank of Gilbert, Gilbert, Minnesota
Eagle Bank, Glenwood, Minnesota
Yellow Medicine County Bank, Granite Falls, Minnesota
Northwestern State Bank of Hallock, Hallock, Minnesota
1st American State Bank of Minnesota, Hancock, Minnesota
First Southeast Bank, Harmony, Minnesota
Farmers State Bank of Hartland, Hartland, Minnesota
Merchants Bank, N.A., Hastings, Minnesota
Exchange State Bank of Hills, Hills, Minnesota
First Federal fsb, Hutchinson, Minnesota
United Prairie Bank—Jackson, Jackson, Minnesota
Community Bank Minnesota Valley, Jordan, Minnesota
CornerStone State Bank, Le Sueur, Minnesota
First Community Bank Lester Prairie, Lester Prairie, Minnesota
Center National Bank, Litchfield, Minnesota
State Bank of Loretto, Loretto, Minnesota
First National Bank of Luverne, Luverne, Minnesota
Northern Star Bank, Mankato, Minnesota
First National Bank of Montgomery, Montgomery, Minnesota
United Farmers & Merchants State Bank, Morris, Minnesota
St. Paul Postal Employees Credit Union, North St. Paul, Minnesota
Northland Community Bank, Northome, Minnesota
Citizens State Bank Norwood Young, Norwood Young America, Minnesota
Washington County Bank, N.A., Oakdale, Minnesota
Odin State Bank, Odin, Minnesota
Prinsburg State Bank, Prinsburg, Minnesota
Randall State Bank, Randall, Minnesota
Woodland Bank, Remer, Minnesota
Home Federal Savings Bank, Rochester, Minnesota
North Star Bank, Roseville, Minnesota
First State Bank of Rush City, Rush City, Minnesota
First Community Bank, Savage, Minnesota
Security State Bank of Sebeka, Sebeka, Minnesota
First Community Bank Silver Lake, Silver Lake, Minnesota
St. Anthony Park State Bank, St. Paul, Minnesota
Heartland State Bank, Storden, Minnesota
Peoples State Bank of Truman, Inc., Truman, Minnesota
Victoria State Bank, Victoria, Minnesota
Integrity Plus Bank, Wabasso, Minnesota
Centennial National Bank, Walker, Minnesota
The First National Bank of Walker, Walker, Minnesota
Citizens State Bank of Waverly, Waverly, Minnesota
Wells Federal Bank, fsb, Wells, Minnesota
First State Bank of Southwest, Worthington, Minnesota
Worthington Federal Savings Bank, F.S.B., Worthington, Minnesota
First Missouri National Bank, Brookfield, Missouri
Community First Bank, Butler, Missouri
BC National Banks, Butler, Missouri
Carroll County Trust Company, Carrollton, Missouri
Chillicothe State Bank, Chillicothe, Missouri
Investors National Bank, Chillicothe, Missouri
Boone National Savings & Loan Association, F.A., Columbia, Missouri
Concordia Bank of Concordia, Concordia, Missouri
The Citizens Bank of Edina, Edina, Missouri
First State Community Bank, Farmington, Missouri
Ozarks Federal Savings and Loan, Farmington, Missouri
The Callaway Bank, Fulton, Missouri
Northland National Bank, Gladstone, Missouri
Bank Northwest, Hamilton, Missouri
Hannibal National Bank, Hannibal, Missouri
Bank of Hayti, Hayti, Missouri
Eagle Bank & Trust Company of Missouri, Hillsboro, Missouri
The Bank of Houston, Houston, Missouri
Bank of Iberia, Iberia, Missouri
Jefferson City Highway Credit Union, Jefferson City, Missouri
Business Men's Assurance Company of America, Kansas City, Missouri
Generations Bank, Kansas City, Missouri
Kansas City Life Insurance Company, Kansas City, Missouri
Kennett National Bank, Kennett, Missouri
Bank of Kimberling City, Kimberling City, Missouri
Lamar Bank & Trust Company, Lamar, Missouri
The First National Bank, Lamar, Missouri
Central Bank, Lebanon, Missouri
Midwest Bank Centre, Lemay, Missouri
Linn State Bank, Linn, Missouri
Mercantile Bank of Louisiana, Louisiana, Missouri
First National Bank, Malden, Missouri
Community Bank of Marshall, Marshall, Missouri
Wood & Huston Bank, Marshall, Missouri
First National Bank of Audrain County, Mexico, Missouri
Peoples Bank of the Ozarks, Nixa, Missouri
First Midwest Bank of Piedmont, Piedmont, Missouri
Peoples Savings Bank of Rhineland, Rhineland, Missouri
The State Bank, Richmond, Missouri
Town & Country Bank, Salem, Missouri

Farmers State Bank, S/B, Schell City, Missouri
Third National Bank of Sedalia, Sedalia, Missouri
Senath State Bank, Senath, Missouri
The Community Bank of Shell Knob, Shell Knob, Missouri
Citizens National Bank of Springfield, Springfield, Missouri
Old Missouri National Bank, Springfield, Missouri
First State Bank of St. Charles, St. Charles, Missouri
Lindell Bank & Trust Company, St. Louis, Missouri
Pioneer Bank & Trust Company, St. Louis, Missouri
The PrivateBank, St. Louis, Missouri
Bank of Thayer, Thayer, Missouri
Quarry City Savings and Loan Association, Warrensburg, Missouri
First State Bank of Cando, Cando, North Dakota
Citizens State Bank—Midwest, Cavalier, North Dakota
Farmers State Bank, Elgin, North Dakota
State Bank of Fargo, Fargo, North Dakota
Union State Bank of Fargo, Fargo, North Dakota
U.S. Bank N.A., Fargo, North Dakota
Wells Fargo Bank, North Dakota, N.A., Fargo, North Dakota
State Bank and Trust of Kenmare, Kenmare, North Dakota
Farmers and Merchants State Bank, Langdon, North Dakota
United Community Bank of North Dakota, Leeds, North Dakota
First Western Bank & Trust, Minot, North Dakota
Lakeside State Bank, New Town, North Dakota
McKenzie County Bank, Watford City, North Dakota
First State Bank of Claremont, Claremont, South Dakota
BankStar Financial, Elkton, South Dakota
Farmers State Bank, Flandreau, South Dakota
Dakotaland Federal Credit Union, Huron, South Dakota
BankFirst, Sioux Falls, South Dakota
Home Federal Bank, Sioux Falls, South Dakota
F&M Bank, Watertown, South Dakota
Wilmot State Bank, Wilmot, South Dakota
First National Bank South Dakota, Yankton, South Dakota

Federal Home Loan Bank of Dallas—District 9

River Valley Bank, Russellville, Alabama
First Community Bank of Batesville, Batesville, Arkansas
Farmers Bank and Trust Company, Blytheville, Arkansas
First State Bank, Conway, Arkansas
Bank of Dardanelle, Dardanelle, Arkansas
First Financial Bank, El Dorado, Arkansas
Fordyce Bank & Trust Company, Fordyce, Arkansas
Forrest City Bank, N.A., Forrest City, Arkansas
Benefit Bank, Ft. Smith, Arkansas
First State Bank, Huntsville, Arkansas
Simmons First Bank of South Arkansas, Lake Village, Arkansas
Bank of Lockesburg, Lockesburg, Arkansas
Southern State Bank, Malvern, Arkansas
Bank of Mulberry, Mulberry, Arkansas
First National Bank at Paris, Paris, Arkansas
Delta Trust & Bank, Parkdale, Arkansas
Pine Bluff National Bank, Pine Bluff, Arkansas
Simmons First Bank of Northwest Arkansas, Rogers, Arkansas
The First National Bank of Springdale, Springdale, Arkansas
Red River Bank, Alexandria, Louisiana
East Federal Credit Union, Baton Rouge, Louisiana
Bank of Coushatta, Coushatta, Louisiana
St. Tammany Homestead Savings & Loan Association, Covington, Louisiana
City Savings Bank & Trust Company, DeRidder, Louisiana
Teche Federal Savings Bank, Franklin, Louisiana
Florida Parishes Bank, Hammond, Louisiana
Coastal Commerce Bank, Houma, Louisiana
Synergy Bank, Houma, Louisiana
LBA Savings Bank, Lafayette, Louisiana
Guaranty Savings and Homestead Association, Metairie, Louisiana
Mutual Savings and Loan Association, Metairie, Louisiana
Eureka Homestead, New Orleans, Louisiana
Hibernia Homestead & Savings Association, New Orleans, Louisiana
Peoples Bank & Trust Company of Pointe Coupee Parish, Inc., New Roads, Louisiana
Homestead Bank, Ponchatoula, Louisiana
Bank of West Baton Rouge, Port Allen, Louisiana
Richland State Bank, Rayville, Louisiana
Bank, of Ringgold, Ringgold, Louisiana
Ruston Building & Loan Association, Ruston, Louisiana
First Louisiana Bank, Shreveport, Louisiana
Bank of St. Francisville, St. Francisville, Louisiana
American Bank, Welsh, Louisiana
The Bank of Commerce, White Castle, Louisiana
Amory Federal Savings & Loan Association, Amory, Mississippi
Spirit Bank, Belmont, Mississippi
The Peoples Bank, Biloxi, Mississippi
Bank of Brookhaven, Brookhaven, Mississippi
The Cleveland State Bank, Cleveland, Mississippi
Commerce National Bank, Corinth, Mississippi
Bank of Holly Springs, Holly Springs, Mississippi
First National Bank of Pine Belt, Laurel, Mississippi
Community Bank, Meridian, Mississippi
Britton & Koontz First National Bank, Natchez, Mississippi
Senatobia Bank, Senatobia, Mississippi
Mechanics Bank, Water Valley, Mississippi
Wells Fargo Bank New Mexico, N.A., Albuquerque, New Mexico
International Bank, Raton, New Mexico
First National Bank of Ruidoso, Ruidoso, New Mexico
Tucumcari Federal Savings & Loan Association, Tucumcari, New Mexico
First State Bank, Athens, Texas
The First National Bank of Athens, Athens, Texas
Southwest Resource Credit Union, Baytown, Texas
First National Bank of Bridgeport, Bridgeport, Texas
Citizens State Bank, Chandler, Texas
Citizens State Bank, Cross Plains, Texas
Zavala County Bank, Crystal City, Texas
Dallas National Bank, Dallas, Texas
Dallas Teachers Credit Union, Dallas, Texas
Mercantile Bank & Trust, FSB, Dallas, Texas
Landmark Bank N.A., Denison, Texas
First United Bank, Dimmitt, Texas
First National Bank, Dublin, Texas
Union State Bank, Florence, Texas
Fort Worth National Bank, Fort Worth, Texas
Omni American Federal Credit Union, Fort Worth, Texas
First State Bank, Frankston, Texas
Security Bank, N.A., Garland, Texas
Community Bank, Granbury, Texas
First State Bank, Grapeland, Texas
Hebbronville State Bank, Hebbronville, Texas
Community National Bank, Hondo, Texas
Central Bank, Houston, Texas
MetroBank, N.A., Houston, Texas
Paradigm Bank Texas, Houston, Texas
Reliance Standard Life Insurance Company of Texas, Houston, Texas
Southwestern National Bank, Houston, Texas
Woodforest National Bank, Houston, Texas
Austin Bank, Texas N.A., Jacksonville, Texas

Texas State Bank, Joaquin, Texas
First State Bank, Keene, Texas
First-Nichols National Bank, Kenedy, Texas
First National Bank of Lake Jackson, Lake Jackson, Texas
First Federal Savings & Loan Association, Littlefield, Texas
PNB Financial, Lubbock, Texas
Mason National Bank, Mason, Texas
Inter National Bank, McAllen, Texas
Security State Bank, McCamey, Texas
Mineola Community Bank, S.S.B., Mineola, Texas
City National Bank, Mineral Wells, Texas
American National Bank of Mt. Pleasant, Mt. Pleasant, Texas
Commercial Bank of Texas, N.A., Nacogdoches, Texas
Western National Bank, Odessa, Texas
Orange Savings Bank, Orange, Texas
Lone Star National Bank, Pharr, Texas
Beal Bank, SSB, Plano, Texas
Security National Bank, Quanah, Texas
South Padre Bank, N.A., South Padre Island, Texas
Town and Country Bank, Stephenville, Texas
Extraco Banks, N.A., Temple, Texas
Heritage Savings Bank, SSB, Terrell, Texas
First National Bank of Bosque County, Valley Mills, Texas
FirstCapital Bank, ssb, Victoria, Texas
Community Bank & Trust, Waco, Texas
First National Bank of Central Texas, Waco, Texas
Fannin Bank, Windom, Texas

Federal Home Loan Bank of Topeka—District 10

Citywide Bank of Denver, Aurora, Colorado
Commerce Bank, Aurora, Colorado
Premier Members Federal Credit Union, Boulder, Colorado
First Charter Federal Credit Union, Colorado Springs, Colorado
First National Bank, Cortez, Colorado
Del Norte Federal Savings & Loan Association, Del Norte, Colorado
Colorado United Credit Union, Denver, Colorado
Denver Police Federal Credit Union, Denver, Colorado
Premier Bank, Denver, Colorado
Bank of the San Juans, Durango, Colorado
FirstBank of Evergreen, Evergreen, Colorado
Fort Morgan State Bank, Fort Morgan, Colorado
Bank of Grand Junction, Grand Junction, Colorado
FirstBank of Greeley, Greeley, Colorado
First National Bank, Julesberg, Colorado
Kit Carson State Bank, Kit Carson, Colorado
The State Bank—La Junta, La Junta, Colorado
First National Bank of Lake City & Creede, Lake City, Colorado
Home State Bank, Loveland, Colorado
First National Bank of Paonia, Paonia, Colorado
FirstBank of Parker, Parker, Colorado
The First National Bank of Stratton, Stratton, Colorado
First National Bank in Belleville, Belleville, Kansas
Bank of Commerce, Chanute, Kansas
Home Savings Bank, Chanute, Kansas
Farmers and Merchants Bank, Colby, Kansas
Legacy Bank, Colwich, Kansas
The State Bank of Conway Springs, Conway Springs, Kansas
Farmers and Drovers Bank, Council Grove, Kansas
Citizens State Bank & Trust Company, Ellsworth, Kansas
State Bank of Fredonia, Fredonia, Kansas
Gardner National Bank, Gardner, Kansas
Community Bank of the Midwest, Great Bend, Kansas
Halstead Bank, Halstead, Kansas
Emprise Bank, NA, Hays, Kansas
First National Bank of Hoxie, Hoxie, Kansas
Security Bank of Kansas City, Kansas City, Kansas
Douglas County Bank, Lawrence, Kansas
First National Bank and Trust of Leavenworth, Leavenworth, Kansas
Horizon National Bank, Leawood, Kansas
Western National Bank, Lenexa, Kansas
Farmers National Bank of Lincoln, Lincoln, Kansas
The Lyons State Bank, Lyons, Kansas
Farmers State Bank, McPherson, Kansas
Mission Bank, Mission, Kansas
The Mulvane State Bank, Mulvane, Kansas
Farmers State Bank, Oakley, Kansas
First National Bank of Olathe, Olathe, Kansas
First Kansas Federal Savings Bank, Osawatomie, Kansas
Valley View State Bank, Overland Park, Kansas
Citizens State Bank, Paola, Kansas
University National Bank, Pittsburg, Kansas
Sedgwick State Bank, Sedgwick, Kansas
TriCentury Bank, Simpson, Kansas
The First National Bank and Trust, St. John, Kansas
First Bank, Sterling, Kansas
Valley State Bank, Syracuse, Kansas
The Tampa State Bank, Tampa, Kansas
Community National Bank, Topeka, Kansas
Kaw Valley State Bank and Trust Company, Topeka, Kansas
Chisholm Trail State Bank, Wichita, Kansas
INTRUST Bank, National Association, Wichita, Kansas
The State Bank, Winfield, Kansas
Bank of Wyandotte, Wyandotte, Kansas
Bank of the Valley, Bellwood, Nebraska
Bank of Bennington, Bennington, Nebraska
Washington County Bank, Blair, Nebraska
Custer Federal Savings & Loan Association, Broken Bow, Nebraska
First Central Bank, Cambridge, Nebraska
Citizens State Bank, Carleton, Nebraska
Deeuel County State Bank, Chappell, Nebraska
First Bank and Trust Company, Cozad, Nebraska
Jefferson County Bank, Daykin, Nebraska
First National Bank in Exeter, Exeter, Nebraska
Farnam Bank, Farnam, Nebraska
American National Bank of Fremont, Fremont, Nebraska
First State Bank, Fremont, Nebraska
Gothenburg State Bank and Trust Company, Gothenburg, Nebraska
Henderson State Bank, Henderson, Nebraska
First State Bank of Enders/Imperial, Imperial, Nebraska
Kearney State Bank and Trust Company, Kearney, Nebraska
Farmers State Bank, Maywood, Nebraska
First Central Bank McCook, National Association, McCook, Nebraska
Farmers and Merchants Bank, Milligan, Nebraska
Centennial Bank, Omaha, Nebraska
First National Bank of Omaha, Omaha, Nebraska
Nebraska State Bank of Omaha, Omaha, Nebraska
Potter State Bank of Potter, Potter, Nebraska
Peoples Webster City Bank, Red Cloud, Nebraska
First State Bank, Shelton, Nebraska
Hometown Bank, Sumner, Nebraska
Sutton State Bank, Sutton, Nebraska
First National Bank of Syracuse, Syracuse, Nebraska
CerescoBank, Wahoo, Nebraska
Citizens Bank of Ada, Ada, Oklahoma
First National Bank in Altus, Altus, Oklahoma
Stockmans Bank, Altus, Oklahoma
The First National Bank and Trust Company of Broken Arrow, Broken Arrow, Oklahoma
Bank of Commerce, Chelsea, Oklahoma
Farmers Exchange Bank, Cherokee, Oklahoma
First National Bank and Trust Company, Chickasha, Oklahoma
1st Bank Oklahoma, Claremore, Oklahoma
The First National Bank in Durant, Durant, Oklahoma

American Bank & Trust, Edmond, Oklahoma
Bank Elgin, N.A., Elgin, Oklahoma
Bank of Western Oklahoma, Elk City, Oklahoma
Liberty Federal Savings Bank, Enid, Oklahoma
Fairview Savings and Loan Association, Fairview, Oklahoma
Oklahoma State Bank, Guthrie, Oklahoma
City National Bank & Trust Company, Guymon, Oklahoma
The Bank of Kremlin, Kremlin, Oklahoma
Exchange National Bank of Moore, Moore, Oklahoma
The Morris State Bank, Morris, Oklahoma
Bank of Nichols Hills, Oklahoma City, Oklahoma
First Security Bank and Trust Company, Oklahoma City, Oklahoma
Oklahoma Educators Credit Union, Oklahoma City, Oklahoma
NBC Bank, Pawhuska, Oklahoma
Osage Federal Savings and Loan Association, Pawhuska, Oklahoma
Security Bank, , NA, Pawnee, Oklahoma
Exchange Bank and Trust Company, Perry, Oklahoma
Central Bank of Poteau, Poteau, Oklahoma
First Pryority Bank, Pryor, Oklahoma
Peoples Bank & Trust Company, Ryan, Oklahoma
InterBank, N.A., Sayre, Oklahoma
Southwest State Bank, Sentinel, Oklahoma
Advantage Bank, Spencer, Oklahoma
Bank of Commerce, Stilwell, Oklahoma
American Bank and Trust, Tulsa, Oklahoma
Bank South, NA, Tulsa, Oklahoma
Sooner State Bank, Tuttle, Oklahoma
Bank of Union, Union City, Oklahoma
First State Bank, Valliant, Oklahoma
Citizens' Bank, Velma, Oklahoma
First State Bank, Watonga, Oklahoma
Peoples Bank, Westville, Oklahoma
Yukon National Bank, Yukon, Oklahoma

Federal Home Loan Bank of San Francisco—District 11

Century Bank, Scottsdale, Arizona
Placer Sierra Bank, Auburn, California
Los Angeles National Bank, Buena Park, California
Burbank City Employees Federal Credit Union, Burbank, California
Western Security Bank, N.A., Burbank, California
Pan American Bank, FSB, Burlingame, California
Pacific Trust Bank, FSB, Chula Vista, California
Pacific Trust Federal Credit Union, Chula Vista, California
Clovis Community Bank, Clovis, California
Mt. Diablo National Bank, Danville, California
Rockwell Federal Credit Union, Downey, California
Hawthorne Savings, FSB, El Segundo, California
Centennial Bank, Fountain Valley, California
Murphy Bank, Fresno, California
Kerman State Bank, Kerman, California
Eldorado Bank, Laguna Hills, California
Marathon National Bank, Los Angeles, California
USC Federal Credit Union, Los Angeles, California
Yosemite Bank, Mariposa, California
Trust Bank, Monterey Park, California
Downey Savings and Loan Association, F.A., Newport Beach, California
American Commercial Bank, Oxnard, California
Kaiser Permanante Federal Credit Union, Pasadena, California
Heritage Oaks Bank, Paso Robles, California
Rancho Santa Fe National Bank, Rancho Santa Fe, California
Tehama Bank, Red Bluff, California
Redlands Centenial Bank, Redlands, California
Provident Central Credit Union, Redwood City, California
Provident Bank, Riverside, California
The Bank of Hemet, Riverside, California
First Federal Credit Union, Sacramento, California
River City Bank, Sacramento, California
Business Bank of California, San Bernardino, California
Neighborhood National Bank, San Diego, California
San Diego National Bank, San Diego, California
Bank of the Orient, San Francisco, California
Five Star Bank, San Francisco, California
Pacific Coast Bankers' Bank, San Francisco, California
Pacific IBM Employees Credit Union, San Jose, California
Tamalpais Bank, San Rafael, California
First National Bank of Central California, Santa Barbara, California
Santa Cruz Community Credit Union, Santa Cruz, California
Los Padres Bank, Solvang, California
Sonoma Valley Bank, Sonoma, California
Bank of Stockton, Stockton, California
South Bay Bank, Torrance, California
Sierra West Bank, Truckee, California
First Security Bank of California, NA, West Covina, California
Universal Bank, West Covina, California
Quaker City Bank, Whittier, California
Feather River State Bank, Yuba City, California
Business Bank of Nevada, Las Vegas, Nevada

Federal Home Loan Bank of Seattle—District 12

Credit Union 1, Anchorage, Alaska
Citizens Security Bank (Guam), Inc., Agana, Guam
FirstBank Northwest, Lewiston, Idaho
Idaho Central Credit Union, Pocatello, Idaho
Panhandle State Bank, Sandpoint, Idaho
First Citizens Bank of Billings, Billings, Montana
First Citizens Bank of Butte, Butte, Montana
Dutton State Bank, Dutton, Montana
Heritage Bank, Fort Benton, Montana
Valley Bank of Glasgow, Glasgow, Montana
1st Liberty Federal Credit Union, Great Falls, Montana
Independence Bank, Havre, Montana
First National Bank of Lewistown, Lewistown, Montana
Empire Bank, Livingston, Montana
Community Bank-Missoula, Inc., Missoula, Montana
First Security Bank of Missoula, Missoula, Montana
Ronan State Bank, Ronan, Montana
Basin State Bank, Stanford, Montana
Pioneer Bank, A F.S.B., Baker City, Oregon
Evergreen FS & LA, Grants Pass, Oregon
Bank of Eastern Oregon, Heppner, Oregon
Klamath First FS & LA, Klamath Falls, Oregon
South Valley Bank and Trust, Klamath Falls, Oregon
American Pacific Bank, Portland, Oregon
Bank of America Oregon, N.A., Portland, Oregon
USU Community Credit Union, Logan, Utah
BMW Bank of North America, Salt Lake City, Utah
Franklin Templeton Bank & Trust, F.S.B., Salt Lake City, Utah
Washington Mutual Bank, Salt Lake City, Utah
Valley Bank, Auburn, Washington
American Marine Bank, Bainbridge Island, Washington
Charter Bank, Bellevue, Washington
Fife Commercial Bank, Fife, Washington
The Bank of Washington, Lynnwood, Washington
Whidbey Island Bank, Oak Harbor, Washington
Olympia Federal Savings & Loan Association, Olympia, Washington
Twin County Credit Union, Olympia, Washington
First FS & LA of Port Angeles, Port Angeles, Washington

Riverview Community Bank, Riverview, Washington
Asia Europe Americas Bank, Seattle, Washington
Key Bank, N.A., Seattle, Washington
Northwest International Bank, Seattle, Washington
Seattle Savings Bank, Seattle, Washington
Washington Mutual Bank, Seattle, Washington
Western United Life Assurance Company, Seattle, Washington
Simpson Community Federal Credit Union, Shelton, Washington
Farmers & Merchants Bank of Rockford, Spokane, Washington
Old Standard Life Insurance Company, Spokane, Washington
Yakima Federal Savings and Loan Association, Yakima, Washington
American National Bank of Rock Springs, Rock Springs, Wyoming
The Rock Springs National Bank, Rock Springs, Wyoming
Tri-County Bank, Torrington, Wyoming

II. Public Comments

To encourage the submission of public comments on the community support performance of Bank members, on or before January 31, 2003, each Bank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 2002–03 fourth quarter review cycle. 12 CFR 944.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. 12 CFR 944.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 2002–03 fourth quarter review cycle must be delivered to the Finance Board on or before the March 3, 2003 deadline for submission of Community Support Statements. By the Federal Housing Finance Board.

Dated: January 9, 2003.

Arnold Intrater,

General Counsel.

[FR Doc. 03–785 Filed 1–16–03; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period.

Transaciton No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination, 12/09/2002			
20030026	National Fuel Gas Company	Duke Energy Corporation	Empire State Pipeline Company, Inc. St. Clair Pipeline Company, Inc.
Transactions Granted Early Termination, 12/10/2002			
20030134	Groupe Danone	Sparkling Spring Water Holdings Limited.	Sparking Spring Water Holdings Limited.
20030155	SHPS, Inc.	eBenX, Inc.	eBenX, Inc.
20030156	Visa U.S.A. Inc.	Visa International Service Association.	Inovant, Inc.
20030169	BC Gas Inc.	EnCana Corporation	EnCana Pipelines (USA) Inc. Express Holdings (USA) Inc.
20030178	O'Charley's Inc.	99 Boston Inc.	99 Boston Inc.
20030179	O'Charley's Inc.	Doe Family II, LLC	Doe Familym II, LLC.
Transactions Granted Early Termination, 12/11/2002			
20030141	The Charles A. Sammons 1987 Charitable Remainder Trust #2	Sun Life Financial Services of Canada Inc.	Clarica U.S. Inc.
Transactions Granted Early Termination, 12/12/2002			
20030112	3M Company	Corning Incorporated	Corning Precision Lens Incorporated.
Transactions Granted Early Termination, 12/13/2002			
20030124	Bertarelli & Cie	Amgen Inc.	Immunex Corporation
20030157	Behrman Capital III, L.P	Elan Corporation, plc	Athena Diagnostics, Inc.
20030174	Sherritt International Corporation	Fording Inc	Fording Inc.
20030176	Highfields Capital Ltd. c/o Goldman Sachs.	Stilwell Financial, Inc	Stilwell Financial, Inc.
20030185	Mohamed Bin Issa Al Jaber	Philipp Holzmann AG II	J.A. Jones Inc.
20030195	The Williams Companies, Inc	The Williams Companies, Inc	Gulf Liquids Holdings LLC
20030199	H.I.G. Capital Partners III, L.P	J.W. Child Equity Partners, L.P	DESA Holdings Corporation DESA International, Inc.

Transaciton No.	Acquiring	Acquired	Entities
Transactions Granted Early Termination, 12/16/2002			
20030163	Plug Power Inc.	H Power Corp	H Power Corp.
20030165	Cypress Merchant Banking Partners II.	RNC Acquisition Corp	RNC Acquisition Corp.
20030166	Cypress Merchant Banking Partners II L.P.	Republic National Cabinet Corporation.	Republic National Cabinet Corporation.
20030167	HSB Holding plc	Household International, Inc	Household International, Inc.
20030172	The Coca-Cola Company	Pokka Corporation	Pokka USA, Inc.
20030175	The Clorox Company	The Procter & Gramble Company	The Procter & Gamble Company
20030192	Earl E. Payton	Vigilant Holdings LLC	Trend Holdings, Inc.
20030193	Bank of America Corporation	Vector Capital Management LLC	Vector Partners Limited Partnership. Vector TradePipe, LLC. Vector Trading, LLC.
20030197	Welsh, Carson, Anderson & Stowe IX, L.P.	US Investigations Services, Inc. ESOT.	U.S. Investigations Services, Inc.
Transactions Granted Early Termination, 12/17/2002			
20030177	Farm Bureau Mutual Insurance Company.	The Kansas Farm Bureau	The Kansas Farm Bureau.
Transactions Granted Early Termination, 12/18/2002			
20030140	Glaxo SmithKline plc	Theravance, Inc.	Theravance, Inc.
20030198	Fritz Gerber	ANTISOMA plc	Antisoma Research Ltd.
Transactions Granted Early Termination, 12/19/2002			
20030180	Hormel Foods Corporation	Imperial Sugar Company	Diamond Crystal Brands, Inc. Diamond Crystal Holdings, Inc.
20030183	J.P. Morgan Chase & Co	Allianz Aktiengesellschaft	DrKW Finance Inc.
20030186	HCA Inc.	Health Midwest	Health Midwest.
20030194	Wolseley plc	JELD-WEN HOLDINGS, Inc	JELD-WEN, Inc. Walker Lumber Company.
Transactions Granted Early Termination, 12/20/2002			
20030203	Cadence Design Systems, Inc	Celestry Design Technologies, Inc.	Celestry Design Technologies, Inc.
Transactions Granted Early Termination, 12/23/2002			
20020934	Baxter International Inc	Wyeth	Wyeth Pharmaceuticals Inc.
20030173	Tecumseh Products Company	Invensys plc	Eaton Technologies, Inc. Fasco Australia Pty Limited, Fasco Industries, Inc., Fasco Motors (Thailand) Limited Fasco Motors Limited,
20030202	General Electric Company	Osmonics, Inc.	Osmonics, Inc.
20030208	Quadrangle (GT) Capital Partners LP.	GT Merchandising & Licensing Corp.	GT Merchandising & Licensing Corp.
20030209	Quadrangle (GT) Capital Partners LP.	Good Times Entertainment Limited.	Good Times Entertainment Limited.
20030211	The Pepsi Bottling Group, Inc	Pepsi Cola Buffalo Bottling Corporation.	Pepsi Cola Buffalo Bottling Corporation.
Transactions Granted Early Termination, 12/24/2002			
20030149	Herbst Gaming, Inc.	International Game Technology	Anchor Coin, Inc.
20030182	King Pharmaceuticals, Inc	Aventis Pharmaceuticals, Inc	Fisons Limited.
Transactions Granted Early Termination, 12/27/2002			
20030216	Deseret Management Corporation.	Simmons Media Group, LLC	Simmons Media Group, LLC.

FOR FURTHER INFORMATION CONTACT: Sandra M. Peay or Renee A. Hallman, Contact Representative, Federal Trade Commission, Premerger Notification Office, Bureau of Competition, Room 303, Washington, DC 20580, (202) 326–3100.

By Direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 03–1077 Filed 1–16–03; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS), Workgroup on the National Health Information Infrastructure.

Time and Date: 9 a.m.–5 p.m., January 27, 2003; 9 a.m.–4 p.m., January 28, 2003.

Place: Hubert H. Humphrey Building, Room 705A, 200 Independence Avenue SW., Washington, DC 20201.

Status: Open.

Purpose: The hearing will focus on two broad issues. First, the national information infrastructure (NII)—advanced computing and communications technologies—and how the health sector's needs can be served by the NII. Speakers representing advanced R&D activities will be joined by health experts. Second, the personal health dimension of the National Health Information Infrastructure is outlined in the NCVHS report, ''Information for Health.'' Speakers will address such issues as how a personal health record (PHR) can help support individual health and health care needs, and the technical issues related to a PHR.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Mary Jo Deering, Lead Staff Person for the NCVHS Workgroup on the National Health Information Infrastructure, Office of the Assistant Secretary for Public Health and Science, DHHS, Room 738G, Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201, telephone (202) 260–2652, or Marjorie S. Greenberg, Executive Secretary, NCVHS, NCHS, CDC, Room 1100, Presidential Building, 6525 Belcrest Road, Hyattsville, Maryland 20782, telephone (301) 436–7050. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/*, where an agenda for the meeting will be posted when available.

Dated: January 7, 2003.

James Scanlon,

Acting Director, Office of Science and Data Policy, Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 03–1080 Filed 1–16–03; 8:45 am]

BILLING CODE 4151–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality; Notice of Meeting

In accordance with section 10(d) of the Federal Advisory Committee Act (5 U.S.C., Appendix 2), announcement is made of a Health Care Policy and Research Special Emphasis Panel (SEP) meeting.

The Health Care Policy and Research Special Emphasis Panel is a group of experts in fields related to health care research who are invited by the Agency for Health care Research and Quality (AHRQ), and agree to be available, to conduct on an as needed basis, scientific reviews of applications for AHRQ support. Individual members of the Panel do not attend regularly-scheduled meetings and do not serve for fixed terms or long periods of time. Rather, they are asked to participate in particular review meetings which require their type of expertise.

Substantial segments of the upcoming SEP meeting listed below will be closed to the public in accordance with the Federal Advisory Committee Act, section 10(d) of 5 U.S.C., Appendix 2 and 5 U.S.C. 552b(c)(6). Grant applications for AHRQ National Research Service Award Institutional Research Training Grant (T32) Awards are to be reviewed and discussed at this meeting. These discussions are likely to reveal personal information concerning individuals associated with the applications. This information is exempt from mandatory disclosure under the above-cited statutes.

SEP Meeting on: AHRQ National Research Service Awards Institutional Research Training Grant (T32) Awards.

Date: February 23–25, 2003 (Open on February 23 from 7 p.m. to 7:15 p.m. and closed for remainder of the meeting).

Place: Doubletree Hotel, 1750 Rockville Pike, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain a roster of members, agenda or minutes of the nonconfidential portions of this meeting should contact Mrs. Bonnie Campbell, Committee Management Officer, Office of Research Review, Education and Policy, AHRQ, 2101 East Jefferson Street, Suite 400, Rockville, Maryland 20852, Telephone (301) 594–1846.

Agenda items for this meeting are subject to change as priorities dictate.

Dated: January 8, 2003.

Carolyn M. Clancy,

Acting Director.

[FR Doc. 03–1059 Filed 1–16–03; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Conference Call Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following Federal advisory committee conference call meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Time and Date: 2–4 p.m., January 14, 2003.

Place: The conference call will originate at the National Immunization Program (NIP), in Atlanta, Georgia. Please see **SUPPLEMENTARY INFORMATION** for details on accessing the conference call.

Status: Open to the public, limited only by the availability of telephone ports.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The Advisory Committee on Immunization Practices will convene by conference call to discuss the draft Supplemental Recommendations of the Advisory Committee on Immunization Practices (ACIP) and the Healthcare Infection Control Practices Advisory Committee (HICPAC) for Use of Smallpox Vaccine in a Pre-Event Smallpox Vaccination Program.

SUPPLEMENTARY INFORMATION: This conference call is scheduled to begin at 2 p.m., Eastern Standard Time. To participate in the conference call, please dial 1–800–713–1971 and enter conference code 270461. You will then be automatically connected to the call.

As provided under 41 CFR 102–3.150(b), the public health urgency of this agency business requires that the meeting be held prior to the first available date for publication of this notice in the **Federal Register**.

CONTACT PERSON FOR MORE INFORMATION: Demetria Gardner, Epidemiology and Surveillance Division, National Immunization Program, CDC, 1600 Clifton Road, NE, (E–61), Atlanta, Georgia 30333, telephone 404/639–8096, fax 404/639–8616.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: January 13, 2003.

Burma Burch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–1072 Filed 1–16–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following council meeting.

Name: Advisory Council for the Elimination of Tuberculosis (ACET).

Times and Dates: 8:30 a.m.–5 p.m., February 4, 2003. 8:30 a.m.–12 p.m., February 5, 2003.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333, telephone 404/639–8008.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary of Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Agenda items include issues pertaining to latent TB Infection, United States Agency for International Development Initiatives in Tuberculosis, and other TB related topics.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Paulette Ford-Knights, National Center for HIV, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone 404/639–8008.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: January 13, 2003.

Burma Burch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–1069 Filed 1–16–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifiers: CMS–R–72, CMS–10042, CMS–10081]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Extension of a currently approved collection;

Title of Information Collection: Information Collection Requirements in 42 CFR 478.18, 478.34, 478.36, and 478.42, QIO Reconsiderations and Appeals; *Form No.:* CMS–R–72 (OMB# 0938–0443); *Use:* These regulations contain procedures for QIOs (formerly known as PROs) to use in reconsideration of initial determinations. The information requirements contained in these regulations are on QIOs to provide information to parties requesting a reconsideration. These parties will use the information as guidelines for appeal rights in instances where issues are still in dispute.; *Frequency:* On occasion; *Affected Public:* Individuals or Households and Business or other for-profit; *Number of Respondents:* 2,509; *Total Annual Responses:* 5,228; *Total Annual Hours:* 2,882.

(2) *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Part A Provider and Durable Medical Equipment Supplier Satisfaction Survey; *Form No.:* CMS–10042 (OMB# 0938–NEW); *Use:* This is a request for clearance of a survey questionnaire to conduct a standardized random sample of Part A providers' and DME suppliers' satisfaction of their experience with their Medicare contractor's performance in its administration of the Medicare-fee-for-service program. The purpose of this study is to develop a baseline measure of providers' and suppliers' satisfaction with Medicare contractors by administering a survey to 15,000 providers and suppliers, 5,000 serviced by each of the following contractors: Connecticut General Life Insurance Company (CIGNA)–D, Palmetto Government Business Administrators (PBGA)–D, and United Government Services, LLC (UGS)-Part A. The data collected will be interpreted to produce indicators of the contractor's quality of performance.; *Frequency:* Annually; *Affected Public:* Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 4,500; *Total Annual Responses:* 4,500; *Total Annual Hours:* 1,125.

(3) *Type of Information Request:* New Collection; *Title of Information Collection:* Data Collection for Administering the Survey for the Evaluation of the Demonstration to Maintain Independence and

Employment (DMIE); *Form No.:* CMS–10081 (OMB# 0938–NEW); *Use:* The DMIE Programs, funded by CMS under Title II of the Federal Ticket to Work Legislation, provide Medicaid coverage to low-income working populations. The Survey Evaluation is designed to assess the impact of the Mississippi DMIE program on access to care, health status and quality of life, workforce participation, etc.; *Frequency:* Annually; *Affected Public:* Individuals or Households, and State, Local, or Tribal Gov.; *Number of Respondents:* 928; *Total Annual Responses:* 928; *Total Annual Hours:* 253.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web Site address at *http://cms.hhs.gov/regulations/pra/default.asp*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov*, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, Attention: Dawn Willinghan, Room: C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 9, 2003.

John P. Burke, III,

CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–1054 Filed 1–16–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifiers: CMS–R–284]

Agency Information Collection Activities: Proposed Collection; Comment Request

Agency: Centers for Medicare and Medicaid Services. In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Revision of a currently approved collection; *Title of Information Collection:* Medicaid Statistical Information System (MMIS); *Form No.:* HCFA–R–0284 (OMB# 0938–0345); *Use:* State data are reported by a Federally mandated process known as MSIS. These data are the basis for Medicaid actuarial forecasts for service utilization and costs; Medicaid legislative analysis and cost savings estimates; and for responding to requests for information from CMS components, the Department, Congress, and other customers. The national MSIS database will contain details that will allow constructive or predictive analysis of today's Medicaid issues (*e.g.*, pregnant women, and infants); *Frequency:* Quarterly; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 53; *Total Annual Responses:* 212; *Total Annual Hours:* 7,420.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS's Web site address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office at (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the CMS Paperwork Clearance Officer designated at the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances, *Attention:* Dawn Willinghan, *Room:* C5–14–03, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: January 9, 2003.

John P. Burke, III

CMS Reports Clearance Officer, Office of Strategic Operations and Strategic Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–1057 Filed 1–16–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–276, CMS–1500, CMS–1490U, CMS–1490S, CMS–1450, and CMS–R–285, CMS–R–290, and CMS–2744]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Revision of a Currently Approved Collection; *Title of Information Collection:* Prepaid Health Plan Cost Report; *Form No.:* CMS–276 (OMB #0938–0165; *Use:* These forms are needed to establish the reasonable cost of providing covered services to the enrolled Medicare population of an HMO in accordance with Section 1876 of the Social Security Act.; *Frequency:* Recordkeeping and Reporting on occasion; *Affected Public:* Business or other for-profit; *Number of Respondents:* 45; *Total Annual Responses:* 225; *Total Annual Hours:* 7,860.

(2) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare/Medicaid Health Insurance Common Claim Form, Instructions, and Supporting Regulations: 42 CFR 424.32, 424.44; *Form No.:* CMS–1500, CMS–1490U, CMS–1490S (OMB #0938–0008); *Use:* This form is a standardized claim form for use in the Medicare/Medicaid programs to apply for reimbursement for covered services. Many private insurers also use this form. Use of this form reduces cost and administrative burdens associated with professional claims because only one format needs to be used and maintained. CMS does not require exclusive use of this form for Medicaid.; *Frequency:* On occasion; *Affected Public:* State, Local or Tribal Government, Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 1,216,702; *Total Annual Responses:* 740,215,135; *Total Annual Hours:* 42,941,276.

(3) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill and Supporting Regulations; *Form No.:* CMS–1450 (OMB #0938–0279); *Use:* This standardized form is used in the Medicare/Medicaid program to apply for reimbursement of covered services by all providers that accept Medicare/Medicaid assigned claims.; *Frequency:* On occasion; *Affected Public:* Not for profit institutions and Business or other for profit; *Number of Respondents:* 46,708; *Total Annual Responses:* 158,603,290; *Total Annual Hours:* 1,666,208.

(4) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Retirement Benefit Information; *Form No.:* CMS–R–285 (OMB #0938–0769); *Use:* This information is needed to determine whether a beneficiary meets the requirements for reduction of Part A premium to zero.; *Frequency:* On occasion; *Affected Public:,* State and Local or Tribal Government; *Number of Respondents:* 1500; *Total Annual Responses:* 1500; *Total Annual Hours:* 208.

(5) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Procedures for Making National Coverage Decisions; *Form No.:* CMS–R–0290 (OMB #0938–0776); *Use:* These information collection requirements provide the process CMS will use to make a national coverage decision for a specific item or service under sections 1862 and 1871 of the Social Security Act. This will streamline our decision making process and will increase the opportunities for public participation in making national coverage decisions; *Frequency:* Other (as needed); *Affected Public:* Business or other for-profit, Not-for-profit institutions; *Number of Respondents:* 200; *Total Annual Responses:* 200; *Total Annual Hours:* 8,000.

(6) *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* End Stage Renal Disease Medical Information System ESRD Facility Survey; *Form No.:* CMS–2744 (OMB #0938–0447); *Use:* The ESRD Facility Survey form (CMS–2744) is completed annually by Medicare-approved providers of dialysis and transplant services. The CMS–2744 is designed to collect information concerning treatment trends, utilization of services and patterns of practice in treating ESRD patients.; *Frequency:* Annually; *Affected Public:,* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 4,225; *Total Annual Responses:* 4,225; *Total Annual Hours:* 33,800.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://cms.hhs.gov/regulations/pra/default.asp*, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.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: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 9, 2003.

John P. Burke, III,

CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–1055 Filed 1–16–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–377/378/CMS–R–55]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare and Medicaid Services.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare and Medicaid Services (CMS) (formerly known as the Health Care Financing Administration (HCFA)), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection;

Title of Information Collection: Comprehensive Outpatient Rehabilitation Facility (CORF) Eligibility and Survey Forms and Information Collection Requirements in 42 CFR 485.56, 485.58, 485.60, 485.64, 485.66, 410.105; *Form No.:* CMS–0359/0360/R–0055 (OMB# 0938–0267); *Use:* In order to participate in the Medicare program as a CORF, providers must meet federal conditions of participation. The certification form is needed to determine if providers meet at least preliminary requirements. The survey form is used to record provider compliance with the individual conditions and report findings to CMS; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; Number of Respondents: 556; *Total Annual Responses:* 556; *Total Annual Hours:* 264,877.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site

address at *http://cms.hhs.gov/regulations/pra/default.asp,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@hcfa.gov,* or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Brenda Aguilar, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: January 9, 2003.

John P. Burke, III,

Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.

[FR Doc. 03–1056 Filed 1–16–03; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 02N–0354]

Agency Information Collection Activities; Proposed Collection; Comment Request; the Evaluation of Long-Term Antibiotic Drug Therapy for Persons Involved in Anthrax Remediation Activities

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Adminsitration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to the evaluation of long-term antibiotic drug therapy for persons involved in anthrax remediation activities. In the **Federal Register** of October 8, 2002 (67 FR 62727), FDA published a notice announcing the Office of Management and Budget's (OMB's) approval of this collection of information (OMB control number 0910–0494). Because this was an emergency approval that will expire on March 31, 2003, FDA in this notice is following the normal PRA clearance procedures by issuing this notice.

DATES: Submit written or electronic comments on the collection of information by March 18, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.accessdata.fda.gov/scripts/oc/dockets/edockethome.cfm.* Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Karen Nelson, Officer of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CRF 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to the OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

The Evaluation of Long-Term Antibiotic Drug Therapy for Persons Involved in Anthrax Remediation Activities (OMB Control Number 0910–0494)—Extension

Due to a terrorist event during the fall of 2001, approximately 1,200 decontamination workers were placed on long-term antibiotic therapy to protect them from environmental anthrax spores. Through the services of a contractor, the FDA is currently administering a survey to all 1,200 decontamination workers to collect important health information pertaining to long-term use of antibiotics. This information is critical to the agency's mission in protecting the public health, and failure of the FDA to adequately follow up on these workers will reduce the agency's ability to apply lessons learned from the current situation to provide guidance during future public health emergencies should they occur. This could result, not only, in the loss of time and dollars but also in the loss of life if patients stop taking their medicines because they think the drug therapy is responsible for a health problem when in fact it is not. This type of population is likely to never be available for assessment again until a future terrorist event occurs. It would be unacceptable for the FDA not to obtain drug experience information from this group to assist in any future public health response to a terrorist attack.

FDA is requesting an extension of the OMB approval of a survey to help FDA's Center for Drug Evaluation and Research evaluate the long-term antibiotic drug therapy in persons involved in anthrax remediation activities. The reason for the extension is to allow for more time to complete the survey, which has been delayed for two reasons. The first reason relates to the delays in cleaning up some of the contaminated sites. Primarily, the cleanup of the Brentwood Post Office in Washington, DC was delayed; this post office accounts for approximately 400 of the decontamination workers. The cleanup at Brentwood is almost complete, and it is anticipated that final medical examinations of the Brentwood cleanup workers can begin in earnest in the February/March 2003 timeframe. Once the final medical examination is completed, then Market Facts, the contractor hired to conduct the survey, can begin to administer the questionnaire to these workers. The second reason is the result of having to obtain authorization from approximately 35 subcontractor firms (who employed the decontamination workers) to release contact information on the remediation workers. To date, only contact information for

approximately 300 workers has been released, and further efforts are on going to obtain permission to release the remaining information. The medical service subcontractor is working diligently to obtain the necessary authorizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Type of Survey	No. of Respondents	Annual Frequency /Response	Total Annual Responses	Hours per Response	Total Hours
Telephone	1,200	1	1,200	.25	300
Total					300

[1]There is no capital costs or operating and maintenance costs associated with this collection of information.

The estimated annual reporting burden is based on the Centers for Disease Control's administration, in 2001 and 2002, of a similar questionnaire to individuals who were exposed to anthrax spores dispersed during a terrorist event.

Dated: January 15, 2003.

Margaret M. Dotzel,

Assistant Commissioner for Policy.

[FR Doc. 03–1254 Filed 1–16–03; 3:44 pm]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (301) 443–7978.

Comments are invited on: (a) Whether the proposed collections of information are 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.

Proposed Project: Evaluation of the CMHS/CSAT Collaborative Program on Homeless Families: Women with Psychiatric, Substance Use, Or Co-Occurring Disorders and Their Dependent Children, Phase II—(OMB No. 0930–0223, Revision)—SAMHSA's Center for Mental Health Services and Center for Substance Abuse Treatment, through a set of cooperative agreements, are conducting a longitudinal, multi-site evaluation study assessing mental health, substance abuse, and trauma interventions received by homeless mothers with psychiatric, substance use, or co-occurring disorders and their dependent children. The study will advance knowledge on appropriate and effective approaches to improving families' residential stability, overall functioning, and decreased risk for violence.

SAMHSA currently has OMB approval for data collection from approximately 1,600 participants recruited from eight sites. At each site, a documented treatment intervention is tested in comparison to an alternative treatment condition. Participants are interviewed at baseline (within two weeks of entering a program) as well as three additional times (3 months after program entry, 9 months after program entry, and 15 months after program entry). Trained interviewers administer the interviews to participating mothers. Information on the children is obtained from the mother.

Key outcomes for the mothers are increased residential stability, decreased substance use, decreased psychological distress, improved mental health functioning, increased trauma recovery, improved health, improved functioning as a parent, and decreased personal violence. Outcomes for the children are reduced emotional/behavioral problems and improved school attendance.

A coordinated set of interviews assessing the key ingredients of each program will supplement the participant data collection during the baseline timeframe. The purpose of the program ingredients interviews, administered in a one-time case study protocol format, is to systematically describe each treatment and comparison intervention with the same set of variables at comparable points in treatment. This case study protocol will examine the intervention and comparison program models, staffing, structure, goals, and services, and will include vignettes describing actual families referred to the programs. In-person interviews of program directors, program line staff, and consumers will be administered in either focus group format or through one-on-one sessions. The case study protocol will be geared towards obtaining a standard set of information from each site. If some of these data are available from other sources or does not apply at a particular site, the protocol will be shortened. The estimated response burden is as follows:

Instrument	Number of respondents	Responses per respondent	Burden response (hrs)	Total burden hours
Currently—Approved Client Instrument (3-yr. annual average)	2,280			3,032
Program Director	35	1	1.0	35
Focus Group: Line Staff	140	1	1.0	140
Interview: Line Staff	140	1	1.0	140
Focus Group: Consumers	350	1	1.5	525

Instrument	Number of respondents	Responses per respondent	Burden response (hrs)	Total burden hours
Program Ingredients Sub-total	2,945			3,872
Total				

Send comments to Nancy Pearce, SAMHSA Reports Clearance Officer, Room 16–105, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: January 13, 2003.

Richard Kopanda,

Executive Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 03–1063 Filed 1–16–03; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4809–N–03]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Mark Johnston, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Shirley Kramer, Division of Property Management, Program Support Center, HHS, room 5B–41, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *DOT:* Mr. Rugene Spruill, Principal, Space Management, SVC–140, Transportation Administrative Service Center, Department of Transportation, 400 7th Street, SW., Room 2310, Washington, DC 20590; (202) 366–4246; *Energy:* Mr. Andy Duran, Department of Energy, Office of Engineering & Construction Management, CR–80, Washington, DC 20585; (202) 586–4548; *GSA:* Mr. Brian K. Polly, Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC, 20405; (202) 501–0052; *Navy:* Mr. Charles C. Cocks, Director, Department of the Navy, Real Estate Policy Division, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9200; (These are not toll-free numbers).

Dated: January 9, 2003.

Mark R. Johnston,

Deputy Director, Office of Special Needs Assistance Programs.

Title V, Federal Surplus Property Program Federal Register Report for 1/17/03

Suitable/Available Properties

Buildings (by State)

Ohio

USCG Old ANT Huron, 110 Wall Street

Huron Co: OH
Landholding Agency: GSA
Property Number: 54200310004,
Status: Excess
Comment: 2780 sq. ft., licensed to City, activities may be restricted, most recent use—admin/office/storage,
GSA Number: 1–U–OH–686B.

West Virginia

SSA Trust Fund Bldg., 275 Virginia Ave.
Welch Co: McDowell, WV 24801
Landholding Agency: GSA
Property Number: 54200310005
Status: Excess
Comment: needs rehab, presence of asbestos, most recent use-office space,
GSA Number: 4–G–WV–546.

Suitable/Unavailable Properties

Land (by State)

West Virginia

Kennedy Park & Marina, 523 Harrison Street
Newell Co: Hancock WV
Landholding Agency: GSA
Property Number: 54200310006,
Status: Excess
Comment: 13.02 acres, subject to lease,
GSA Number: 4–G–PA–0545.

Unsuitable Properties

Buildings (by State)

Alaska

Bldg. B01, Coast Guard Cutter Sycamore
Cordova Co: AK 99574
Landholding Agency: DOT
Property Number: 87200310001,
Status: Unutilized
Reason: Extensive deterioration.

California

U.S. Customs House, 300 South Ferry St.
Terminal Island Co: Los Angeles CA 90731–
Landholding Agency: GSA
Property Number: 54200310001
Status: Excess
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–G–CA–1569.

Hawaii

Bldg. 621, Naval Station, Pearl Harbor
Honolulu Co: HI 96860–
Landholding Agency: Navy
Property Number: 77200310001
Status: Excess
Reason: Extensive deterioration.

Unsuitable Properties

Buildings (by State)

Idaho

Federal Bldg./Post Office, 222 S. Seventh Street
St. Maries Co: ID 83861–
Landholding Agency: GSA
Property Number: 54200310002
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–G–ID–550

Federal Bldg./Post Office, 304 N. Eighth Street
Boise Co: ID 83724–
Landholding Agency: GSA
Property Number: 54200310003
Status: Surplus
Reason: Within 2000 ft. of flammable or explosive material
GSA Number: 9–G–ID–549

New Jersey

Bldg. 263, Naval Air Engineering Station
Lakehurst Co: Ocean NJ 08733–5000
Landholding Agency: Navy
Property Number: 77200310002
Status: Unutilized
Reason: Extensive deterioration

New Mexico

Bldg. 2, TA–33, Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200310001
Status: Unutilized
Reason: Secured Area, Extensive deterioration

Bldgs. 228, 286, TA–21, Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200310002
Status: Unutilized
Reason: Secured Area

Bldgs. 116, TA–21, Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200310003
Status: Unutilized
Reason: Secured Area

Bldgs. 1, 2, 3, 4, 5, TA–28, Los Alamos National Lab
Los Alamos Co: NM 87545–
Landholding Agency: Energy
Property Number: 41200310004
Status: Unutilized
Reason: Secured Area

[FR Doc. 03–922 Filed 1–16–03; 8:45 am]
BILLING CODE 4210–29–M

DEPARTMENT OF INTERIOR

Office of the Secretary

John H. Chafee Blackstone River Valley National Heritage Corridor Commission; Notice of Meeting

Notice is hereby given in accordance with section 552b of title 5, United States Code, that a meeting of the John H. Chafee Blackstone River Valley National Heritage Corridor Commission will be held on Thursday, February 6, 2003.

The Commission was established pursuant to Pub. L. 99–647. The purpose of the Commission is to assist Federal, State and local authorities in the development and implementation of an integrated resource management plan for those lands and waters within the corridor.

The meeting will convene at 4 p.m. at the Carol Cable Building, Second Floor Conference Room located at 249 Roosevelt Avenue in Pawtucket, RI for the following reasons:

1. Approval of Minutes
2. Chairman's Report
3. Executive Director's Report
4. Financial Budget
5. Public Input

It is anticipated that about 25 people will be able to attend the session in addition to the Commission members.

Interested persons may make oral or written presentations to the Commission or file written statements. Such requests should be made prior to the meeting to: Michael Creasey, Executive Director, John H. Chafee, Blackstone River Valley National Heritage Corridor Commission, One Depot Square, Woonsocket, RI 02895. Tel.: (401) 762-0250.

Further information concerning this meeting may be obtained from Michael Creasey, Executive Director of the Commission at the aforementioned address.

Michael Creasey,

Executive Director BRVNHCC.

[FR Doc. 03–1138 Filed 1–16–03; 8:45 am]
BILLING CODE 4310–RK–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Bon Secour National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of intent to prepare a Comprehensive Conservation Plan and Environmental Assessment for Bon Secour National Wildlife Refuge, located in Baldwin County, Alabama.

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare a Comprehensive Conservation Plan and Environmental Assessment for Bon Secour National Wildlife Refuge, pursuant to the National Environmental Policy Act and its implementing

regulations. The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*), to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental document.

DATES: Public scoping meetings will be held in February 2003, with special mailings, newspaper articles, and other media announcements being used to inform people of the opportunities to participate in the meetings and provide input throughout the planning process.

ADDRESSES: Address comments, questions, and requests for more information to the following: Allyne Askins, Project Leader, Bon Secour National Wildlife Refuge, 12295 State Highway 180, Gulf Shores, Alabama 36542; Telephone 251/540–7720; Fax 251/540–7301; e-mail *allyne_askins@fws.gov.* Additional information concerning the refuge may be found at the refuge's Internet site *http://bonsecour.fws.gov/.*

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved comprehensive conservation plan. The plan guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process will consider many elements including wildlife and habitat management, public recreational activities, and cultural resource protection. Public input into the planning process is essential.

Bon Secour National Wildlife Refuge was established by Congress in June 1980, and encompasses some of Alabama's last remaining undisturbed coastal barrier habitat. Located 50 miles due west of Pensacola, Florida, and 50 miles southeast of Mobile, Alabama, Bon Secour refuge comprises about 6,700 acres of coastal lands ranging from dynamic beach dunes to pine flatwood and oak hammocks. Management of the refuge is aimed at protecting and preserving these unique habitats and associated wildlife.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: December 10, 2002.

Judy L. Pulliam,

Acting Regional Director.

[FR Doc. 03–1071 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Intent To Prepare Comprehensive Conservation Plans and Associated Environmental Documents for Des Lacs, Upper Souris, and J. Clark Salyer National Wildlife Refuges in Northern North Dakota

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: The U.S. Fish and Wildlife Service intends to gather information necessary to prepare Comprehensive Conservation Plans and associated environmental documents for Des Lacs, Upper Souris, and J. Clark Salyer National Wildlife Refuges near Minot, North Dakota. The Service is issuing this notice in compliance with its policy to advise other organizations and the public of its intentions and to obtain suggestions and information on the scope of issues to be considered in the planning process.

DATES: Written comments should be received by April 30, 2003.

ADDRESSES: Comments and requests for more information should be sent to: Bridget McCann, Planning Team Leader, PO Box 25486, Denver Federal Center, Denver, CO 80225–0486; Fax (303) 236–4792; E-mail *bridget_mccann@fws.gov* or, Toni Griffin, Planning Team Leader, PO Box 25486, Denver Federal Center, Denver, CO 80225–0486; Fax (303) 236–4792; E-mail *toni_griffin@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Bridget McCann, Planning Team Leader, PO Box 25486, Denver Federal Center, Denver, CO 80225–0486; Fax (303) 236–4792; E-mail *bridget_mccann@fws.gov.*

SUPPLEMENTARY INFORMATION: The Service has initiated comprehensive conservation planning for Des Lacs, Upper Souris, and J. Clark Salyer National Wildlife Refuges for the conservation and enhancement of their natural resources. These Refuges are located in the Souris River watershed of northern North Dakota. Des Lacs National Wildlife Refuge (NWR) encompasses more than 19,500 acres on the Des Lacs River, a tributary to the Souris River, in Ward and Burke Counties, and borders Saskatchewan Province. Upper Souris NWR encompasses 32,000 acres along the Souris River in Renville and Ward Counties. J. Clark Salyer NWR encompasses 58,700 acres along the Souris River in Bottineau and McHenry Counties, and borders Manitoba Province.

All three Refuges were established in 1935 by Executive Order as ''* * * refuge[s] and breeding ground[s] for migratory birds and other wildlife * * *'' under the Migratory Bird Conservation Act. During the comprehensive planning process, management goals, objectives, and strategies will be developed to carry out the purposes of the Refuges and to comply with laws and policies governing refuge management and public use of refuges. The three Refuges discussed here are open to public uses.

The Service requests input as to which issues affecting management or public use should be addressed during the planning process. The Service is especially interested in receiving public input in the following areas:

—What do you value most about these Refuges?

—What problems or issues do you see affecting management or public use of these Refuges?

—What changes, if any, would you like to see in the management of these Refuges?

The Service has provided the above questions for your optional use. The Service has no requirement that you provide information. The Planning Team developed these questions to facilitate gathering information about individual issues and ideas. Comments received by the Planning Team will be used as part of the planning process.

Opportunities for public input will also be provided at public meetings during the week of March 24, 2003. Exact dates and times for these public meetings are yet to be determined, but will be announced via local media.

All information provided voluntarily by mail, phone, or at public meetings (*e.g.*, names, addresses, letters of comment, input recorded during meetings) becomes part of the official public record. If requested under the Freedom of Information Act by a private citizen or organization, the Service may provide copies of such information.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996, the National Wildlife Refuge System Improvement Act of 1997, and Service policies and procedures for compliance with those regulations.

Dated: December 4, 2002.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 03–1068 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sabine, Cameron Prairie, and Lacassine National Wildlife Refuges

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare comprehensive conservation plans and environmental assessments for Sabine, Cameron Prairie, and Lacassine National Wildlife Refuges in Louisiana.

SUMMARY: This notice advises the public that the Fish and Wildlife Service, Southeast Region, intends to gather information necessary to prepare comprehensive conservation plans and environmental assessments pursuant to the National Environmental Policy Act and its implementing regulations. The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*), to achieve the following:

(1) Advise other agencies and the public of our intentions, and

(2) Obtain suggestions and information on the scope of issues to include in the environmental documents.

Special mailings, newspaper articles, and other media announcements will inform people of the opportunities for written input throughout the planning process.

DATES: The Service has already begun the planning process by hosting a series of local meetings in Cameron and Calcasieu Parishes during October 2002, to solicit comments. An open house to involve the public will be held on January 16, 2003, at Best Suites of America (Downtown Exit off Interstate 10), 401 Lakeshore Drive, Lake Charles, Louisiana. The public may attend formal presentations at 2 p.m., 4 p.m., or 6 p.m., or may visit any time during the open house to view maps and other displays, consider each refuge purpose and mission statement, visit one-on-one with Service representatives, and give personal suggestions for future management of each refuge. Special mailings, newspaper articles, and announcements will inform the public of times and locations of additional meetings and opportunities for input.

ADDRESSES: Address comments, questions, and requests for more information to the following: Judy McClendon, Natural Resource Planner, Southwest Louisiana Refuges, 1428 Highway 27, Bell City, Louisiana 70630; Telephone 337/598–2216; Fax 337/598–2492; E-Mail *judy__mcclendon@fws.gov*. Additional information concerning these refuges may be found at the Service's Internet site *http://www.fws.gov/.*

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved comprehensive conservation plan. The plan guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process will consider many elements including wildlife and habitat management, public recreational activities, and cultural resource protection. Public input into the planning process is essential.

Sabine National Wildlife Refuge, located in Cameron Parish, Louisiana, encompasses 124,511 acres of fresh/intermediate/brackish marsh and is managed for the protection of wintering waterfowl. Cameron Prairie National Wildlife Refuge, located in Cameron Parish, Louisiana, encompasses 9,621 acres of fresh marsh, prairie, and manipulated moist-soil units and provides for nesting, migrating, and wintering waterfowl and their critical habitats. Lacassine National Wildlife Refuge, located in Cameron and Evangeline Parishes, Louisiana, encompasses 34,886 acres and was established to preserve marshlands and to provide habitat for migrating and wintering waterfowl. Lacassine refuge also manages a 3,345-acre wilderness area, a 20,000-acre private lands mini-refuge program for migrating waterfowl in six refuges, and oversees wetland easements in Jefferson Davis Parish.

Review of the draft plans, expected in 2003, will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA regulations (40 CFR parts 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

Authority: This notice is published under the authority of the National Wildlife Refuge System Improvement Act of 1997, Public Law 105–57.

Dated: December 3, 2002

J. Mitch King,

Acting Regional Director.

[FR Doc. 03–1070 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application for endangered species permit.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

DATES: Written data or comments on these applications must be received, at the address given below, by February 18, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Victoria Davis, Permit Biologist). Telephone: 404/679–4176; Facsimile: 404/679–7081.

FOR FURTHER INFORMATION CONTACT: Victoria Davis, Telephone: 404/679–4176; Facsimile: 404/679–7081.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to *victoria_davis@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 above (*see* **FURTHER INFORMATION**). Finally, you may hand deliver comments to the 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. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

Applicant: Edwards-Pitman Environmental, Inc., Atlanta, Georgia, Florida, TE063179–0.

The applicant requests authorization to take (survey, capture, translocate, and release) the following mussels and fishes: Fat three-ridge mussel (*Amblema neislerii*), Chipola slabshell (*Elliptio chipolaensis*), purple bankclimber (*Ellptoideus sloatianus*), upland combshell (*Epioblasma metastriata*), southern acornshell (*Epioblasma othcaloogensis*), fine-lined pocketbook (*Lampsilis altilis*), shiny-rayed pocketbook (*Lampsilis subangulata*), Alabama moccasinshell (*Medionidus acutissimus*), Coosa moccasinshell (*Medinidus acutissimus*), Gulf moccasinshell (*Medinidus penicillatus*), Ochlockonee moccasinshell (*Medionidus simpsonianus*), Southern clubshell (*Pleurobema decisum*), Southern pigtoe (*Pleurobema georgianum*), Ovate clubshell (*Pleurobema perovatum*), oval pigtoe (*Pleurobema pyriforme*), triangular kidneyshell (*Ptychobranchus greeni*), short nose sturgeon (*Acipenser brevirostrum*), blue shiner (*Cyprinella caerulea*), Cherokee darter (*Etheostoma scotti*), Etowah darter (*Ethostoma etowahae*), Amber darter (*Percina antesella*), goldline darter (*Percina aurolineata*), Conasauga logperch (*Percina jenkinsi*), and snail darter (*Percina tanasi*). The proposed activities will take place throughout the state of Georgia.

Applicant: South Carolina Parks, Recreation and Tourism, Cheraw, South Carolina, Gary P. Haught, TE063183–0.

The applicant requests authorization to harass red-cockaded woodpeckers (*Picoides borealis*) while installing squirrel and snake excluder devices on active and non-active cluster trees with cavities. The proposed activities will take place in the Cheraw State Park, South Carolina.

Applicant: Trent Alan Farris, Foley, Alabama, TE064856–0.

The applicant requests authorization to take (survey, capture, mark, tag, and release) the following species: Alabama beach mouse (*Peromyscus polionotus ammobates*), Perdido Key beach mouse (*Peromyscus polionotus trissyllepsis*), Choctawhatchee beach mouse (*Peromyscus polionotus allophrys*), and Saint Andrew beach mouse (*Peromyscus polionotus peninsularis*). Take will occur while conducting presence and absence population surveys, studying population status and distributions, translocating individuals to augment populations, and radio tagging for scientific purposes. The proposed activities will take place in Alabama and Florida.

Applicant: Samuel Paul Atkinson; Shaw, McLeod, Belser, and Hurlbutt; Sumter, South Carolina, TE064882–0.

The applicant requests authorization to take (capture, band, release, monitor nests, and install artificial cavity inserts) red-cockaded woodpeckers (*Picoides borealis*) while conducting presence and absence surveys. The surveys will be conducted throughout the species historical range.

Dated: December 19, 2002.

J. Mitch King,

Acting Regional Director.

[FR Doc. 03–1064 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of a Permit Application (Reid) for Incidental Take of the Houston Toad

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability.

SUMMARY: Roger Reid and Marie Waneck (Applicants) have applied for an incidental take permit (TE–066089–0) 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 from the construction and operation of commercial storage units on a 2.625 acre property on Highway 21, Bastrop County, Texas.

DATES: Written comments on the application should be received on or before February 18, 2003.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, PO 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 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–066089–0 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Clayton Napier, U.S. Fish and Wildlife Service, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057).

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: Roger Reid and Marie Waneck plan to construct commercial storage units within 5 years, on approximately 0.3 acres of a 2.625-acre property on Highway 21, Bastrop County, Texas. This action will eliminate 0.3 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 $660.00 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.

Geoffrey L. Haskett,

Regional Director, Region 2.

[FR Doc. 03–1062 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Incidental Take of Threatened Species for the Lefever Property, El Paso County, CO

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permit for incidental take of endangered species.

SUMMARY: On July 8, 2002, a notice was published in the **Federal Register** (Vol. 67 No. 130 FR 45142), that an application had been filed with the U.S. Fish and Wildlife Service (Service) by Thomas Lefever, El Paso County, Colorado, for a permit to incidentally take Preble's meadow jumping mouse (*Zapus hudsonius preblei*), pursuant to section 10(a)(1)(B) of the Endangered Species Act (Act) of 1973 (16 U.S.C. 1539), as amended. The ''Environmental Assessment/Habitat Conservation Plan for Issuance of an Endangered Species Section 10(a)(1)(B) Permit for the Incidental Take of the Preble's Meadow Jumping Mouse (*Zapus hudsonius preblei*) for the Construction of a Single Family Residence at the Lefever Property in El Paso County, Colorado,'' accompanied the permit application.

Notice is hereby given that on December 19, 2002, as authorized by the provisions of the Act, the Service issued a permit (TE–059261) to the above-named party subject to certain conditions set forth therein. The permit was granted only after the Service determined that it was applied for in good faith, that granting the permit will not be to the disadvantage of the threatened species, and that it will be consistent with the purposes and policy set forth in the Act, as amended.

Additional information on this permit action may be requested by contacting the Colorado Field Office, 755 Parfet Street, Suite 361, Lakewood, Colorado 80215, telephone (303) 275–2370, between the hours of 7 a.m. and 4:30 p.m. weekdays.

Dated: December 19, 2002.

John A. Blankenship,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 03–1067 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–931–1310–DP–NPRA]

Notice of Availability and Announcement of Public Subsistence-Related Hearing Schedule; Northwest National Petroleum Reserve-Alaska Draft Integrated Activity Plan/ Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the Northwest National Petroleum Reserve-Alaska Draft Integrated Activity Plan/Environmental Impact Statement (IAP/EIS). The planning area is roughly bounded by the Ikpikpuk River to the east. The southern boundary extends along a portion of the Colville River and then proceeds along township and sections lines generally in a north and west direction to the west to the boundary of the NPR–A. It then proceeds due north to Icy Cape on the Arctic Ocean and proceeds east along the Arctic coastline encompassing the bays, lagoons, inlets, and tidal waters between the NPR–A's outlying islands and the mainland.

The IAP/EIS contains four alternatives for a land management plan within the 8.8 million-acre planning area and assessments of each plan's impacts on the surface resources present there. These alternatives provide varying answers to three primary questions. First, will the BLM conduct oil and gas lease sales in the planning area and, if so, what lands will be made available for leasing? Second, what measures should we develop to protect important surface resources during oil and gas activities? Third, what non-oil and gas land allocations should we consider for this portion of the NPR–A?

The no action alternative calls for no change from the status quo, and under it no leasing would occur. Alternatives A through C make progressively less land, especially environmentally sensitive land, available to possible leasing. Alternative A makes 100 percent available, Alternative B makes 96 percent available, Alternative C makes 47 percent available. Stipulations would provide protection for natural and cultural resources under all alternatives, but their nature, number and scope would vary between alternatives.

Alternative A contains the fewest stipulations and many of them are performance based and reliant on subsequent NEPA analysis. Alternative B's stipulations are similar to those in Alternative A, but some surface occupancy protections are tied to areas of sensitive resources. Alternative C has more prescriptive stipulations, many of which are tied to areas associated with sensitive resources.

The Secretary of the Interior is authorized to identify specific lands in the NPR–A as ''Special Areas,'' and there are small parts of two previously designated Special Areas within the planning area. Alternative B recommends that the Kasegaluk Lagoon, an area that is rich in wildlife and that features marine tidal flats which are rare on the North Slope, as an additional Special Area.

Alternative C recommends that Congress designate three wilderness areas within the planning area. The first is the Kasagaluk Lagoon. The second and third areas are located in the hills and mountains in the southern part of the planning area and have special values, are particularly remote, and feature good hiking and scenic vistas in high terrain. Alternative C also recommends Congressional designation of the part of the Colville River in the planning area as a Wild river and that 21 other rivers in the unit be designated as Scenic.

Section 810 of the Alaska National Lands Conservation Act requires BLM to evaluate the effects of the alternative plans presented in this IAP/EIS on subsistence activities in the planning area, and to hold public hearings if it finds that any alternative might significantly restrict subsistence activities. Appendix 5 of the document indicates that alternatives A and B may significantly restrict subsistence activities. In addition, all alternatives may significantly restrict subsistence in the cumulative case. Therefore, the BLM is holding public hearings on subsistence in conjunction with the public meetings discussed below.

ADDRESSES: Written comments should be sent to the NPR–A Planning Team, Bureau of Land Management, Alaska State Office (931), 222 West 7th Avenue, Anchorage, Alaska 99513–7599. Comments can also be submitted at the project Web site at *www.ak.blm.gov/nwnpra* or sent via e-mail to *nwnpr-acomment@ak.blm.gov.* Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by

law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety. The draft IAP/EIS will be available in either hard copy or on compact disk at the Alaska State Office, Public Information Center at 222 West 7th Avenue, Anchorage, Alaska 99513–7599. Copies of the draft IAP/EIS will also be available for pubic review at the following locations: Tuzzy Public Library, Barrow, Alaska; City of Nuiqsut, Nuiqsut, Alaska; City of Atqasuk, Atqasuk, Alaska; City of Anaktuvuk Pass, Anaktuvuk Pass, Alaska; City of Wainwright, Wainwright, Alaska; and City of Point Lay, Point Lay, Alaska. The entire document can also be reviewed at the project Web site at *http://www.ak.blm.gov/nwnpra.*

DATES: Written comments on the draft IAP/EIS will be accepted for 60 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. Future meetings or hearings and any other public involvement activities will be announced at least 15 days in advance through public notices, media news releases, and/or mailings. The BLM currently plans to hold meetings and hearings in Nuiqsit, Atqasuk, Barrow, Wainwright, Point Lay, Fairbanks, and Anchorage.

FOR FURTHER INFORMATION CONTACT: Curt Wilson, BLM Alaska State Office, 907–271–5546 or Mike Kleven, BLM Northern Field Office, 907–474–2317.

SUPPLEMENTARY INFORMATION: Authority for developing this document is derived from the Federal Land Policy and Management Act, the Naval Petroleum Reserves Production Act of 1976, as amended, and the National Environmental Policy Act (NEPA). In recent years, oil and gas development has gradually moved east from the original find at Prudhoe Bay. By the late 1990's, there was a developable field at Alpine just to the east of the of NPR–A. In 1998, responding to interest from industry, the State of Alaska and the North Slope Borough, the BLM developed the Northeast NPR–A IAP/EIS which authorized a leasing program within the northeastern part of the Reserve.

The document determined where and under what conditions a leasing program could occur. Since that time, two lease sales have been conducted. The first was held in May 1999 and 867,721 acres were leased bringing in $104.6 million. A second lease sale was held in June 2002 and 579,269 acres were leased for a total of $63.8 million. This level of interest, and the fact that industry has announced the discovery of oil in three test wells within the leased area, has stimulated interest in expanding exploration to the area covered by this draft IAP/EIA. President Bush responded to this interest by identifying the area as having a high priority in his energy plan. Should the BLM undertake leasing in the Northwest NPR–A, this IAP/EIS will form the basic NEPA documentation to authorize this leasing, and it will determine those lands that are available and those that are unavailable for leasing.

Public participation has occurred throughout the period since the Notice of Intent to Prepare an EIS was published in November 2001. Scoping meetings were held in Nuiqsit, Atqasuk, Barrow, Wainwright, Point Lay, Fairbanks, and Anchorage. The planning area provides particularly important habitat for caribou, waterfowl, and other species. Many of the local residents of the area rely on harvesting these resources for subsistence purposes. Ensuring adequate protection of these resources has been one of the main focuses of public discussion in scoping meetings. The BLM has worked very closely with the North Slope Borough and the State of Alaska in developing this draft IAP/EIS. The Mineral Management Service of the Department of the Interior has also assisted the BLM in developing the document.

Dated: November 22, 2002.

Henri R. Bisson,

State Director, Alaska.

[FR Doc. 03–680 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–029–03–1310–DT CBMP]

Notice of Availability of the Montana Statewide Oil and Gas Final Environmental Impact Statement and Proposed Amendment to the Powder River and Billings Resource Management Plans (RMPs); Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the Federal Land Policy and Management Act, the National Environmental Policy Act, and the Montana Environmental Policy Act, the Bureau of Land Management (BLM) has jointly prepared a Final Environmental Impact Statement (EIS) and proposed Resource Management Plan (RMP) Amendment with the State of Montana (State). The planning area includes oil and gas estate administered by BLM in the Powder River and Billings RMP areas. The Powder River RMP area encompasses the southeastern portion of Montana consisting of Treasure and Powder River Counties, and portions of Rosebud, Big Horn, Carter, and Custer Counties. There are approximately 2,522,950 BLM-administered oil and gas acres in the Powder River RMP area. The Billings RMP area encompasses the south-central portion of Montana consisting of Wheatland, Golden Valley, Musselshell, Sweet Grass, Stillwater, Yellowstone, and Carbon Counties, and the remaining portion of Big Horn County. There are approximately 662,066 BLM-administered oil and gas acres in the Billings RMP area. The BLM-administered oil and gas acreage in Blaine, Park, and Gallatin Counties is not part of the BLM planning effort. The State's planning area is statewide.

DATES: The FEIS and Proposed Plan Amendment will be available for review for 30 calendar days from the Date the Environmental Protection Agency (EPA) publishes its NOA in the **Federal Register**. In addition, the 30-day protest period on the Final EIS and proposed Amendment will begin at that time. To be considered, the protest must be postmarked no later than the last day of the 30-day protest period and sent according to the instructions provided in the **ADDRESSES** section of this notice. Although not a requirement, sending a protest by certified mail, return receipt requested, is recommended.

The State of Montana Board of Oil and Gas Conservation (Board) will hold a public hearing on the Final EIS. Future meetings or hearings and any other public involvement activities will be announced in 15 days in advance through public notices, media news releases, mailings, and/or through the Board Web site at *http://www.bogc.dnrc.state.mt.us*. Following the public hearing, the Board will issue its Record of Decision.

Public Participation: The draft EIS and proposed RMP Amendment were available for public review from February 15, 2002, to May 15, 2002. Written comments were received from agencies, organizations, and individuals. All comments were considered during the preparation of the Final EIS and proposed RMP amendment. Reading copies will be available at local public libraries. Public

reading copies will also be available at the following Bureau of Land Management locations: Office of External Affairs, Main Interior Building, Room 6214, 18th and C Streets NW, Washington, DC 20240; External Affairs Office; Montana State Office, 5001 Southgate Drive, Billings, MT 59107; Miles City Field Office, 111 Garryowen Road, Miles City, MT 59301.

The BLM RMP process includes an opportunity for review of BLM's proposed decisions by filing a plan protest with the BLM's Director. Any person or organization that participated in the planning process and has an interest which is, or may be, adversely affected by approval of this proposed Plan Amendment may protest the plan. Careful adherence to the following guidelines will assist in preparing a protest:

Only those persons or organizations that participated in the planning process may protest. A protesting party may raise only those issues that were commented on during the planning process. However, additional issues may be raised at any time and should be directed to the Miles City Field Office for consideration in plan implementation as potential plan amendments or as otherwise appropriate. In order to be considered complete, a protest must contain at a minimum, the following information:

- Name, mailing address, telephone number, and interest of the person filing the protest
- Statement of the issue being protested
- Statement of the portion of the plan being protested

To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, and maps in the Final EIS and proposed Amendment. A copy of all documents addressing the issue submitted during the planning process or a reference to the date the issue was discussed for the record. A concise statement explaining why the BLM State Director's decision is believed to be incorrect is a critical part of the protest. It is important to take care to document all relevant facts and reference or cite the planning documents, environmental analysis documents, and available planning records (meeting minutes, summaries, correspondence). A protest without any supporting data will not provide the BLM with sufficient information to assess the protest, and therefore, the Director's review will be based on existing analysis and supporting data.

ADDRESSES: All protests on BLM's proposed decisions must be filed in writing to: (Regular Mail) Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protest Coordinator, PO Box 66538, Washington DC 20035; or (Overnight Mail) Director, Bureau of Land Management, Attention: Ms. Brenda Williams, Protest Coordinator, 1620 L Street, NW., Room 1075, Washington, DC 20036.

SUPPLEMENTARY INFORMATION: The Final EIS and proposed plan amendments are a joint effort between the BLM and the State of Montana. They are being prepared to analyze impacts to lands and resources as a result of proposed oil and gas development, primarily coal bed methane. The current Powder River and Billings RMPs, as amended by BLM's 1994 Oil and Gas Amendment of the Billings, Powder River, and South Dakota RMPs, support limited conventional oil and gas development and limited coal bed methane exploration and production. About 9,500 conventional oil and gas wells (all ownership categories) are located in the planning area. The Final EIS indicates that the 20-year expansion in development could result in the drilling of up to 26,000 coalbed methane wells (8,500 to 16,400 of which are expected to be producing wells) and 450 to 1,775 conventional oil and gas wells within the Billings and Powder River RMP areas.

The Final EIS and proposed amendments are being prepared to analyze this increased interest in oil and gas activity. The five alternatives developed by BLM and the State present a range of management scenarios to address the issues: Alternative A—existing management (No Action); Alternative B—emphasize soil, water, air, vegetation, wildlife, and cultural resources protection; Alternative C—emphasize coal bed methane development; Alternative D—encourage coal bed methane exploration and development while maintaining existing land uses; and Alternative E—the BLM and State Preferred Alternative, which combines features of Alternatives B through D and manages development of CBM in an environmentally sound manner. The Final EIS discloses the environmental consequences of each alternative.

A copy of the Final EIS and proposed Amendment has been sent to all individuals, agencies, and groups who have expressed interest or as required by regulation or policy. Copies are also available upon request from the BLM at the address listed above.

Four designated cooperating agencies helped BLM and the State prepare the EIS: the Bureau of Indian Affairs, the United States Department of Energy, the Crow Tribe, and the United States Environmental Protection Agency. Consultation with both the Crow and Northern Cheyenne tribes has taken place throughout the process to gather their input and concerns. Consultation with FWS has occurred, and the BLM has also met with individuals from the general public, special interest groups, industry, and local governments upon their request. The Northern Cheyenne Tribe has declined to become a cooperating agency, but was invited by BLM to participate in all cooperating agency activities.

The BLM and the State conducted public hearings across Montana on the Draft EIS and Amendment. The time and locations of the hearings were announced in local news releases.

FOR FURTHER INFORMATION CONTACT: Mary Bloom, Coal Bed Methane Program Manager, Bureau of Land Management, 111 Garryowen Road, Miles City, MT 59301, (406) 233–3649.

Dated: December 17, 2002.

Thomas P. Lonnie,

Acting State Director.

[FR Doc. 03–1081 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–090–03–1610–DQ]

Notice of Availability of the Final Environmental Impact Statement for the Powder River Basin Oil and Gas Project and Proposed Resource Management Plan Amendments; Johnson, Sheridan, Campbell, and Converse Counties, WY

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability (NOA) of Final Environmental Impact Statement (FEIS), and Proposed Resource Management Plan (RMP) Amendments.

SUMMARY: The Bureau of Land Management (BLM) announces the availability of the FEIS for the Powder River Basin Oil and Gas Project and Proposed Plan Amendments to the Buffalo RMP (1985), Platte River RMP (1985) and Thunder Basin National Land and Resource Management Plan (LRMP) (Forest Service 2002). The FEIS documents the direct, indirect, and cumulative environmental impacts from the development of oil and gas resources within the project area in Sheridan, Campbell, Johnson, and Converse Counties, Wyoming. The FEIS

describes and analyzes options for developing oil and gas resources while providing protection to other land uses and resource values. The Forest Service and the State of Wyoming (Wyoming Department of Environmental Quality) are cooperating agencies.

DATES: The Powder River Basin Oil and Gas Project FEIS and Proposed Plan Amendments will be available for review for 30 calendar days from the date the Environmental Protection Agency (EPA) publishes its NOA in the **Federal Register**. Comments on the Powder River Basin Oil and Gas Project FEIS (PRB EIS) must be filed within the 30-day review period. Under the provisions of 43 Code of Federal Regulations (CFR) § 1610.5 protests of proposed BLM RMP amendments must be filed with the Director in accordance with the instructions described in the FEIS and included in the Supplemental Information section of this notice. Protest of the proposed amendments to the Buffalo and Platte River RMPs will be accepted no later than 30 calendar days from the date the EPA publishes its NOA in the **Federal Register**. The Forest Service would amend the Thunder Basin National LRMP under its land and resources management planning processes and authorities.

ADDRESSES: A copy of the FEIS has been sent to affected Federal, State, and local government agencies and to interested parties. The document will be available electronically on the following Web site: *http://www.prb-eis.org.* Copies of the FEIS are available for public inspection at the following BLM office locations:

- Bureau of Land Management, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82003
- Bureau of Land Management, Buffalo Field Office, 1425 Fort Street, Buffalo, Wyoming 82834
- Bureau of Land Management, Casper Field Office, 2987 Prospector Drive, Casper, Wyoming 82604–2968

FOR FURTHER INFORMATION: Contact Mr. Paul Beels, Project Manager, 1425 Fort Street, Buffalo, WY 82834, or *paul_beels@blm.gov.* Mr. Beels may also be reached at 307–684–1168.

SUPPLEMENTARY INFORMATION: The FEIS analyzes a proposal by companies to drill and develop additional oil and gas resources, including coalbed methane (CBM), in Wyoming's Powder River Basin. Oil and gas development activities would include drilling, operating, and reclaiming almost 39,400 new CBM wells and 3,000 oil and gas wells; and constructing, operating, and reclaiming various ancillary facilities needed to support the new wells. Drilling would begin in 2003 and continue for 10 years.

The project area includes almost 8,000,000 acres in northeastern Wyoming, encompassing all of Johnson and Sheridan Counties except the Bighorn National Forest System lands, all of Campbell County and the northern portion of Converse County. The public lands and Federal mineral resources analyzed include all of those administered by the BLM Buffalo Field Office (FO) and a small portion that is administered by the Casper FO. The mineral resources analyzed also include the Federal oil and gas underlying the National Forest System lands and surface resources (Thunder Basin National Grassland) administered by the USDA Forest Service.

The FEIS describes the physical, biological, cultural, historic, and socioeconomic resources in and surrounding the project area. The focus for impact analysis was based upon resource issues and concerns identified during the public scoping process. Potential impacts of concern from development (not in priority order), are: economic, social, health and safety effects on the communities of Buffalo, Sheridan, and Gillette, Wyoming, and other surrounding communities; crucial elk winter range; sage grouse and raptor breeding and nesting; soil erosion; air quality effects; groundwater draw down and contamination; surface water quality; historic Bozeman Trail condition and its viewshed; and cumulative effects. The primary issues driving alternative development are water quality and quantity and air quality.

Three alternatives were analyzed in detail: (1) Proposed Action, (2) Proposed Action with Reduced Emission Levels and Expanded Produced Water Handling Scenarios, and (3) No Action. Alternative 1 consisted of a combination of the CBM development proposal submitted by the oil and gas companies and non-CBM oil and gas development possibilities described in BLM's Reasonable Foreseeable Development (RFD) scenario. Alternative 2 was developed in response to issues raised during the public and agency scoping process. This alternative, which consists of Alternatives ''2A'' and ''2B'', would replace some of the proposed gas-fired compressors with electrical compressors and would involve a more limited amount of water that would be discharged directly to the watersheds. As required by National Environmental Policy Act (NEPA), the No Action alternative is a basis for comparison with other alternatives analyzed in the EIS. For this project, the No Action Alternative would not authorize additional development of oil and gas on Federal leases within the Project Area. Drilling would continue on State and private leases, irrespective of the decisions resulting from this document.

Agency-Preferred Alternative: BLM's preferred alternative is a combination of Alternative 2A and Alternative 1. The Preferred Alternative includes the use of natural gas powered compressors but does not preclude the use of electric powered compressor stations, as outlined in Alternative 1. All other parts of the Preferred Alternative are as outlined in Alternative 2A. The Preferred Alternative allows the Wyoming DEQ maximum flexibility to comply with applicable national and state air and water quality standards.

Proposed Land Use Plan Amendments: The BLM RMPs would be amended to allow oil and gas exploration and development at the level analyzed in the FEIS and to adopt new conditions of use. In addition, the FEIS updates the NEPA analysis for the RMPs for management of oil and gas exploration and development on federal leases.

For the U.S. Forest Service, the FEIS will be used to allow oil and gas exploration and development at the level analyzed in the FEIS, update the NEPA analysis for the LRMP and adopt the 2002 LRMP stipulations for the area west of the coal outcrop line.

The Proposed Plan Amendments do not include changes to the leasing allocation decisions, as the FEIS does not address leasing.

RMP amendments would provide complete and concise descriptions of applicable management practices for oil and gas development.

The DEIS was available for public review and comment from January 18, 2002, through May 15, 2002. The distribution list included the agencies, companies, organizations, and individuals that had expressed an interest in the project during scoping. The list included several Federal and State agencies and elected officials to whom BLM commonly sends EISs. During this period, the BLM encouraged reviewers to submit written comments on the DEIS. In addition, the BLM held public meetings on the DEIS on March 18–21, 2002, to provide the public with the opportunity to submit oral and written comments. All comments presented throughout the process have been considered.

Ultimately, the BLM State Director's decision whether to adopt the proposed RMP amendment will be documented in a Record of Decision and issued under the authority of the Federal Land Policy

and Management Act as codified at 43 CFR part 1610. If adopted, these proposed RMP amendments do not constitute authorization to the oil and gas companies to implement projects nor engage in any ground-disturbing activities. Decisions regarding these site-specific implementation activities are subject to further NEPA analysis and appeal, as provided by applicable regulations.

Protest Instructions: Publication of this EIS prepared for a RMP amendment affords the public the opportunity to protest. Instructions for filing a protest with the Director of the BLM regarding the State Director's proposed amendments to the Buffalo and Platte River RMPs may be found at 43 CFR 1610.5. Any person who participated in the planning process and has an interest or may be adversely affected by the approval of the proposed Plan Amendment, may protest such approval. A protest may raise only those issues that were submitted for the record during the planning process. The protest must be in writing and must be filed with the Director. The protest must be filed within 30 days from the date the Environmental Protection Agency publishes the NOA in the **Federal Register**. The protest must contain:

i. The name, mailing address, telephone number, and interest of the person filing the protest;
ii. A statement of the issue or issues being protested;
iii. A statement of the part, or parts, of the plan or amendment being protested;
iv. A copy of all documents addressing the issue, or issues, that were submitted during the planning process by the protesting party or an indication of the date the issue, or issues, were discussed for the record; and
v. A concise statement explaining why the State Director's decision is believed to be wrong.

The Director must promptly render a decision on the protest. The decision must be in writing and must set forth the reasons for the decision. The decision must be sent to the protesting party by certified mail, return receipt requested. The decision of the Director must be the final decision for the Department of the Interior.

Protest Filing Addresses: Protests submitted electronically will not be accepted. File written protests by: Surface mail: U.S. Department of the Interior, Bureau of Land Management, Director (210), Attn: Ms. Brenda Williams, Protest Coordinator, P.O. Box 66538, Washington DC 20035 or Overnight mail: U.S. Department of the Interior, Bureau of Land Management, Director, Protest Coordinator (WO–210), 1620 L Street, NW., Room 1075, Washington, DC 20036.

Dated: December 18, 2002.

Robert P. Henry,

Acting State Director.

[FR Doc. 03–1082 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–42–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–03–1120–PG–24–1A]

Notice of Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Department of Interior.

ACTION: Notice of Utah Resource Advisory Council (RAC) Meeting.

SUMMARY: The purpose of this notice is to announce a Resource Advisory Council Meeting scheduled for February 12, 2003, Salt Lake City, Utah.

The Bureau of Land Management's (BLM) Utah Statewide Resource Advisory Council (RAC) will be meeting on February 12, 2003, at the Best Western Salt Lake Plaza Hotel, Salt Lake Conference Room (main level of hotel), 122 West South Temple, (801) 521–0130, Salt Lake City, Utah. The meeting will begin at 8:30 a.m. and conclude at 4 p.m.

Agenda topics include an update on the San Rafael Swell, a report from the Raptor Subgroup, status report on the RMP planning process, an overview of the drought situation, feedback and discussion on the November RAC satellite broadcast, and RAC work plans for the future.

A public comment period is scheduled from 3:30 p.m.–4 p.m. where members of the public may address the Council. Written comments may be mailed to the Bureau of Land Management at the address listed below.

All meetings are open to the public; however, transportation, lodging, and meals are the responsibility of the participating public.

FOR FURTHER INFORMATION: Contact Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, Utah 84111; phone (801) 539–4195.

Dated: Janaury 6, 2003.

Sally Wisely,

State Director.

[FR Doc. 03–1083 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[60% to CO–956–1420–BJ–0000–241A; 11% to CO–956–1910–BJ–4497–241A; 29% to CO–956–9820–BJ–CO01–241A]

Colorado: Filing of Plats of Survey

January 6, 2003.

SUMMARY: The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10 a.m., January 6, 2003. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093.

The plat representing the dependent resurvey and survey in Township 34 North, Range 2 West, New Mexico Principal Meridian, Group 1315, Colorado, was accepted December 10, 2002.

This survey and plat were requested by the Bureau of Indian Affairs for administrative and management purposes.

The plat representing the dependent resurvey and survey in Township 49 North, Range 7 West, New Mexico Principal Meridian, Group 1247, Colorado, was accepted October 31, 2002.

This survey and plat were requested by the National Park Service for administrative and management purposes.

The plat representing the limited corrective dependent resurvey in Township 7 North, Range 70 West, Sixth Principal Meridian, Group 761, Colorado, was accepted October 30, 2002.

The plat representing the dependent resurvey of certain mineral surveys in Township 42 North, Range 7 West, New Mexico Principal Meridian, Group 1333, Colorado, was accepted November 22, 2002.

The plat representing the corrective dependent resurvey in section 21, Township 6 North, Range 70 West, Sixth Principal Meridian, Group 632, Colorado, was accepted December 12, 2002.

The amended field notes, correcting the 1978 descriptions, for the East 1/16 section corner of sections 17 and 20, and the Center West 1/16 section corner of section 19, in T. 6 North, Range 70 West, Sixth Principal Meridian, Group 632, Colorado, was accepted November 21, 2002.

The amended field notes, correcting the 1977 description, for the Center South 1/16 section corner of section 28,

in T. 6 North, Range 71 West, Sixth Principal Meridian, Group 632, Colorado, was accepted November 21, 2002.

These plats, surveys and amended field notes, were requested by the Forest Service for administrative and management purposes.

The plat representing the dependent resurvey and survey in section 26, Township 1 South, Range 83 West, Sixth Principal Meridian, Group 1319, Colorado, was accepted October 7, 2002.

The plat representing the dependent resurvey and survey, in Township 13 South, Range 98 West, Sixth principal Meridian, Group 1271, was accepted October 8, 2002.

The plat representing the dependent resurvey and survey in Township 50 North, Range 20 West, New Mexico Principal Meridian, Group 1360, Colorado, was accepted October 8, 2002.

The plat representing the dependent resurvey and survey in Township 3 South, Range 84 West, Sixth Principal Meridian, Group 1327, was accepted October 24, 2002.

The plat representing the dependent resurvey and survey in Township 3 South, Range 85 West, Sixth Principal Meridian, Group 1327, was accepted October 24, 2002.

The plat representing the dependent resurvey and survey in Township 3 North, Range 80 West, Sixth Principal Meridian, Group 1348, was accepted November 14, 2002.

The plat representing the dependent resurvey and survey in Township 14 South, Range, 103 West, Sixth Principal Meridian, Group 1291, Colorado, was accepted December 10, 2002.

The plat representing the entire record of the remonumentation of certain original corners, in Township 17 South, Range 68 West, Sixth Principal Meridian, Group 750, Colorado, was accepted December 18, 2002.

The plat representing the entire record of the remonumentation of certain original corners, in Township 16 South, Range 72 West, Sixth Principal Meridian, Group 750, Colorado, was accepted December 18, 2002.

The plat representing the entire record of the remonumentation of certain original corners, in Township 16 South, Range 73 West, Sixth Principal Meridian, Group 750, Colorado, was accepted December 18, 2002.

The amended field notes, correcting the description of ties, to local bearing trees, at the closing corner of Townships 50 and 51 North, Range 20 West, New Mexico Principal Meridian, Group 1360, Colorado, was accepted November 20, 2002.

These plats, surveys and amended field notes, were requested by the Bureau of Land Management for administrative and management purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 03–1046 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Folsom Lake State Recreation Area General Plan/Resource Management Plan, California

AGENCY: Bureau of Reclamation, Interior (Reclamation).

ACTION: Notice of Intent to prepare an environmental impact report /environmental impact statement (EIS/EIR).

SUMMARY: The U.S. Bureau of Reclamation (Reclamation) in partnership with the California Department of Parks and Recreation (CDPR) intend to prepare a General Plan/Resource Management Plan (GP/RMP) for the Folsom Lake State Recreation Area (including Lake Natoma and the Folsom Powerhouse State Historic Park). This planning activity encompasses approximately 18,000 acres of publicly accessible land/water owned by Reclamation and managed by the CDPR's Gold Fields District. The GP/RMP will be the primary management document for the park unit, providing a defined purpose, vision, long term-goals, and management guidelines. It will be used by CDPR as a framework for guiding decision-making related to the future development potential, ongoing management, resource conservation, and public use of the Folsom Lake State Recreation Area (Folsom Lake SRA). CDPR and Reclamation will prepare a joint EIR/EIS on the management actions and elements included in the GP/RMP.

DATES: A total of three regional workshops will be conducted to solicit public input at each phase of the planning process. The first public workshop was held on November 20, 2002 from 7 p.m. to 9:30 p.m. in Folsom, California.

This workshop, and other upcoming ones, will be used to solicit community input on local issues, concerns and aspirations as they relate to the Folsom Lake SRA. The information will be used to help form the definition of the goals/objectives of the GP/RMP, analysis of opportunities and constraints, and scope of subsequent planning and design efforts. The workshops will also serve as the public scoping meetings for preparation of the EIR/EIS, identifying the range and scope of issues to be addressed in the environmental assessment documents.

A second public workshop is planned for March/April 2003. At this time, the public will have the opportunity to further define their issues, concerns and aspirations, as well as consider and comment on developed alternative park unit improvement and conservation scenarios. At a third public workshop, tentatively scheduled for January 2004, plan proposals for land use, resource management, circulation and facilities will be presented for review and evaluation.

These public meetings will be announced through the local news media, newsletters, and the CDPR Web site (*http://www.parks.ca.gov*) at least 15 days prior to the event. Comments on issues and planning criteria may be submitted in writing to the address listed below.

ADDRESSES: The first meeting was held at Folsom Middle School, 500 Blue Ravine Road, Folsom, CA 95630. Locations for the other two meetings are not yet determined.

Written comments should be sent to Folsom Lake Plan Update c/o Wallace Roberts & Todd, LLC, 1328 Mission Street, Fourth Floor, San Francisco, CA 94103 or email: *folsomlakeplanupdate @sf.wrtdesign.com.*

FOR FURTHER INFORMATION CONTACT: Jim Micheaels, Associate Park and Recreation Specialist, Gold Fields District, 7806 Folsom-Auburn Road, Folsom, California 95630, phone (916) 988–0513; or Mike Petrinovich, Resource Manager, U.S. Bureau of Reclamation, Central California Area Office, Folsom, CA 95639, phone (916) 989–7276.

SUPPLEMENTARY INFORMATION: CDPR first entered into an agreement with Reclamation in 1956 to manage recreation facilities at Folsom Lake and Lake Natoma. The area was later designated as Folsom Lake SRA. Most of the lands around both lakes are owned by Reclamation and managed by CDPR. With approximately 2.5 million visitors annually, Folsom Lake SRA is one of the most popular and heavily visited units within the California State Park System. Lake Natoma and portions of the popular 32-mile American River Bike Trail are a part of the unit.

The current GP for Folsom Lake SRA was completed in 1979. The plan currently being developed will also

serve as Reclamation's RMP for the area. The GP/RMP for Folsom Lake SRA will be a 2-year process. The GP/RMP will guide the long-term management of the SRA including protecting natural and cultural resources, providing for and management of public use and recreation opportunities, and outlining the development of future facilities. The plan update will include direction for the Folsom Powerhouse State Historic Park, a separate park unit that is administered in conjunction with Folsom Lake SRA.

The GP/RMP will guide management decisions and activities by establishing long-term management direction, area-wide goals and objectives, actions necessary to achieve desired future conditions, identification of lands suitable or not suitable for resource use and production, and monitoring and evaluation requirements. The GP/RMP planning process will be an interdisciplinary effort between CDPR, Reclamation, other relevant agencies, stakeholders and the public. The CDPR and Reclamation will work collaboratively with interested parties to identify the management decisions that address local, regional, and national needs and concerns. The public participation process as outlined above will identify planning issues, develop planning criteria, and will include an evaluation of existing CDPR and Reclamation management plans in the context of the needs and interest of the public and the conservation of natural and cultural resources.

Preliminary issues and management concerns have been identified by CDPR and Reclamation personnel and other agencies. The preliminary issues identified thus far represent the CDPR's and Reclamation's knowledge to date on the existing issues and concerns with current management, but are not limited to these. The major issue themes that will be addressed in the plan effort include: assessment of impacts to the unit's resources from adjacent development and recent road-widening projects; access to and transportation within the park including trails and boat ramp access; recreation/visitor use and safety; management and protection of public land resources; and potential future action including acquisition, and construction of new facilities. The public is encouraged to help identify additional management questions and concerns to be addressed in the plan.

As part of the GP/RMP process, an EIR/EIS will be prepared in compliance with the National Environmental Protection Act (NEPA) and the California Environmental Quality Act (CEQA). The EIR/EIS will evaluate the environmental impacts of the management actions and projects contained in the GP/RMP, as a whole, in a programmatic manner. As the GP/RMP is implemented over time, specific project proposals can tier from the EIR/EIS by further evaluating the details of the specific project through subsequent environmental review. The Draft EIR/EIS is projected to be available for public review for a 45-day early in 2004. Toward the end of the review period, a public hearing will be held in the vicinity of the Folsom Lake SRA to receive public comment on both the GP/RMP and Draft EIR/EIS.

Our practice is to make comments, including names and home addresses of respondents available for public review. Individual respondents may request that we withhold their home addresses from public disclosure, which we will honor to the extent allowable by law. There may also be circumstances in which we would withhold a respondent's identity from public disclosure, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. 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 disclosure in their entirety.

Dated: December 20, 2002.

Frank Michny,

Regional Environmental Officer, Mid-Pacific Region.

[FR Doc. 03–1075 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for 30 CFR parts 779 and 870 and the OSM–1 Form.

DATES: Comments on the proposed information collection must be received by March 18, 2003 to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 120–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtreleas@0smre.gov*.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection requests, explanatory information and related forms, contact John A. Trelease at the address listed in **ADDRESSES**.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [*see* 5 CFR 1320.8 (d)]. This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR part 779, Surface Mining Permit Applications—Minimum Requirements for Environmental Resources; and part 870, Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting and the form it implements, the OSM–1, Coal Reclamation Fee Report.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden and respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in OSM's submissions of the information collection requests to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activities:

Title: Surface Mining Permit Applications—Minimum Requirements for Environmental Resources, 30 CFR 779.

OMB Control Number: 1029–0035.

Summary: Applicants for surface coal mining permits are required to provide adequate descriptions of the

environmental resources that may be affected by proposed surface mining activities. The information will be used by the regulatory authority to determine if the applicant can comply with environmental protection performance standards.

Bureau Form Number: None.

Frequency of Collection: Once upon submittal of mining application.

Description of Respondents: Coal mining companies and state regulatory authorities.

Total Annual Responses: 337.

Total Annual Burden Hours: 52,813 hours.

Title: Abandoned Mine Reclamation Fund—Fee Collection and Coal Production Reporting, 30 CFR 870.

OMB Control Number: 1029–0063.

Summary: The information is used to maintain a record of coal produced for sale, transfer, or use nationwide each calendar quarter, the method of coal removal and the type of coal, and the basis for coal tonnage reporting in compliance with 30 CFR 870 and section 401 of Pub. L. 95–87. Individual reclamation fee payment liability is based on this information. Without the collection of information OSM could not implement its regulatory responsibilities and collect the fee.

Bureau Form Number: OSM–1.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine permittees.

Total Annual Responses: 12,364.

Total Annual Burden Hours: 2,605.

Dated: January 13, 2003.

Richard G. Bryson,

Acting Assistant Director, Program Support.

[FR Doc. 03–1092 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing that the information collection request for 30 CFR part 783, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources has been forwarded to the Office of Management and Budget (OMB) for review and comment. The information collection request describes the nature of the information collection and the expected burden and cost.

DATES: OMB has up to 60 days to approve or disapprove the information collections but may respond after 30 days. Therefore, public comments should be submitted to OMB by February 18, 2003, in order to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related form, contact John A. Trelease at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(d)). OSM has submitted a request to OMB to renew its approval of the collection of information found 30 CFR part 783, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources. OSM is requesting a 3-year term of approval for this information collection activity.

As an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for this collection of information is listed in 30 CFR [part 783, which is 1029–0038.

As required under 5 CFR 1320.8(d), a **Federal Register** notice soliciting comments on these collections of information was published on October 7, 2002 (67 FR 62495). No comments were received. This notice provides the public with an additional 30 days in which to comment.

The following information is provided for the information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information. Where appropriate, OSM has revised burden estimates to reflect current reporting levels and adjustments based on reestimates of the burden or number of respondents.

Title: Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources, 30 CFR part 783.

OMB Control Number: 1029–0038.

Summary: Applicants for underground coal mining permits are required to provide adequate descriptions of the environmental resources that may be affected by proposed underground coal mining activities.

Bureau Form Number: None.

Frequency of Collection: Once at time of application submission.

Description of Respondents: Underground coal mining applicants, and State regulatory authorities.

Total Annual Responses: 59.

Total Annual Burden Hours: 25,088 hours.

Send comments on the need for the collection of information for the performance of the functions of the agency; the accuracy of the agency's burden estimates; ways to enhance the quality, utility and clarity of the information collection; and ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information, to the following address. Please refer to the appropriate OMB control number in all correspondence.

ADDRESSES: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Department of Interior Desk Officer, 725 17th Street, NW., Washington, DC 20503, and to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW., Room 210–SIB, Washington, DC 20240.

Dated: December 17, 2002.

Richard G. Bryson,

Acting Assistant Director, Program Support.

[FR Doc. 03–1091 Filed 1–16–03; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF LABOR

Office of the Secretary

Department of Labor's Fleet Alternative Fuel Vehicle Acquisition

AGENCY: Office of the Secretary, Labor.

ACTION: Notice of availability of the Department of Labor's annual report on its alternative fuel vehicle acquisitions for fiscal years 1999, 2000 and 2001.

SUMMARY: In compliance with the Energy Policy Act of 1992 and Executive Order 13149, this notice announces the availability of the 1999, 2000 and 2001 reports which summarize the U.S. Department of Labor's (DOL)

compliance with the annual alternative fuel vehicle acquisition requirement for its fleet. Additionally, the reports include data relative to the agency's effort in reducing petroleum consumption.

ADDRESSES: U.S. Department of Labor, Office of the Assistant Secretary for Administration and Management, Business Operations Center, Office of Administrative Services, 200 Constitution Avenue NW., Room S1521, Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Al Stewart, Director of Business Operations Center at (202) 693–4021 or email *Stewart-Milton@dol.gov.*

SUPPLEMENTARY INFORMATION: The Energy Policy Act of 1992 (42 U.S.C. 13211–13219) as amended by the Energy Conservation and Reauthorization Act of 1998 (Pub. L. 105–388, Section 310(b) (3) and Executive Order 13149 (April 2000) were intended to decrease the country's dependence on petroleum for transportation purposes. The Energy Policy Act of 1992 requires Federal fleets to acquire 75 percent of their new covered vehicle acquisitions as alternative fuel vehicles. In Fiscal Year (FY) 1999, DOL acquired 85 vehicles covered as alternative fuel vehicles. In FY 2000 and 2001, the number of covered vehicles was 77 and 116 respectively. The Department is not currently in compliance, however, expects to achieve compliance by FY 2005.

Pursuant to 42 U.S.C. 13218 of the Energy Policy Act, DOL and other covered agencies are required annually to submit to Congress reports on their Energy Policy Act's alternative fuel vehicle acquisition requirements. These reports must also be placed on an available Web site and their availability, including the Web site address, must be published in the **Federal Register**.

DOL reports for 1999, 2000, and 2001 may be accessed at the DOL Fleet Information and Regulations Web site at *http://www.dol.gov/oasam/programs/boc/epact.htm.*

Issued in Washington, DC, this 10th day of January 2003.

Patrick Pizzella,

Assistant Secretary for Administration and Management.

[FR Doc. 03–1093 Filed 1–16–03; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Employment Standards Administration

Wage and Hour Division; Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department.

Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Withdrawn General Wage Determination Decisions

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Decisions as listed below:

MD020017—*See* MD020016
PA020033—*See* PA020013
PA020043—*See* PA020013
KY020042—*See* KY020005

Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is less than ten (10) days from the date of this notice, this action shall be effective unless the agency finds that there is insufficient time to notify bidders of the change and the finding is documented in the contract file.

Modification to General Wage Determination Decisions

The number of the decisions listed to the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

CT020001 (Mar. 1, 2002)

CT020003 (Mar. 1, 2002)
CT020004 (Mar. 1, 2002)
CT020005 (Mar. 1, 2002)
Maine
ME020001 (Mar. 1, 2002)
ME020002 (Mar. 1, 2002)
ME020006 (Mar. 1, 2002)
ME020008 (Mar. 1, 2002)
Rhode Island
RI020001 (Mar. 1, 2002)

Volume II

Maryland
MD020001 (Mar. 1, 2002)
MD020002 (Mar. 1, 2002)
MD020009 (Mar. 1, 2002)
MD020016 (Mar. 1, 2002)
MD020021 (Mar. 1, 2002)
MD020026 (Mar. 1, 2002)
MD020037 (Mar. 1, 2002)
MD020039 (Mar. 1, 2002)
MD020058 (Mar. 1, 2002)
Pennsylvania
PA020001 (Mar. 1, 2002)
PA020002 (Mar. 1, 2002)
PA020004 (Mar. 1, 2002)
PA020005 (Mar. 1, 2002)
PA020006 (Mar. 1, 2002)
PA020007 (Mar. 1, 2002)
PA020008 (Mar. 1, 2002)
PA020009 (Mar. 1, 2002)
PA020010 (Mar. 1, 2002)
PA020011 (Mar. 1, 2002)
PA020012 (Mar. 1, 2002)
PA020013 (Mar. 1, 2002)
PA020014 (Mar. 1, 2002)
PA020015 (Mar. 1, 2002)
PA020016 (Mar. 1, 2002)
PA020017 (Mar. 1, 2002)
PA020018 (Mar. 1, 2002)
PA020019 (Mar. 1, 2002)
PA020020 (Mar. 1, 2002)
PA020023 (Mar. 1, 2002)
PA020024 (Mar. 1, 2002)
PA020025 (Mar. 1, 2002)
PA020026 (Mar. 1, 2002)
PA020027 (Mar. 1, 2002)
PA020030 (Mar. 1, 2002)
PA020031 (Mar. 1, 2002)
PA020032 (Mar. 1, 2002)
PA020038 (Mar. 1, 2002)
PA020040 (Mar. 1, 2002)
PA020041 (Mar. 1, 2002)
PA020042 (Mar. 1, 2002)
PA020059 (Mar. 1, 2002)
PA020060 (Mar. 1, 2002)
PA020061 (Mar. 1, 2002)
PA020065 (Mar. 1, 2002)
Virginia
VA020009 (Mar. 1, 2002)
VA020015 (Mar. 1, 2002)
VA020017 (Mar. 1, 2002)
VA020019 (Mar. 1, 2002)
VA020022 (Mar. 1, 2002)
VA020023 (Mar. 1, 2002)
VA020031 (Mar. 1, 2002)
VA020033 (Mar. 1, 2002)
VA020036 (Mar. 1, 2002)
VA020067 (Mar. 1, 2002)
VA020080 (Mar. 1, 2002)
VA020085 (Mar. 1, 2002)
VA020088 (Mar. 1, 2002)

Volume III

Kentucky
KY020004 (Mar. 1, 2002)
KY020005 (Mar. 1, 2002)
KY020025 (Mar. 1, 2002)
KY020027 (Mar. 1, 2002)
KY020028 (Mar. 1, 2002)
KY020029 (Mar. 1, 2002)

Volume IV

Illinois
IL020016 (Mar. 1, 2002)
Indiana
IN020001 (Mar. 1, 2002)
IN020002 (Mar. 1, 2002)
IN020003 (Mar. 1, 2002)
IN020004 (Mar. 1, 2002)
IN020005 (Mar. 1, 2002)
IN020006 (Mar. 1, 2002)
IN020012 (Mar. 1, 2002)
IN020014 (Mar. 1, 2002)
IN020020 (Mar. 1, 2002)
Ohio
OH020002 (Mar. 1, 2002)
OH020009 (Mar. 1, 2002)
OH020029 (Mar. 1, 2002)

Volume V

Iowa
IA020004 (Mar. 1, 2002)
IA020005 (Mar. 1, 2002)
IA020008 (Mar. 1, 2002)
IA020009 (Mar. 1, 2002)
IA020010 (Mar. 1, 2002)
IA020013 (Mar. 1, 2002)
IA020014 (Mar. 1, 2002)
IA020024 (Mar. 1, 2002)
IA020028 (Mar. 1, 2002)
IA020060 (Mar. 1, 2002)
IA020067 (Mar. 1, 2002)
Missouri
MO020001 (Mar. 1, 2002)
MO020013 (Mar. 1, 2002)
MO020042 (Mar. 1, 2002)
MO020054 (Mar. 1, 2002)
MO020058 (Mar. 1, 2002)
New Mexico
NM020001 (Mar. 1, 2002)

Volume VI

Alaska
AK020001 (Mar. 1, 2002)
Colorado
CO020001 (Mar. 1, 2002)
CO020002 (Mar. 1, 2002)
CO020003 (Mar. 1, 2002)
CO020004 (Mar. 1, 2002)
CO020005 (Mar. 1, 2002)
CO020006 (Mar. 1, 2002)
CO020007 (Mar. 1, 2002)
CO020008 (Mar. 1, 2002)
CO020009 (Mar. 1, 2002)
CO020010 (Mar. 1, 2002)
CO020011 (Mar. 1, 2002)
CO020015 (Mar. 1, 2002)
Oregon
OR020001 (Mar. 1, 2002)
OR020017 (Mar. 1, 2002)
South Dakota
SD020002 (Mar. 1, 2002)
SD020005 (Mar. 1, 2002)
SD020006 (Mar. 1, 2002)
SD020007 (Mar. 1, 2002)
SD020010 (Mar. 1, 2002)
Utah
UT020001 (Mar. 1, 2002)
UT020004 (Mar. 1, 2002)
UT020006 (Mar. 1, 2002)
UT020007 (Mar. 1, 2002)
UT020008 (Mar. 1, 2002)
UT020013 (Mar. 1, 2002)
UT020015 (Mar. 1, 2002)
UT020023 (Mar. 1, 2002)
UT020024 (Mar. 1, 2002)
UT020025 (Mar. 1, 2002)
UT020026 (Mar. 1, 2002)
UT020027 (Mar. 1, 2002)
UT020029 (Mar. 1, 2002)
UT020030 (Mar. 1, 2002)
UT020031 (Mar. 1, 2002)
UT020034 (Mar. 1, 2002)
Washington
WA020001 (Mar. 1, 2003)
WA020002 (Mar. 1, 2003)
WA020005 (Mar. 1, 2003)
WA020008 (Mar. 1, 2003)
WA020023 (Mar. 1, 2003)
WA020026 (Mar. 1, 2003)
Wyoming
WY020004 (Mar. 1, 2002)
WY020013 (Mar. 1, 2002)
WY020023 (Mar. 1, 2002)

VOLUME VII:

California
CA020001 (Mar. 1, 2002)
CA020002 (Mar. 1, 2002)
CA020004 (Mar. 1, 2002)
CA020009 (Mar. 1, 2002)
CA020019 (Mar. 1, 2002)
CA020023 (Mar. 1, 2002)
CA020025 (Mar. 1, 2002)
CA020028 (Mar. 1, 2002)
CA020029 (Mar. 1, 2002)
CA020030 (Mar. 1, 2002)
CA020031 (Mar. 1, 2002)
CA020032 (Mar. 1, 2002)
CA020033 (Mar. 1, 2002)
CA020035 (Mar. 1, 2002)
CA020036 (Mar. 1, 2002)
CA020037 (Mar. 1, 2002)
Nevada
NV020001 (Mar. 1, 2002)
NV020002 (Mar. 1, 2002)
NV020003 (Mar. 1, 2002)
NV020004 (Mar. 1, 2002)
NV020005 (Mar. 1, 2002)
NV020007 (Mar. 1, 2002)
NV020009 (Mar. 1, 2002)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage determinations Issued Under the Davis-Bacon And Related Acts''. This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

General wage determinations issued under the Davis-Bacon and related Acts are available electronically at no cost on the Government Printing Office site at *http://www.access.gpo.gov/davisbacon.* They are also available electronically by subscription to the Davis-Bacon Online Service (*http://davisbacon.fedworld.gov)* of the

National Technical Information Service (NTIS) of the U.S. Department of Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068. This subscription offers value-added features such as electronic delivery of modified wage decisions directly to the user's desktop, the ability to access prior wage decisions issued during the year, extensive Help desk Support, etc.

Hard-copy subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800.

When ordering hard-copy subscription(s), be sure to specific the State(s) of interest, since subscriptions may be ordered for any or all of the six separate Volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Dated: January 9, 2003.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 03–803 Filed 01–16–03; 8:45 am]

BILLING CODE 4510–27–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application Numbers D–11137, 11138, and 11139]

Notice of Proposed Individual Exemption Involving the Northwest Airlines Pension Plan for Salaried Employees, the Northwest Airlines Pension Plan for Pilot Employees, and the Northwest Airlines Pension Plan for Contract Employees (Collectively, the Plans) Located in Eagan, MN

AGENCY: Pension and Welfare Benefits Administration, Department of Labor.

ACTION: Notice of proposed individual exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor (the Department) of a proposed exemption from certain prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and from certain taxes imposed by the Internal Revenue Code of 1986 (the Code). If granted, the proposed exemption would permit: (1) The in-kind contribution(s) of the common stock of either Pinnacle Airlines, Inc. or Pinnacle Airlines Corp. (Pinnacle Stock) to the Plans by Northwest Airlines, Inc. (Northwest), a party in interest with respect to such Plans; (2) the holding of the Pinnacle Stock by the Plans; (3) the sale of the Pinnacle Stock by the Plans to Northwest; and (4) the acquisition, holding, and exercise by the Plans of a put option (the Put Option) granted to the Plans by Northwest (the Exemption Transactions). If granted, the proposed exemption would affect participants and beneficiaries of, and fiduciaries with respect to, the Plans.

DATES: Written comments and requests for a public hearing should be received by the Department on or before March 3, 2003.

EFFECTIVE DATE: This exemption, if granted, will be effective as of January 15, 2003.

ADDRESSES: All written comments and requests for a public hearing (preferably, three copies) should be sent to the Office of Exemption Determinations, Pension and Welfare Benefits Administration, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (Attention: Exemption Application Numbers D–11137–39).

Interested persons are also invited to submit comments and/or hearing request to the Department by the end of the scheduled comment period either by facsimile to (202) 219–0204 or by electronic mail to *moffittb@pwba.dol.gov.* The application pertaining to the proposed exemption and the comments received will be available for public inspection in the Public Disclosure Room of the Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

SUPPLEMENTARY INFORMATION: This document contains a notice of pendency before the Department of a proposed individual exemption from the restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and from the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code.

FOR FURTHER INFORMATION CONTACT: Wendy M. McColough or Christopher Motta, Office of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor, telephone (202) 693–8540. (This is not a toll-free number.)

Summary of Facts and Representations

1. Northwest. Northwest (hereinafter, Northwest or the Applicant) is a Minnesota corporation with its principal headquarters in Eagan, Minnesota. Northwest is the principal operating company of the Northwest Airlines Corporation's controlled group and is the fourth largest airline in the world. Northwest Airlines Corporation (NWAC), the ultimate parent corporation, which indirectly owns 100 percent (100%) of the stock of Northwest, is publicly traded (NASDAQ symbol NWAC) and is a Delaware corporation. Northwest represents that all significant members of NWAC's controlled group are airline-related. The airline began service on October 1, 1926. Known primarily as an international airline prior to the era of deregulation, Northwest strengthened its domestic presence when the industry was deregulated. To achieve this, Northwest acquired Republic Airlines in 1986. Today, the Applicant states that Northwest has a 10 percent (10%) domestic market share. In 1989, Northwest created the first international airline alliance with KLM Royal Dutch Airlines (KLM), giving Northwest an international presence between the U.S. and Europe and points beyond. Northwest expanded its alliance strategy again in 1998 with Continental Airlines (Continental) by creating the first domestic, major airline alliance. This alliance was solidified with a new 25-year alliance agreement in 2001. In August 2002, Northwest and Continental announced that a ten-year cooperative marketing agreement had been reached with Delta Air Lines. This agreement is subject to U.S. government review and approval. NWAC was taken private in 1989. In March 1994, NWAC completed an initial public offering and again became a public company.

2. Northwest is the sponsor of the Northwest Airlines Pension Plan for Salaried Employees (Salaried Plan), the Northwest Airlines Pension Plan for Pilot Employees (Pilots Plan), and the Northwest Airlines Pension Plan for Contract Employees (Contract Plan) with the authority, directly or through a committee of officers designated by it (The Northwest Airlines Pension Investment Committee), to appoint and remove trustees and investment managers. Northwest also retains the authority, subject to collective bargaining limitations, to amend and terminate the Plans and to transfer assets and liabilities to and from the Plans. Northwest is the plan administrator under the Plans and a

named fiduciary for purposes of section 402(a) of ERISA for the Plans.

In addition to Northwest, other fiduciaries include State Street Global Advisors, The Northwest Airlines Pension Investment Committee, investment managers hired by the Pension Investment Committee, Aon Fiduciary Counselors, Inc. as it relates to the transactions described in this proposal, certain employees of the Plan Sponsor, and the Retirement Board as it relates to the Pilots Plan. Northwest, as sponsor of the Plans, by and through the Pension Investment Committee appointed by it as named fiduciary, generally has discretion with respect to the investment of the Plans' assets. However, the discretion to value, acquire, hold and dispose of the Pinnacle Stock as described below, will be exercised by an independent fiduciary.

3. The Plans. The Applicant provides the following description of the Plans:

Contract Plan. The plan year for the Contract Plan is the calendar year. The Contract Plan was established effective January 1, 1970, pursuant to a series of collective bargaining agreements with several unions at various times during 1970. Nearly all the participants in this Plan are employees represented for collective bargaining purposes by several Northwest unions that have negotiated for participation in the Contract Plan. At this time, these unions include the Aircraft Technical Support Association (ATSA), Aircraft Mechanics Fraternal Association (AMFA), the International Association of Machinists and Aerospace Workers (IAM), International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America, Airline Division (IBT), Northwest Airlines Meteorologists Association (NAMA), and Transport Workers Union of America (TWUA). The number of employees participating in the Contract Plan as of January 1, 2002, was 53,911. The Applicant states that as of January 1, 2002, the Contract Plan had assets with a fair market value of $1.279 billion, and was underfunded by $741 million.

Salaried Plan. The plan year for the Salaried Plan is the calendar year. The Salaried Plan was established in October 1946. All participants in this Plan currently accruing benefits are ''salaried'' or ''management'' employees. None of the employee participants in this Plan who are currently accruing benefits are represented for collective bargaining purposes by any union. The Salaried Plan is a cash balance plan. The number of employees participating in the Salaried Plan as of January 1, 2002, was 10,517. The Applicant states that as of January 1, 2002, the Salaried Plan had assets with a fair market value of $349 million, and was underfunded by $67 million.

Pilots Plan. The plan year for the Pilots Plan is the calendar year. The Pilots Plan was established effective October 29, 1956. All participants in the Pilots Plan are employees represented for collective bargaining purposes by the Airline Pilots Association (ALPA). The number of employees participating in the Pilots Plan as of January 1, 2002, was 8,326. The Applicant states that as of January 1, 2002, the Pilots Plan had assets with a fair market value of $2.753 billion, and was underfunded by $248 million. Pursuant to collective bargaining agreements negotiated between the Pilot's union and Northwest, the Pilots Plan is currently prohibited from investing in employer stock; however, the Applicant anticipates that an agreement with ALPA will be reached to permit the contributions. Northwest represents that no contributions to the Pilots Plan will be made unless such an agreement is reached. The Applicant proposes that in the event that no agreement is reached to permit contributions of Pinnacle Stock to the Pilots Plan, the Master Trust will be modified to permit the holding of Pinnacle Stock for the benefit of the Contract Plan and Salaried Plan

4. Contributions. The Applicant represents that Northwest has remitted the full amount of all quarterly contributions when due, including the full amount of quarterly contributions due to the Contract Plan on April 15, July 15 and October 15, 2002. The last quarterly contribution to the Contract Plan for the 2002 plan year is due January 15, 2003.[1] The ''catch-up'' contribution due in September 2003 relates to the 2002 plan years of the Contract Plan and the Salaried Plan. The Applicant represents that the minimum funding rules require (and permit) such a make-up contribution when the quarterly contributions for a plan year as determined under Code section 412(m), if any, total less than the full minimum funding amount determined to be owed with respect to the plan year.[2]

The Applicant represents that the contributions required to satisfy the Contract Plan's funding requirements for the 2002 plan year total approximately $314 million, of which $111 million already has been paid in three required quarterly contributions. For plan year 2002, an additional quarterly contribution of $41 million is due January 15, 2003 and a final contribution of $162 million is due in September 2003. Additionally, a plan year 2002 contribution of $20 million is due to the Salaried Plan in September 2003 (the ''catch-up'' contributions). There are no 2002 plan year contributions due to the Pilots Plan. The Applicant states that contribution requirements for plan years 2003 and 2004 cannot be forecast with certainty because Northwest does not yet have final numbers regarding its funding requirements for those plan years. Northwest's minimum funding obligations for plan year 2003 will not be finally determined until its actuary completes it actuarial valuation as of January 1, 2003, which will be completed in April or May of 2003. In addition, all of the asset returns for the Plans are not yet known. Northwest will provide the plan year 2003 information when they are finalized and publicly available. The Applicant represents, however, it is likely that all Plans will require contributions for the 2003 and 2004 plan years.

5. The Master Trust. Contributions required to fund the Contract Plan, the Salaried Plan, and the Pilots Plan are made to and held under a single master trust, the Northwest Airlines, Inc. Master Trust for Defined Benefit Plans (the Master Trust). The Master Trust is structured so that each Plan has an undivided commingled interest in all of the trust fund assets. The Trustee of the Master Trust is State Street Bank and Trust Company. In addition to the Northwest Contract Plan, Pilots Plan and Salaried Plan, the Master Trust holds assets attributable to the Northwest Pension Plan for German Employees that currently has assets of approximately $300,000.00. No assets are held on behalf of any other plans in the Master Trust.

6. Pinnacle Airlines, Inc. Pinnacle Airlines, Inc. (Pinnacle Airlines) is an indirect, wholly owned subsidiary of NWAC, and is a sister corporation of Northwest. Pinnacle Airlines recently changed its name from Express Airlines I, Inc., which was incorporated in 1985 in Georgia. It is a regional airline with principal hubs in Detroit, Michigan; Minneapolis, Minnesota; and Memphis, Tennessee. Pinnacle Airlines Corporation was incorporated in Delaware on January 10, 2002, to become a holding company of Pinnacle Airlines.

Northwest requests exemptive relief for the in-kind contribution of Pinnacle

[1] According to the Applicant, under Code section 412(m)(4), Northwest owed no quarterly contributions during calendar year 2002 to the Pilots Plan or Salaried Plan for the 2002 plan year. However, see below concerning a September 2003 ''catch-up'' contribution due to the Salaried Plan.

[2] See Code subsections 412(a) and (c)(10).

Stock. Shares of Pinnacle Stock are not registered or publicly traded as of the time of filing of this Application. Northwest currently anticipates that an initial public offering (IPO) of Pinnacle Airlines would occur sometime in 2003 or 2004. According to the Applicant, the IPO is expected to generate a premium price for shareholders as a result of efforts currently taking place under the joint direction and control of Northwest and Pinnacle Airlines' management to position Pinnacle Airlines as a premier regional air carrier in the United States.

The Pinnacle Stock held by the Plans would be subject to registration rights under shareholder agreements or such other contracts as necessary to permit the Plans to participate in any future IPO of the Pinnacle Stock. It is expected that there will be certain restrictions on the Pinnacle Stock contributed to the Plans, including voting restrictions and limits on the ability of the Plans to dispose of the Pinnacle Stock, except pursuant to an IPO initiated by Northwest or by exercise of the Put Option. Any such restrictions will be negotiated with the Independent Fiduciary. At the time of an IPO, the Plans will participate pro rata on the same basis with other holders of Pinnacle Stock.

Subject to negotiation of final terms with the Independent Fiduciary, Northwest proposes that the Plans be granted a Put Option with respect to the Pinnacle Stock, on the following terms:

- The Put Option, with respect to each share of Pinnacle Stock, shall be exercisable at any time until the date after an IPO during which such share of Pinnacle Stock can be sold during any 90-day period under SEC Rule 144.[3]
- Northwest will provide quarterly notice to the Independent Fiduciary of its liquidity so that the Independent Fiduciary can take Northwest's liquidity into account in deciding whether to exercise the put.
- In the event the Put Option is exercised, the price paid by Northwest (or its affiliate) to the Plans shall be determined as follows:

(i) If the Put Option is exercised prior to the IPO date, the greater of the value of the stock at the time of the contribution or the fair market value determined by the Independent Fiduciary as of the exercise date, consistent with a valuation report prepared by a qualified independent appraiser;

(ii) If the Put Option is exercised on the IPO date, the greater of the value of the stock at the time of contribution or the IPO price per share of Pinnacle Stock; or

(iii) If the Put Option is exercised after the IPO date, the greater of the value of the stock at the time of the contribution or the average of the closing price for the Pinnacle Stock on the public market for the 10 trading days (or such other number if fewer than 10) preceding the exercise date.

- The price of the Pinnacle Stock shall be determined as of the exercise date and shall be paid by Northwest (or its affiliate) to the Plans in full in cash on such terms and conditions as shall be negotiated with the Independent Fiduciary.

7. Pinnacle Airlines Analysis. As a result of Northwest's request to contribute Pinnacle Stock to the Plans in lieu of cash, the Pension Benefit Guaranty Corporation (PBGC) recently contracted with Eclat Consulting, an independent firm with experience in the airline industry (Eclat), for an analysis of Pinnacle Airlines. The November 27, 2002 Eclat analysis (Eclat Report) includes competitive, operational and financial elements essential to validating Pinnacle Airlines' current market viability as a Northwest regional partner and as a stand-alone airline as well as current U.S. market conditions relative to the marketability of a successful Pinnacle Airlines IPO. The Department has summarized the Eclat Report below. The Eclat Report is presented in sections that examine the regional airline industry, Pinnacle Airlines, and a brief financial review of Pinnacle Airlines and the stability of Northwest.

Eclat Report Industry Analysis—According to the report, as of September 2002, the ''Big 6'' U.S. majors (the Majors) have lost over $7 billion and now face the year's weakest quarter. They are facing dramatic increases in low-fare competition, overcapacity and a weakening business travel market. In contrast, the regional airline industry is flourishing as a result of being in ''the right place at the right time'' as the Majors are turning to their regional airline partners to operate regional jets to bring high yield passengers from small communities to their network systems. During the first eight months of 2002 the regional industry has grown only 3 percent (3%) in passenger enplanements, however, the group's Revenue Passenger Miles (RPM)(production) has realized growth of nearly 25 percent (25%), the Available Seat Miles (ASM)(output) growth of 20 percent (20%) and Regional Jet (RJ) usage has increased almost 6 percentage points of market share in the U.S. over the past year. The majority of regional partner airlines now operate on a ''fee-per-departure'' or ''block hour'' basis with a fixed operating margin, thus limiting risk during market downturns and guaranteeing operating profit.

Eclat Report Pinnacle Airlines Analysis—According to the report, Pinnacle Airlines operates only as Northwest Airlink, a wholly owned subsidiary of NWAC and provides regional service on a fixed fee basis utilizing Saab 340 turboprops and Bombardier CRJ regional jets. The arrangement provides that 65 percent (65%) of the operational costs (fuel, maintenance, rentals, facilities, etc.) are passed through to Northwest for 100 percent (100%) reimbursement and 35 percent (35%) of costs are paid based on historical performance with a target operating margin of 13.0 percent (13.0%). Northwest has committed 95 regional jet aircraft financed by Bombardier, and the RJs currently on hand have doubled Pinnacle Airlines' size, seeing ASMs increase 68 percent (68%) in 2001 (vs. 2000) making it the second fastest growing regional airline. They operate 310 departures per day (12.4 percent (12.4%) of the Northwest system) and 15,000 seats per day (5.9 percent (5.9%) of the Northwest system).

Pinnacle Airlines generates revenue in two distinct manners for Northwest. The first and smaller revenue generation comes from transporting passengers to and from spoke markets to one of Northwest's three hubs. This local, one-segment flying generates approximately $1.6 million in weekly revenue for Northwest, or 2 percent (2%) of Northwest's domestic total. More importantly, the carrier brings connecting passengers from the spoke markets to the hub to connect onto the Northwest route network creating over $8 million in weekly revenue (8 percent (8%) of Northwest's domestic total) for Northwest. Combined, the regional carriers' value to the Northwest Domestic System is between $520 million and $540 million annually as the carrier exists today (Eclat Appendix 7).

The Eclat Report states that the current and immediate value of Pinnacle Airlines is virtually removed if Northwest Airlines ceased to exist, as there are limited opportunities for other major carrier relationships. Without Northwest, Pinnacle Airlines has physical and cash assets of $121.6 million, $5.2 million in cash, $62.4 million in receivables and $54 million in aircraft spares and other property and equipment. Pinnacle Airlines'

[3] Provision is made for the Put Option to extend after the IPO date in the event that less than 100 percent (100%) of Pinnacle Stock is offered in connection with the IPO.

remaining intangible value would be dependent upon the other major network carriers' desire to add another hub to their network systems at Detroit, Memphis or Minneapolis. Currently, there are limited options for Pinnacle Airlines as all of the major networks have very strong ties with other regional operators.

Eclat Report Financial Review of Pinnacle Airlines and Stability of Northwest—According to the report, Pinnacle Airlines is currently in sound financial shape with a current operating margin of 13.2 percent (13.2%), a profit margin of 8.9 percent (8.9%) and a return on equity (ROE) of 29.1 percent (29.1%). The revenue growth for Pinnacle Airlines has been strong over the period of 1998–2001 at a compound average annual rate of 28.0 percent (28.0%). In the first 9 months of 2002, this growth actually accelerated to 61.4 percent (61.4%) in a year-over-year comparison.

The Eclat Report concludes that through 2005 (the amendable date for the contract with Northwest), there is no reason to suspect that the company will not continue such strong revenue growth. ''Salaries, wages, and benefits'' only accounted for 21.5 percent (21.5%) of costs (the average is mid-thirties). As the company currently is constructed (prior to the expected IPO), their long-term debt load is virtually non-existent and their liquidity is superb. Current financial conditions clearly indicate an ability to cover any short-term obligations. However, if the company were to go public, the balance sheet will be fundamentally altered by the assumption of a $200 million note payable to Northwest. Such a note would raise the debt/equity ratio to 277 percent (277%) and would significantly limit Pinnacle Airlines' ability to borrow in the future and radically raise the cost of capital. Due to the guaranteed operating margin, however, even a note of this magnitude would not be difficult for the company to cover.

In order to estimate the value of a Pinnacle Airlines IPO, Eclat created a model based on the Three-Stage Free Cash Flow to Equity (FCFE) valuation technique.[4] The result of the FCFE model is that the estimated value of a Pinnacle Airlines IPO is approximately $221.6 million if Eclat assumes that the growth in the first phase is approximately 14 percent (14%) and lasts for five years (Eclat Appendix 9–1).[5] Eclat believes this growth assumption is conservative when compared to Pinnacle Airlines' recent growth, but is based on only the ''guaranteed'' portion (95 total RJs) of their agreement with Northwest. The five-year term assumption was a result of the fact that Northwest is able to renegotiate in 2008. This Eclat model was adjusted by Eclat based on differing high growth revenue assumptions and the impact of such adjustments dramatically lowered the value of the IPO. The value of equity for Pinnacle Airlines, assuming a high growth period revenue growth rate of 11 percent (11%), would be $147.7 million (Eclat Appendix 9–2). Assuming a high growth period revenue growth rate of 8 percent (8%), the value of equity for Pinnacle drops to $81 million (Eclat Appendix 9–3).

According to Eclat, Northwest has emerged as, perhaps, the most stable airline in the industry with minimal low fare carrier exposure and with the smallest losses of any carrier. Northwest reported a net loss of $46 million, with operating income of $8 million in the third quarter of 2002. Northwest ended the quarter with over $2.5 billion in cash and short-term receivables. Northwest is a global carrier with an alliance with KLM and its Amsterdam hub and a Northwest Tokyo Hub. The labor situation is stable with all of its unions currently under contract.

8. Reasons for Entering into the Exemption Transactions. The Applicant represents that, for several years leading up to 2001, Northwest had been among the most profitable of the nation's major airlines. The Applicant notes Northwest's financial performance in 1998 and 1999 was adversely affected by labor disruptions; however, Northwest's performance quickly recovered in 2000. However, the airline industry began to suffer a significant financial downturn in early 2001 that was substantially worsened by the events of September 11, 2001, which in combination, have disproportionately affected the airline industry. Northwest states that industry losses in 2001 totaled $10 billion, of which Northwest's share was $700 million.[6] Northwest asserts that, because of the potential of a war with Iraq, which has dramatically increased fuel prices, as well as ongoing terrorism threats, the timing of an economic recovery for the airline industry is uncertain. Northwest concludes that to weather the current economic uncertainty, Northwest and other major airlines must maintain a high level of liquidity. The Applicant notes that Northwest is, by many measures, the best prepared among the industry to withstand this difficult period and expects to return to

[4] This model is designed to value firms, like Pinnacle Airlines, that are expected to go through three phases of growth—an initial phase of high growth, a transitional period where the growth rate declines, and a steady-state period where growth is stable. Once these growth assumptions are made, the present value of expected free cash flow is calculated.

[5] During the second stage, the growth assumption is 10 percent (10%) and a term of three years. The 10 percent (10%) is consistent with the industry's long-term revenue average, and the three-year term is based on the belief that such strong growth will last for a total of 8 years from 2003. In the third and final stage, the model assumes that growth will continue to commence at a constant rate of 5 percent (5%). This assumption brings the growth rate back in line with Pinnacle Airlines' growth in the years prior to their arrangement with Northwest. Other assumptions made in the model include Beta and Net Capital Expenditure growth. Pinnacle Airlines' Beta was based on a calculation off of industry average and is assumed to be .66 in the high growth period. According to Eclat, while this appears at first glance to be a very low figure, it is very much related to the terms of the fixed fee relationship with Northwest. According to the terms of the agreement, growth is virtually assured and therefore the company's stock is unlikely to fluctuate as wildly as the market in general. In the other two phases, the firm Beta is linked to the current industry average. The assumptions about net capital expenditure growth in all three phases are standard figures based on historical norms. When estimating the cost of equity for Pinnacle Airlines, a market risk premium of 5.3 percent (5.3%) was assumed. This number is based on the historical risk premium found between stocks and treasury bonds published by the Federal Reserve Bank (in the United States from 1962–2000).

[6] These numbers are exclusive of federal funds received by the airlines as a result of the Air Transportation Safety and System Stabilization Act, Pub. L. No. 107–42 (September 21, 2001) (Airline Stabilization Act). In 2001, Northwest recognized $461 million of grant income from the United States Government that was recorded as non-operating income. The events of September 11, 2001 had an immediate and severe impact on the U.S. airline industry's passenger traffic and yields. Immediately following these events, the Federal Aviation Administration (FAA) ordered all aircraft operating in the U.S. to be grounded, an order that remained in place for over 48 hours. Northwest Airlines was only able to operate a limited portion of its scheduled flights for several days after the grounding order was lifted as it repositioned displaced aircraft and crews. Passenger traffic and yields on both domestic and international flights declined significantly when flights were permitted to resume, and the number of tickets refunded was substantially above normal. Northwest has continued to experience significantly lower revenue and has incurred additional costs (*e.g.*, higher security costs and insurance premiums) as compared to periods prior to September 11, 2001. In addition to increased rates, aviation insurers have also significantly reduced the maximum amount of insurance coverage available to commercial air carriers for liability to persons other than employees or passengers for claims resulting from acts of terrorism, war or similar events.

Under the Airline Stabilization Act, each air carrier is entitled to receive a maximum amount of compensation payments equal to the lesser of (i) its direct and incremental pretax losses attributed to the terrorist attacks for the period of September 11, 2001, to December 31, 2001, or (ii) its available seat mile and/or revenue ton mile allocation of the $5 billion compensation available under the Airline Stabilization Act. Northwest Airlines received a total of $410 million as of December 31, 2001, and was expected to receive a final $51 million of additional funds under the Airline Stabilization Act in early 2002.

profitability when the economy recovers. The Applicant represents that preservation of liquidity is one of the keys to maintaining a strong financial position in light of the current economic uncertainty, and Northwest has maintained one of the strongest liquidity positions in the industry. Northwest already has taken many aggressive, proactive actions to reduce costs and preserve liquidity.

While the current environment creates significant challenges for Northwest and the other major airlines, the Applicant believes that these circumstances create opportunities for efficient regional carriers, including Pinnacle Airlines. Northwest represents that, although current market conditions are not favorable to an IPO of the Pinnacle Stock because valuations of commuter airlines have declined from their historical levels during the past six to eight months, Northwest anticipates that the Pinnacle Stock proposed to be contributed to the Plans will be sold through an IPO at a favorable price. The Applicant notes that market conditions are expected to improve within the next 30 months and that significant efforts have been undertaken by Northwest to prepare Pinnacle Airlines for public sale.

9. Northwest asserts that the relief requested in this Application offers significant potential benefits both to the Plans and to Northwest. The Plans will benefit by receiving the full value of the minimum funding contribution of Northwest, through the opportunity to invest in a strong regional airline, and through sharing in the anticipated premium that would attach to such stock in the event of an IPO. Furthermore, the Plans' investment in Pinnacle Stock will be subject to the protections of an independent fiduciary. The Plans will also benefit from Northwest's preservation of liquidity, ensuring that it remains in a strong financial position and maximizing its ability to contribute to the Plans in the future. Northwest represents that its decision to seek an exemption to contribute Pinnacle Stock creates no more risk to the Plans, and perhaps even less risk, than investing in publicly-traded NWAC stock, which constitutes qualifying employer securities within the meaning of ERISA section 407(d)(5) and would be exempt from the prohibitions of ERISA sections 406 and 407 by reason of the statutory exemption set forth in ERISA section 408(e). The Applicant concludes by noting that the exemption sought by Northwest is one part of Northwest's overall strategy to manage its financial liquidity during a time of extraordinary financial challenges, while still meeting its long-term pension plan commitments. In this regard, Northwest notes that it is applying to the Internal Revenue Service for a waiver of its minimum funding contributions with respect to both the Contract Plan and the Salaried Plan for plan year 2003.

10. Northwest requests exemptive relief from certain of the prohibited transaction restrictions of sections 406 and 407 of the Act and section 4975 of the Code for the periodic contributions of Pinnacle Stock to the Plans in order to satisfy all or any portion of Northwest's minimum funding requirements for plan years 2002, 2003, or 2004 that are due in calendar years 2003 or 2004.

Northwest requests exemptive relief because of its belief that the contributions of Pinnacle Stock would not meet the requirements for the acquisition of ''employer securities'' under section 408(e) of the Act. In this regard, section 408(e) provides, in part, that sections 406 and 407 of the Act shall not apply to the acquisition or sale by a plan of ''qualifying employer securities,'' as defined in section 407(d)(5) of the Act, if such acquisition or sale is for adequate consideration, no commission is charged, and, in the case of a plan other than an eligible individual account plan, such as a defined benefit plan, such acquisition does not exceed 10 percent (10%) of the fair market value of the assets of such plan. Under section 407(d)(5), stock is a ''qualifying employer security,'' if such stock is issued by an employer of employees covered by the plan or by an affiliate of such employer. Section 407(d)(5) further provides that in the case of a plan other than an eligible individual account plan, such as a defined benefit plan, an employer security shall be considered a ''qualifying employer security,'' only if such employer security satisfies the requirements of section 407(f)(1). Section 407(f)(1) provides that stock satisfies the requirements of this paragraph if no more than 25 percent (25%) of the aggregate issued and outstanding shares of stock of the same class is held by the plan and at least 50 percent (50%) of the aggregate amount of such shares is held by persons independent of the issuer.

In this regard, Northwest anticipates that, after all of the proposed in-kind contributions of Pinnacle Stock to the Plans, substantially more than 25 percent (25%) of all issued and outstanding shares of Pinnacle Stock would be held by the Plans. The Applicant expects that nearly 100 percent (100%) of the Pinnacle Stock may ultimately be held by the Plans, with any remainder being held by Northwest. Thus, the requirement that 50 percent (50%) of the shares of Pinnacle Stock be held by persons independent of the issuer would not be met. Accordingly, the shares of Pinnacle Stock to be contributed to the Plans would not satisfy the requirements of sections 407(f)(1) of the Act and thus would not constitute ''qualifying employer securities'' within the meaning of section 407(d)(5) of the Act. If the shares of Pinnacle Stock do not constitute ''qualifying employer securities,'' the exemptive relief under section 408(e) of the Act would not be available. For the same reasons, it is anticipated that section 408(e) would not exempt the Plans' acquisition and holding of the Put Option.

11. The Independent Fiduciary.[7] Aon Fiduciary Counselors, Inc. (Fiduciary Counselors or Independent Fiduciary) has been retained as the Independent Fiduciary to represent the Plans' interests with respect to the proposed transactions. Fiduciary Counselors represents that it is qualified to serve as Independent Fiduciary on behalf of the Plans with respect to the proposed Exemption Transactions. Fiduciary Counselors acts primarily as an independent fiduciary for large pension plans. Prior to December 1999, Fiduciary Counselors operated as a business unit within Actuarial Sciences Associates, now Aon Consulting of New Jersey, Inc., a subsidiary of Aon Consulting, Inc. (Aon Consulting). In the past five years, Fiduciary Counselors has acted as independent fiduciary in transactions involving plan assets totaling more than $4 billion.

In evaluating the proposed Exemption Transactions, Fiduciary Counselors notes that it will use the services of investment professionals at Aon

[7] The Department notes that the Act's general standards of fiduciary conduct would apply to the transactions permitted by this proposed exemption, if granted. In this regard, section 404 of the Act requires, among other things, a fiduciary to discharge his duties respecting a plan solely in the interest of the plan's participants and beneficiaries and in a prudent manner. Accordingly, an independent plan fiduciary must act prudently with respect to: (1) The decision to enter into the transactions described herein; and (2) the negotiation of the terms of such a transaction, including, among other things, the specific terms by which the Plans will (A) acquire, hold, and sell the Pinnacle Stock and (B) acquire, hold and exercise the Put Option. The Department further emphasizes that it expects the independent plan fiduciary, prior to authorizing each acquisition of the Pinnacle Stock and any sale of such Stock, and prior to exercising the Put Option, to fully understand the benefits and risks associated with such transactions. In addition, the Department notes that such plan fiduciary must periodically monitor, and have the ability to so monitor, the Pinnacle Stock and the Put Option.

Investment Consulting, Inc. (AIC), an affiliated registered investment adviser under the Investment Advisers Act of 1940, to provide certain investment and financial advice in support of Fiduciary Counselors' determinations. AIC is the full service investment-consulting subsidiary of Aon Consulting, providing investment management consulting services to institutional tax-exempt funds. Aon Consulting has investment consulting operations in the United States, United Kingdom, Canada, Continental Europe, Australia and New Zealand. Worldwide, Aon Consulting has about 125 people in its investment consulting practice. AIC has offices in seven U.S. cities and a U.S. staff of about forty.

Neither Fiduciary Counselors nor AIC provides any other services to Northwest or its affiliates other than the independent fiduciary and related services they provide in connection with the proposed contribution of Pinnacle Stock to the Plans. An affiliate, Aon Risk Services of Minnesota, does provide insurance brokerage services to Northwest. However, the fees paid to Aon Risk Services of Minnesota and the fees paid to Fiduciary Counselors represent less than 1 percent (1%) of the revenue of Aon Corporation, one of the nation's largest risk management and benefits consulting companies, which is the ultimate parent company of Fiduciary Counselors, AIC, Aon Consulting and Aon Risk Services of Minnesota.

In connection with the November 5, 2002 Independent Fiduciary Agreement between Fiduciary Counselors and Northwest (the Agreement), Northwest has agreed to pay Fiduciary Counselors an annual fee that would cover both the independent fiduciary and investment management services to be provided by Fiduciary Counselors and the investment advisory services to be provided by AIC. The initial fee was remitted directly to Aon Consulting, a parent company of both Fiduciary Counselors and AIC. Aon Consulting internally allocated 25 percent (25%) of the fee to Fiduciary Counselors, which comprised less than 5 percent (5%) of Fiduciary Counselors' annual revenue, and 75 percent (75%) to AIC, which comprised less than 5 percent (5%) of AIC's revenue. So long as there is no change in control of Fiduciary Counselors or AIC, future payments will be allocated in a similar manner.

12. At the request of Northwest's management, Morgan Stanley & Co. Incorporated (Morgan Stanley) prepared a preliminary valuation study of Pinnacle Airlines, dated September 24, 2002, which Fiduciary Counselors may take into account in determining the valuation of the Pinnacle Stock to be contributed to the Plans.[8] Morgan Stanley, as part of its investment banking and advisory business, is continuously engaged in the valuation of businesses and securities in connection with mergers and acquisitions, negotiated underwritings, competitive biddings, secondary distributions of listed and unlisted securities, private placements and valuations for corporate, estate and other purposes. In connection with its investment banking and advisory business, Morgan Stanley has represented a number of companies in the airlines industry. The Applicant represents that the Independent Fiduciary has unfettered discretion to choose the methodologies and the ultimate values of the Pinnacle Stock contributed to the plans and the related Put Option. The Independent Fiduciary is not required to use only the Morgan Stanley valuation.

13. Under the terms of the Agreement, Fiduciary Counselors makes all the decisions on behalf of the Master Trust and the Plans regarding the acceptance of the proposed in-kind contribution of Pinnacle Stock, determines (with the assistance of the qualified independent appraiser engaged by the Independent Fiduciary) the value of the Pinnacle Stock held by the Master Trust from time to time, and make such other decisions with regard to the Pinnacle Stock as are contemplated by the Exemption Application as it may be ultimately approved. In this regard, Fiduciary Counselors has retained Eclat Consulting to prepare a valuation of the Pinnacle Stock that will serve as the basis for Fiduciary Counselors' determination.

In making this determination to accept the securities, the Independent Fiduciary shall have discretion to negotiate the final terms and conditions of the contribution, including the registration, shareholder and put rights. The contributed Pinnacle Stock would be held as an ''Investment Fund'' within the Master Trust, under the management and control of the Independent Fiduciary as investment manager thereof, until such time as the Independent Fiduciary determines it is in the best interests of the Plans' participants and beneficiaries to dispose of such Pinnacle Stock.

The Independent Fiduciary shall thereafter, until all transactions contemplated by the Exemption Application are concluded or it has been replaced by another independent fiduciary as hereinafter provided, continue to serve as Independent Fiduciary and continue to discharge the functions assigned to it as such in accordance with the provisions of the Exemption Application.

The Independent Fiduciary confirms that it is (and shall continue to be during the term of its engagement hereunder) an ''investment adviser'' within the meaning of the Investment Advisers Act of 1940, and further acknowledges that, with respect to its duties pursuant to the Agreement, it is a fiduciary as defined in section 3(21) of ERISA. The Independent Fiduciary shall act for the exclusive benefit and in the sole interest of the Plans and their participants and beneficiaries and with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

The Independent Fiduciary represents that, in evaluating the proposed Exemption Transactions, it has reviewed those documents that it deems relevant to the transactions including, but not limited to: (i) Copies of the current documents for the Plans and the Master Trust including all amendments thereto, as well as current summary plan descriptions and all other disclosures provided to participants and beneficiaries in the Plans regarding the Master Trust; (ii) copies of the Plans' most recent Form 5500 filings and all other financial and other information regarding the Plans reasonably requested by the Independent Fiduciary; (iii) copies of (or electronic access to) Northwest's most recent filings made with the Securities and Exchange Commission (SEC) as requested in order for the Independent Fiduciary to perform its obligations hereunder, including reasonable access to internal staff and outside professionals engaged by Northwest or the Plans regarding the Master Trust; and (iv) copies of (or electronic access to) Pinnacle Airlines' most recent filings made with the SEC as requested in order for the Independent Fiduciary to perform its obligations hereunder, including reasonable access to internal staff and outside professionals engaged by Pinnacle Airlines.

The Agreement states that, as compensation for the services to be rendered by the Independent Fiduciary and its affiliates in connection with the Agreement, Northwest shall pay to the

[8] Morgan Stanley is listed in the Securities and Exchange Commission Form S–1 registration statement for the Pinnacle Stock IPO as one of the underwriters for the IPO of the Pinnacle Stock.

Independent Fiduciary an annual fee of $250,000 for as long as Pinnacle Stock is owned by the Master Trust.

The Independent Fiduciary has engaged the law firm of Jones, Day, Reavis & Pogue to advise it and to serve as legal counsel. As previously noted, the Independent Fiduciary has engaged the services of Eclat to assist it in determining the value of the Pinnacle Stock at the time of the initial acquisition by the Plans.

The Agreement contemplates that either party may terminate such Agreement for any reason upon 60 days notice and that the Agreement may be terminated immediately for cause. In the event that a successor Independent Fiduciary is appointed, or there is a change in control of Fiduciary Counselors, the rights exercised by Fiduciary Counselors on behalf of the Plans in connection with the Term Sheet and the proposed Omnibus Agreement (see below) shall be exercised by the successor Independent Fiduciary (with the approval of the Department). The parties to the Agreement shall notify the Department within thirty (30) calendar days of any decision regarding the resignation, termination or change in control of the Independent Fiduciary.

14. The Term Sheet and the Proposed Omnibus Agreement. The Term Sheet (as provided to the Department on January 10, 2003) provides that Northwest and Fiduciary Counselors will enter into an Omnibus Agreement that governs the terms upon which Northwest may make periodic contributions of Pinnacle Stock to the Plans in order to satisfy all or any portion of Northwest's minimum funding requirements that are due in calendar years 2003 or 2004. Contributions may also be made during calendar years 2003 or 2004 with respect to a plan year for which there is no required minimum funding contribution, thus creating a credit balance with respect to the relevant plan. No contribution of Pinnacle Stock shall be made that would cause the total combined value of all employer securities or employer real property held by any plan, immediately after the contribution, to exceed 10 percent (10%) of the total assets of such plan.

The SEC Form S–1 registration statement for the IPO involving Pinnacle Airlines, Inc. describes a proposed share exchange. The Applicant represents that prior to the initial contribution, the following transactions will take place in the order indicated:

(a) Pinnacle Airlines, Inc. will distribute, as a dividend, a $200 million promissory note to NWA Inc., the sole shareholder of Pinnacle Airlines, Inc.

(b) NWA Inc. will transfer to Pinnacle Airlines Corp. all of the outstanding shares of Pinnacle Airlines, Inc. and in consideration thereof, Pinnacle Airlines Corp. will issue to NWA Inc. 15 million shares of common stock of Pinnacle Airlines Corp. and one share of Series A Preferred Stock of Pinnacle Airlines Corp.

(c) NWA Inc. will transfer the common stock of Pinnacle Airlines Corp. and the Series A Preferred Stock to Northwest as a contribution to the capital of Northwest.

As a result of these transactions, Pinnacle Airlines, Inc. will become a wholly owned subsidiary of Pinnacle Airlines Corp. and Pinnacle Airlines Corp. will be a wholly owned subsidiary of Northwest. The terms of the Series A Preferred Stock and the terms of the $200 million note are set forth in exhibits to the SEC Form S–1 registration statement.

The Applicant represents that the holder of the Series A Preferred Stock has certain other voting rights in addition to the right to elect two members to the board of directors. An affirmative vote of NWA Inc. (the affiliate of Northwest which currently holds all of the shares of Pinnacle Airlines, Inc., including the Series A Preferred Stock) will be required in order for Pinnacle to:

- Enter into business combinations and change of control transactions with a third party;
- Sell or dispose of any capital stock of Pinnacle Airlines, Inc. or substantially all of the assets of Pinnacle Airlines Corp. or Pinnacle Airlines, Inc.;
- Effect reorganizations and restructuring transactions;
- Acquire airline assets that generate annual revenues of $500 million or more;
- Increase the size of the board of directors;
- Agree to allow a major airline other than Northwest to appoint more than one director to Pinnacle Airlines' board;
- Amend Pinnacle Airlines' certificate of incorporation in a manner that would adversely affect the rights of the Series A preferred shareholder; or
- Enter into any definitive agreements relating to the foregoing matters.

The effect of this voting right will be to enable NWA Inc. to preclude Pinnacle Airlines from carrying out any of the foregoing proposals if NWA Inc. does not vote in favor of the proposal. Under the Term Sheet, Northwest has agreed not to exercise its rights under the Series A Preferred Stock to block an IPO or sale of Pinnacle Airlines if the Independent Fiduciary, on behalf of the Plans, initiates such an IPO or a sale after an ''Early Termination Event'' (defined below). The Term Sheet material terms that will be reflected in the Omnibus Agreement between the Independent Fiduciary and Northwest are set forth below.

Request To Contribute Pinnacle Shares

Except with respect to the first such contribution, as to which Northwest and the Independent Fiduciary will agree on a shorter notice period, no later than 60 days before any date in calendar year 2003 or 2004 on which Northwest proposes to make a contribution of Pinnacle Stock to the Plans, Northwest shall provide written notice to the Independent Fiduciary of its proposal to make such contribution and shall indicate the dollar value of the Pinnacle Stock that it intends to contribute.

Valuation of Pinnacle Shares

The Term Sheet states that no later than 30 days prior to each date on which Northwest proposes to contribute Pinnacle Stock (or, with respect to the first such contribution, such earlier date as may be agreed), the Independent Fiduciary shall notify Northwest in writing (accompanied by a written valuation report) of the per share value that the Independent Fiduciary then preliminarily ascribes to the shares of Pinnacle Stock. In addition to determining the value of Pinnacle Stock at the time of a proposed contribution, the Independent Fiduciary shall provide to Northwest on an annual basis a written valuation of the per share value of all Pinnacle Stock held by the Plans as of each December 31 and at any time the Independent Fiduciary exercises the Put Option.

On the relevant contribution date, subject to the Independent Fiduciary's review and approval, Northwest may contribute to one or more Plans shares of Pinnacle Stock based on the per share value ascribed to such shares by the Independent Fiduciary. The Independent Fiduciary and the Plans will have the rights associated with such shares as described below. As a condition to any such contribution by Northwest, the Independent Fiduciary must determine on behalf of the Plans that the acceptance of the contributed shares is prudent and in the interests of the Plans' participants and beneficiaries and otherwise consistent with the fiduciary standards of ERISA. In addition, the Independent Fiduciary shall monitor on an ongoing basis the prudence of the Plans' continued holding of Pinnacle Stock consistent with the fiduciary standards of ERISA,

subject to the determination from time to time by the appropriate fiduciary of the Plans (other than the Independent Fiduciary) that such investment will not impair the liquidity of the Plans such that the Plans would not be able to pay benefits and expenses when due. If such appropriate Plan fiduciary determines the liquidity of the Plans is impaired, such fiduciary shall direct the Independent Fiduciary to dispose of all or a portion of the Pinnacle Stock consistent with the terms of this agreement to the extent commercially reasonable.

All transactions involving the Plans in connection with the contribution of Pinnacle shares will be no less favorable to the Plans than arms' length transactions involving unrelated parties. No commissions, fees, costs, charges or other expenses will be borne by the Independent Fiduciary or the Plans in connection with any acquisition, holding or disposition of Pinnacle shares to or from the Plans, other than the underwriters' discount or other broker-dealer fees or commissions charged in any sale of such shares.

The Applicant represents that the valuation approach that the Independent Fiduciary takes into account when determining the value of Pinnacle Stock with respect to any specific transaction will be the method that the Independent Fiduciary determines to be in the best interests of the Plans' participants and beneficiaries.

The Independent Fiduciary's valuations will be used by the Master Trust Trustee for such Pinnacle Stock and by Northwest as plan administrator as the initial value of the Pinnacle Stock for Plan and Master Trust reporting purposes, and as the initial value to be used by each Plan's actuaries for valuation purposes. In addition to determining the fair market value of the Pinnacle Stock at the time it is contributed to the Plans, the Independent Fiduciary will thereafter determine the fair market value as of each March 31, June 30, September 30, and December 31; at any time the Pinnacle Stock is sold or exchanged by the Plans (*e.g.*, for purposes of exercising its Put Option, as described below); and at such other times as the Independent Fiduciary determines to be in the interests of participants and beneficiaries in any of the Plans.

Northwest proposes that the contribution of Pinnacle Stock to the Master Trust be subject to a Put Option held by the Plans with respect to all of the Pinnacle Stock held by the Plans. The Put Option may be exercised on behalf of the Plans by the Independent Fiduciary, obligating Northwest (or an affiliate) to purchase the Pinnacle Stock from the Plans at a price not less than the greater of its fair market value as of the exercise date (as determined by the Independent Fiduciary) or the value placed on the stock at the time of its contribution.

Voting Provisions

The Term Sheet provides that the shares of Pinnacle Stock contributed to the Plans will be identical to the shares retained by Northwest. With respect to the voting of such shares and related matters, the Omnibus Agreement will also provide as follows:

- The initial board of directors of Pinnacle Airlines will be comprised of six individuals, four of whom will be individuals previously identified by Northwest in the S–1 registration statement, one of whom shall designated by Northwest and one of whom will be an individual designated by the Plans and reasonably acceptable to Northwest.
- For so long as the Plans hold at least 5 percent (5%) of such shares, the Plans will have the right to designate one nominee to Pinnacle Airlines' board of directors, and Northwest will vote the shares of Pinnacle Stock held by it in favor of such designee.
- The director designated by the Plans will have the right to serve on Pinnacle Airlines' audit committee to the extent permitted under applicable SEC and stock exchange requirements.
- At such time as the Plans hold more than 50 percent (50%) of such shares, and until the earlier of either (i) the Plans hold less than 25 percent (25%) of such shares or (ii) the Put Option has terminated as to all shares held by the Plans, the affirmative vote of the director designated by the Plans shall be required to approve the appointment of any new Chief Executive Officer of Pinnacle and compensation of any Chief Executive Officer. In addition, the appointment and compensation of any Chief Executive Officer shall be approved by a majority of the directors, excluding the director designated by Northwest.
- The Independent Fiduciary will direct the trustee of the Plans to vote shares of Pinnacle Stock held by the Plans in favor of the slate of director nominees proposed by Pinnacle's board of directors, except as the Plans and Northwest may otherwise agree.
- The Independent Fiduciary will direct the trustee of the Plans to vote shares of Pinnacle Stock held by the Plans in favor of any merger or other matter requiring stockholder approval as recommended by Pinnacle Airlines' board of directors, provided such transaction or other action does not otherwise treat the shares held in the Plans differently than other shares of Pinnacle Stock.

Affiliate Transactions

The Term Sheet provides that any change to the Airline Services Agreement (ASA) between Pinnacle and Northwest as in effect at the time of the initial contribution, including any early termination of the ASA by Pinnacle Airlines, must be approved by a majority of Pinnacle Airlines' independent directors, which majority must include the director designated by the Plans. Any other transaction between Pinnacle Airlines and Northwest or one of its affiliates (other than immaterial transactions in the ordinary course of business) that is not pursuant to and in accordance with the ASA is subject to the following requirements:

- Each such transaction must be approved by a majority of the independent directors;
- If the transaction is outside the ordinary course of business and involves more than $2 million, or if the transaction is in the ordinary course of business and involves more than $5 million, it must be approved by a majority of the independent directors and, at the request of the director designated by the Plans, a nationally recognized investment banking firm (which may include a ''boutique'' firm that specializes in airline related matters) must deliver a fairness opinion with respect to such transaction; and
- If the transaction involves more than $10 million, it must be approved by a majority of the independent directors, which majority must include the director designated by the Plans.

Transfer Restrictions and Early Termination Events

The Term Sheet provides that until July 1, 2006, or such earlier date on which Northwest (1) does not, by the latest date to which Northwest may before the closing, purchase, sell to the public in a registered public offering or sell to a third party the Pinnacle Stock held by the Plans as to which the Independent Fiduciary has exercised the Put Option (as described below) or (2) breaches the Omnibus Agreement (and such breach is not cured within 30 days thereafter) (collectively, an ''Early Termination Event''), shares of Pinnacle Stock contributed to the Plans may not be transferred other than to Northwest or one of its designated affiliates in accordance with the Put Option described below. Such shares may, however, be transferred in the IPO, as

described below, or in a bona fide public offering in accordance with the registration rights described below. In no event may shares be transferred directly or indirectly in any manner that would result in Northwest being in violation of the ''scope clause'' under Northwest's collective bargaining agreement with its pilots.[9]

The July 1, 2006 sunset date, together with the inclusion of an Early Termination Event, are the product of negotiation between Northwest and Fiduciary Counselors and balance Northwest's interest in having a reasonable period of time during which to determine the most advantageous timing of an IPO and the Plans' interest in enhancing the liquidity of Pinnacle Stock.

In the event of a transfer of shares of Pinnacle Stock by the Plans, the Plans will exercise commercially reasonable efforts to maximize the amount realized for such shares, and to that end will follow customary procedures (including the retention, at Northwest's expense, of a nationally recognized investment banking firm) applicable to a transaction such as the sale of such shares.

In the event of a proposed transfer of shares of Pinnacle Stock by the Plans after July 1, 2006, absent an Early Termination Event, Northwest will have a right of first refusal. This means that, if the Plans receive a bona fide offer from a third party to purchase such shares, the Plans must first offer such shares to Northwest at the offered price. If after 30 days from such offer Northwest declines to purchase such shares at the offered price, the Plans will be free for 90 days to sell such shares to the third party who made the initial offer to purchase such shares at a price not less than the offered price. The Pinnacle Stock may not be sold at a price less than such offered price without re-offering such shares to Northwest and having these provisions apply again.

Initial Public Offering

According to the Term Sheet, it is contemplated that Pinnacle Airlines will undertake an IPO. Until July 1, 2006, or the earlier occurrence of an Early Termination Event, the IPO will be undertaken at the sole discretion of Northwest. After such date or the earlier occurrence of an Early Termination Event, either the Plans or Northwest may trigger the IPO. In the event of an IPO, the Plans will be required to sell shares of Pinnacle Stock held by the Plans in accordance with the following requirements:

- If at the time of the IPO the Plans own less than 50 percent (50%) of the outstanding Pinnacle Stock, the Plans will sell shares ratably with Northwest's sale of shares in the IPO. If the aggregate number of shares sought to be sold by Northwest and the Plans collectively exceeds the number of shares that the managing underwriter advises can be sold without having an adverse effect on the IPO, Northwest and the Plans will be cutback *pro rata*.
- If at the time of the IPO the Plans own 50 percent (50%) or more of the outstanding Pinnacle Stock, the Plans will sell, ratably with Northwest's sale of shares in the IPO, not less than such number of shares as is requested by the managing underwriter in the IPO in order to have an offering of optimal size (taking into account all the shares being sold). Beyond that, the Plans may sell additional shares at their discretion. However, if the aggregate number of shares sought to be sold by Northwest and the Plans collectively exceeds the number of shares that the managing underwriter advises can be sold without having an adverse effect on the IPO, Northwest and the Plans will be cutback *pro rata*.
- Any shares as to which the Put Option shall have already been exercised (but shall not yet have been purchased) must be included in the IPO if requested by Northwest.

The Independent Fiduciary may, on behalf of the Plans, engage an investment bank reasonably acceptable to Northwest to provide advice to the Plans in connection with any proposed IPO and subsequent disposition of Pinnacle Stock by the Plans, and Northwest will pay the reasonable fees and expenses in this regard. Northwest will consult with the Independent Fiduciary regarding any changes in the managing underwriter currently contemplated for the IPO.

Any sale of shares in a registered public offering will be subject to the requirements described below:

Northwest and the Plans will enter into a customary registration rights agreement covering the registration of all of the shares previously contributed to the Plans that are to be sold in the IPO or that are to be sold through a shelf registration or as otherwise contemplated by the Term Sheet. Such registration rights agreement will provide that, in the case of an underwritten offering, the Plans will enter into a customary underwriting agreement as may be negotiated by Northwest with the managing underwriter(s), and the Plans will sell in accordance with such underwriting agreement the shares of Pinnacle Stock that are to be sold by the Plans, on the same economic terms that shares of Pinnacle Stock held by Northwest are sold. The Plans will receive the net proceeds from the sale of their shares in the IPO. If Pinnacle Airlines has not consummated the IPO by the earlier of July 1, 2006, or the date of the occurrence of an Early Termination Event, the Plans may exercise demand registration rights for an IPO.

The Plans will be entitled to retain all of the net proceeds from the sale, even if such net proceeds are in excess of the initial contribution value ascribed to the Pinnacle Stock being sold in the IPO. If such net proceeds are less than such initial contribution value, however, Northwest will be obligated, no later than the closing date of the IPO, to remit to the Plans immediately available funds representing the amount by which, with respect to the shares actually sold, such net proceeds are less than the initial contribution value.

If less than all of the shares of Pinnacle Stock held by the Plans are sold in the IPO, the Plans will have continuing registration rights to sell all or any portion of its remaining shares (subject to the same lock-up provisions that are imposed on Pinnacle Airlines). If there is an Early Termination Event or if at the time of the IPO such remaining shares are valued (based on the IPO price) at $50 million or more, the Plans will have one demand registration right.

In the underwriting agreement, the indemnification obligation of the Plans will be limited to what a selling stockholder normally provides, namely, an obligation to indemnify in respect of information relating to itself and its holdings that is provided by the Plans to the underwriters expressly for inclusion in the registration statement. The Independent Fiduciary will cause the Plans to provide such information to the underwriters and otherwise to provide reasonable cooperation in order to facilitate the offering. Northwest will provide the Plans with the same indemnification and contribution it provides to the underwriters in the offering. In no event will the Plans be obligated to provide in such underwriting agreement representations and warranties beyond due authorization, good title, no conflicts and the like.

[9] The Applicant notes that in general terms, as relevant to Pinnacle Airlines, the pilot scope clause requires that all ''revenue flying'' performed by or for Northwest be performed by Northwest's pilots and generally prohibits Northwest from codesharing with another air carrier that operates aircraft with 60 or more seats or with another air carrier whose parent or subsidiary operates aircraft with 60 or more seats. The scope clause also requires that any regional jets operated by Pinnacle Airlines be operated at all times with the Northwest designator code.

The Plans will also have unlimited ''piggyback'' registration rights in the event Pinnacle Airlines files a registration statement (other than on Form S–4 or S–8) covering shares of its common stock. Upon the request of Northwest or the Plans, Pinnacle Airlines will file a shelf registration statement (subject to customary lock-up provisions) covering all of the Pinnacle shares owned by the Plans, provided that Pinnacle Airlines is eligible to use Form S–3 at the time of such request.

Liquidity and Financial Information

The Term Sheet provides that beginning March 31, 2003, Northwest will provide as promptly as practicable after the end of each calendar quarter a notice to the Independent Fiduciary of its cash liquidity as of the end of such quarter. However, if the aggregate initial contribution value of Pinnacle Stock held by the Plans is equal to or less than $225 million and if Northwest's liquidity at the end of any month is less than $1.75 billion, it will provide such notice monthly until such time as its liquidity exceeds $1.75 billion. If liquidity at any week end is less than $1.5 billion, Northwest will provide the Independent Fiduciary with such reports on a weekly basis until liquidity increases to $1.5 billion or more. If the aggregate initial contribution value of Pinnacle Stock held by the Plans is greater than $225 million and if Northwest's liquidity at the end of any month is less than $1.75 billion, it will provide such notice monthly until such time as its liquidity exceeds $1.75 billion. If liquidity at any week end is less than $1.6 billion, Northwest will provide the Independent Fiduciary with such reports on a weekly basis until liquidity increases to $1.6 billion or more. Notwithstanding the above, the weekly reporting requirement described above shall not apply until the aggregate initial contribution value of Pinnacle Stock is greater than or equal to $50 million.

Northwest shall provide to the Independent Fiduciary the information referred to in sections 6.1, 6.2, 6.7 and 6.11 of the $1.125 billion Credit and Guarantee Agreement dated as of October 24, 2000, under which Northwest is the borrower (the Credit Agreement), and any other information required to be provided to the lenders, at the same time the information is provided to the lenders under the Credit Agreement, as the same may be amended from time to time (or similar information required to be provided to the lenders under any successor credit agreement). In addition, Northwest shall provide to the Independent Fiduciary copies of any amendments to the Credit Agreement.

Put Option

According to the Term Sheet, the Plans will be granted a ''Put Option'' with respect to each share of Pinnacle Stock, which may be exercised by the Independent Fiduciary at any time and from time to time. To exercise the Put Option, the Independent Fiduciary must provide written notice to Northwest of its election to put to Northwest any or all of the shares of Pinnacle Stock then held by the Plans. The date of the notice of the election shall be the ''exercise date.'' The closing date of the purchase and sale of shares with respect to which the Put Option has been exercised will be the 30th calendar day after such notice is given. However, if Pinnacle has not yet consummated the IPO by the date that would otherwise be the closing date, Northwest will have the right to defer such closing date as follows:

In the event the aggregate initial contribution value of Pinnacle Stock held by the Plans is equal to or less than $225 million:

- If Northwest's liquidity is equal to or greater than $1.75 billion, Northwest may defer the closing date for up to an additional 150 days;
- If Northwest's liquidity is equal to or greater than $1.5 billion and less than $1.75 billion, Northwest may defer the closing date for up to an additional 90 days;
- If Northwest's liquidity is equal to or greater than $1.25 billion and less than $1.5 billion, Northwest may defer the closing date for up to an additional 60 days.

In the event the aggregate initial contribution value of Pinnacle Stock held by the Plans is greater than $225 million and equal to or less than $325 million:

- If Northwest's liquidity is equal to or greater than $1.75 billion, Northwest may defer the closing date for up to an additional 150 days;
- If Northwest's liquidity is equal to or greater than $1.6 billion and less than $1.75 billion, Northwest may defer the closing date for up to an additional 90 days;
- If Northwest's liquidity is equal to or greater than $1.5 billion and less than $1.6 billion, Northwest may defer the closing date for up to an additional 60 days.

In the event the aggregate initial contribution value of Pinnacle Stock held by the Plans is greater than $325 million:

- If Northwest's liquidity is equal to or greater than $1.75 billion, Northwest may defer the closing date for up to an additional 120 days;
- If Northwest's liquidity is equal to or greater than $1.6 billion and less than $1.75 billion, Northwest may defer the closing date for up to an additional 60 days;
- If Northwest's liquidity is equal to or greater than $1.5 billion and less than $1.6 billion, Northwest may defer the closing date for up to an additional 30 days.

If during the period of any such deferral, Northwest's liquidity falls below the threshold for the applicable deferral period, such period shall be shortened to the lesser of (i) the remaining time in the original deferral period, or (ii) the applicable deferral period based on such lower level of liquidity. However, if before the end of such period Northwest's liquidity increases to a higher level, the longer deferral period will apply (subject to reduction if liquidity falls below the relevant threshold).

If at the time of such exercise shares of Pinnacle Stock are publicly traded and remain so traded, Northwest may defer the closing date, but the deferral periods based on the liquidity levels described above will be 120 days, 60 days and 30 days, respectively.

The closing date may be further deferred and deferred payments may be made by Northwest as agreed to by the Independent Fiduciary beyond these prescribed periods, through the posting (within 30 days following the exercise date) of collateral by Northwest in an amount and on terms satisfactory to the Independent Fiduciary.

Notwithstanding the foregoing, the closing date shall accelerate to the date on which Northwest's obligations under its revolving credit facility shall have accelerated.

Prior to the applicable closing date (which shall not be subject to further extension without the Independent Fiduciary's consent), Northwest may in its discretion arrange for the Pinnacle Stock as to which the Put Option has been exercised, instead of being sold to Northwest, to be sold to the public in an underwritten offering or to a third party selected by Northwest. The Plans will be entitled to retain all of the net proceeds from such underwritten offering or sale of the Pinnacle Stock belonging to the Plans to a third party, even if such net proceeds are in excess of the applicable ''Put Price'' (as defined below). If the net proceeds received by the Plans in such underwritten offering or sale to a third party are less than such Put Price, Northwest will be obligated, no later than the closing date of such offering or sale, to remit to the Plans

immediately available funds representing the amount by which such net proceeds are less than the Put Price. The Plans will at the request of Northwest enter into a customary agreement with respect to such sale. In no event will the Plans be obligated to provide representations and warranties beyond due authorization, good title, no conflicts and the like.

In an IPO that is not triggered by the exercise of the Put Option, if the Plans voluntarily choose to sell less than all of the shares of Pinnacle Stock held by the Plans, and if the net proceeds per share in such offering are equal to or greater than the ''Floor Price'' (as defined below), the Put Option will expire with respect to the shares retained in the Plans. In addition, if in such offering the net proceeds per share are less than the Floor Price, and the Plans voluntarily choose to sell less than all of the shares of Pinnacle Stock held by the Plans, Northwest's maximum put obligation with respect to the retained shares will be equal to the excess of the Floor Price over the net proceeds per share in such offering.

The Put Option will be suspended if all of the remaining shares of Pinnacle Stock held by the Plans have a ''Market Value'' (as defined below) not less than 110 percent (110%) of the Floor Price and such shares are ''Freely Tradeable.'' Shares are Freely Tradeable while they are (i) eligible to be sold under Rule 144(k) or (ii) covered during such period by an effective shelf registration statement on Form S–3.

The Put Option will terminate when (i) the Pinnacle Stock held by the Plans is Freely Tradeable, (ii) more than 50 percent (50%) of the outstanding Pinnacle Stock is held by the public and (iii) one of the following applies: (A) If the Plans own less than 10 percent (10%) of the outstanding shares of Pinnacle Stock, the weighted average daily trading price of Pinnacle Stock is 110 percent (110%) of the Floor Price for any 30 trading days within a 60 consecutive trading day period; (B) if the Plans own equal to or greater than 10 percent (10%) and less than 25 percent (25%) of the outstanding shares of Pinnacle Stock, the weighted average daily trading price of Pinnacle Stock is 110 percent (110%) of the Floor Price for any 60 trading days within a 90 consecutive trading day period or (C) if the Plans own equal to or greater than 25 percent (25%) and less than 50 percent (50%) of the outstanding shares of Pinnacle Stock, the weighted average daily trading price of Pinnacle Stock is 110 percent (110%) of the Floor Price for any 90 trading days within a 120 consecutive trading day period. The time periods are tolled for any black-out or lock-up period.

The ''Put Price'' as of a particular date will be the greater of (i) the ''Floor Price,'' which is the initial contribution value ascribed to the Pinnacle Stock with respect to which the determination is being made or (ii) the ''Market Value'' (as described below) of such Pinnacle Stock as of the applicable exercise, closing or other relevant date, unless Northwest has arranged for a sale to the public in an underwritten offering in which case the Put Price will be the initial contribution value ascribed to the Pinnacle Stock as to which the Put Option has been exercised.

In any event, at a time prior to Pinnacle Stock being publicly traded, in connection with a sale to a third party by Northwest in response to the Independent Fiduciary's exercise of the Put Option, the Plans will receive the greater of (i) the initial contribution value, (ii) the fair market value as determined by the Independent Fiduciary at the time of the exercise of the Put Option, or (iii) the proceeds from the sale of Pinnacle Stock held by the Plans sold by Northwest to a third party.

The ''Market Value'' of the Pinnacle Stock will be (i) if the Pinnacle shares are not then traded on the NYSE or NASDAQ, the greater of the fair market value determined by the Independent Fiduciary on (I) the exercise date or (II) the closing date, (ii) if the Pinnacle shares are then traded on the NYSE or NASDAQ, the greater of (I) the average of the closing price for the Pinnacle shares over the ten trading days prior to the exercise date or (II) the closing price for the Pinnacle shares on the closing date.

Amount Credited to Funding Standard Account

Northwest will cause to be credited to the funding standard account of each Plan an amount equal to the value of the shares of Pinnacle Stock contributed to each Plan as determined by the Independent Fiduciary on the date of the contribution, regardless of the amount of Northwest's deduction for such contribution for federal income tax or any other purpose.

Modification of Draft of ASA

The draft of the ASA should be revised to provide that the acquisition or disposition of shares of Pinnacle Stock pursuant to the terms of the Omnibus Agreement does not constitute a Change of Control (as defined in the ASA).

The draft should also be revised to eliminate the unilateral right of Northwest to terminate the ASA in the event of the bankruptcy of Northwest. The Applicant also notes that in a Chapter 11 proceeding, a debtor in possession can reject an executory contract (like the ASA). In such an event, the other party to the rejected contract (Pinnacle) would have an unsecured claim for contract damages arising from the rejection of the contract. The Applicant represents that the more likely result in the case of the ASA would be a renegotiation of the contract.

15. In summary, the Applicant represents that the proposed transactions meet the requirements set forth in section 408(a) of the Act since, among other things:

(a) An Independent Fiduciary will represent the Plans' interests for all purposes with respect to the Pinnacle Stock, and will determine, prior to entering into any of the transactions described herein, that each such transaction, including the contribution of the Pinnacle Stock, is in the interests of the Plans;

(c) The Independent Fiduciary will negotiate and approve the terms of any of the transactions between the Plans and Northwest that relate to the Pinnacle Stock;

(d) The Independent Fiduciary will manage the holding and disposition of the Pinnacle Stock and take whatever actions it deems necessary to protect the rights of the Plans with respect to the Pinnacle Stock;

(e) The terms of any transactions between the Plans and Northwest will be no less favorable to the Plans than terms negotiated at arm's-length under similar circumstances between unrelated third parties;

(f) An independent qualified appraiser selected by the Independent Fiduciary will determine the fair market value of the Pinnacle Stock contributed to each Plan as of the date of each such contribution;

(g) The terms of (1) the Put Option granted by Northwest; (2) any exercise of the Put Option by the Plans; and (3) any sale of the Pinnacle Stock by the Plans to Northwest other than through the exercise of the Put Option will be in accordance with the terms set forth in the Term Sheet and the proposed Omnibus Agreement;

(h) Immediately after each contribution, employer securities and employer real property, including the Pinnacle Stock, will represent no more than 10 percent (10%) of the value of each Plan's assets; and

(i) The Plans will not incur any fees, costs or other charges as a result of their

participation in any of the transactions described herein.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which require, among other things, that a fiduciary discharge his or her duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirements of section 401(a) of the Code that the plan operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) The proposed exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code;

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interest of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(4) This proposed exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(5) This proposed exemption, if granted, is subject to the express condition that the facts and representations set forth in this notice accurately describe, where relevant, the material terms of the transactions to be consummated pursuant to such exemption.

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption to the address above, within the time frame set forth above, after the publication of this proposed exemption in the Federal Register. All comments will be made a part of the record. Comments received will be available for public inspection with the referenced applications at the address set forth above.

Notice to Interested Persons

Within fifteen (15) calendar days of publication of the Notice of Proposed Exemption (the Notice) in the **Federal Register**, Northwest shall provide notice to all participants of the Plans (including active employees, separated vested participants and retirees) by mailing first class a photocopy of the Notice, plus a copy of the supplemental statement (Supplemental Statement), as required, pursuant to 29 CFR 2570.43(b)(2). Northwest shall also provide the same notice by first class mailing to the representatives of the unions that represent employees of Northwest who currently participate in the Plans.

Proposed Exemption

Based on the facts and representations set forth in the application, the Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Covered Transactions

The restrictions of sections 406(a), 406(b)(1) and (b)(2), and 407(a) of the Act and the sanctions resulting from the application of section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to:

(1) The transfer of the common shares of either Pinnacle Airlines, Inc. or Pinnacle Airlines Corp. (Pinnacle Stock) to the Northwest Airlines Pension Plan for Salaried Employees, the Northwest Airlines Pension Plan for Pilot Employees, and the Northwest Airlines Pension Plan for Contract Employees (the Plans) through the in-kind contribution(s) of such shares by Northwest Airlines, Inc. (Northwest), a party in interest with respect to such Plans;

(2) The holding of the Pinnacle Stock by the Plans;

(3) The sale of the Pinnacle Stock by the Plans to Northwest; and

(4) The acquisition, holding, and exercise by the Plans of a put option (the Put Option) granted by Northwest which permits the Plans to sell the Pinnacle Stock to Northwest.

Section II. Conditions

This exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following requirements:

(a) The Plans acquire the Pinnacle Stock through one or more contributions by Northwest during the calendar years 2003 and 2004;

(b) An independent qualified fiduciary (the Independent Fiduciary), acting on behalf of the Plans, represents the Plans' interests for all purposes with respect to the Pinnacle Stock, and determines, prior to entering into any of the transactions described herein, that each such transaction, including the contribution of the Pinnacle Stock, is in the interests of the Plans;

(c) The Independent Fiduciary negotiates and approves the terms of any of the transactions between the Plans and Northwest that relate to the Pinnacle Stock;

(d) The Independent Fiduciary manages the holding and disposition of the Pinnacle Stock and takes whatever actions it deems necessary to protect the rights of the Plans with respect to the Pinnacle Stock;

(e) The terms of any transactions between the Plans and Northwest are no less favorable to the Plans than terms negotiated at arm's-length under similar circumstances between unrelated third parties;

(f) An independent qualified appraiser selected by the Independent Fiduciary determines the fair market value of the Pinnacle Stock contributed to each Plan as of the date of each such contribution;

(g) The terms of (1) the Put Option granted by Northwest; (2) any exercise of the Put Option by the Plans; and (3) any sale of the Pinnacle Stock by the Plans to Northwest other than through the exercise of the Put Option will be in accordance with the terms set forth in the Term Sheet and the proposed Omnibus Agreement;

(h) Immediately after each contribution, employer securities and employer real property, including the Pinnacle Stock, will represent no more than 10 percent (10%) of the value of each Plan's assets. For purposes of this requirement, the term ''employer real property'' means real property leased to, and the term ''employer securities'' means securities issued by, an employer any of whose employees are covered by the Plans or by an affiliate of such employer; and

(i) The Plans incur no fees, costs or other charges as a result of their participation in any of the transactions described herein.

Section IV. Definitions

(a) The term ''independent fiduciary'' means a fiduciary who is: (1) Independent of and unrelated to Northwest and its affiliates, and (2) appointed to act on behalf of the Plans for all purposes related to, but not limited to, (A) the in-kind contribution of the Pinnacle Stock by Northwest to the Plans, (B) the holding of the Pinnacle Stock by the Plans; (C) the acquisition, holding, and exercise by the Plans of the Put Option, and (D) any sale of the Pinnacle Stock by the Plans. For purposes of this exemption, a fiduciary will not be deemed to be independent of and unrelated to Northwest if: (1) Such fiduciary directly or indirectly controls, is controlled by or is under common control with Northwest, (2) such fiduciary directly or indirectly receives any compensation or other consideration in connection with any transaction described in this exemption; except that an independent fiduciary may receive compensation for acting as an independent fiduciary from Northwest in connection with the transactions contemplated herein if the amount or payment of such compensation is not contingent upon or in any way affected by the independent fiduciary's ultimate decision, and (3) more than 5 percent (5%) of such fiduciary's gross income, for federal income tax purposes, in its prior tax year, will be paid by Northwest and its affiliates in the fiduciary's current tax year.

(b) The term ''affiliate'' means:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) any officer, director, employee, relative, or partner in any such person; and

(3) any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Signed at Washington, DC, this 14th day of January 2003.

Ivan L. Strasfeld,

Director, Office of Exemption, Determinations, Pension and Welfare Benefits Administration, Department of Labor.

[FR Doc. 03–1187 Filed 1–16–03; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL TELECOMMUNICATIONS SYSTEM

Office of Priority Telecommunications Customer Satisfaction Survey

AGENCY: National Communications System (NCS).

ACTION: Proposed collection notice; comment request.

In compliance with section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of Priority Telecommunications announces a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by March 18, 2003.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to the National Communications System, Office of Priority Telecommunications, 701 South Courthouse Road, ATTN: Deborah Bea, Arlington, VA 22204–2198.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Deborah Bea (703) 607–4933.

Title: Office of Priority Telecommunications Customer Satisfaction Survey.

OMB Number: 0704–TBD.

Needs and Uses: The information collection requirement is necessary to understand customer needs and requirements.

Affected Public: Business or other for-profit, and Federal government.

Annual Burden Hours: 25.

Number of Respondents: 100.

Average Burden per Response: 15 minutes.

Frequency: Annually.

Peter M. Fonash,

Certifying Officer, National Communications System.

[FR Doc. 03–1140 Filed 1–16–03; 8:45 am]

BILLING CODE 5001–08–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences

Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Committee of Visitors for the Division of Physics, Subcommittee of the Advisory Committee for Mathematical and Physical Sciences (66).

Date and Time: February 26–28, 2003; 8:30 a.m.—5 p.m.

Place: Room 375, NSF, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Part-open—(see Agenda, below).

Contact Person: Dr. Joseph L. Dehmer, Director, Division of the Physics, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1015.37. Telephone: (703) 292–7370.

Purpose of Meeting: To carry out Committee of Visitor (COV) review, including program evaluation, GPRA assessments and access to privileged materials.

Agenda: Closed: February 26–28, 2003, from 8:30—5 each day—To review the merit processes covering funding decisions made during the immediately preceding three fiscal years of the Division of Physics programs.

Open: February 27 from 10:30–11:30 to assess the results of NSF programs investments in the Division of Physics. This shall involve a discussion and review of results focused on NSF and grantee outputs and related outcomes achieved or realized during the preceding three fiscal years. These results may be based on NSF grants or other investments made in earlier years.

Reason for Closing: During the closed session, the COV will be reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. Such deliberations are exempt under 5 U.S.C. 552(b)(c)(4) and (6) of the Government in the Sunshine Act.

Dated: January 8, 2003.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 03–1038 Filed 1–16–03; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of pending NRC action to submit an information collection request to OMB and solicitation of public comment.

SUMMARY: The NRC is preparing a submittal to OMB for review of continued approval of information collections under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Information pertaining to the requirement to be submitted:

1. *The title of the information collection:* 10 CFR part 62—''Criteria and Procedures for Emergency Access to non-Federal and Regional Low-level Waste Disposal Facilities.''

2. *Current OMB approval number:* 3150–0143.

3. *How often the collection is required:* Requests are made only when access to a non-Federal low-level waste disposal facility is denied, which results in a threat to public health and safety and/or common defense and security.

4. *Who is required or asked to report:* Generators of low-level waste who are denied access to a non-Federal low-level waste facility.

5. *The number of annual respondents:* No requests for emergency access have been received to date. It is estimated that up to one request would be made every three years. An estimate of the number of responses: It is estimated that up to one response would be received every three years.

6. *The number of hours needed annually to complete the requirement or request:* It is estimated that 680 hours would be required to prepare the request, or approximately 227 hours per year.

7. *Abstract:* Part 62 sets out the information which will have to be provided to the NRC by any low-level waste generator seeking emergency access to an operating low-level waste disposal facility. The information is required to allow NRC to determine if denial of disposal constitutes a serious and immediate threat to public health and safety or common defense and security.

Submit, by March 18, 2003, comments that address the following questions:

1. Is the proposed collection of information necessary for the NRC to properly perform its functions? Does the information have practical utility?

2. Is the burden estimate accurate?

3. Is there a way to enhance the quality, utility, and clarity of the information to be collected?

4. How can the burden of the information collection be minimized, including the use of automated collection techniques or other forms of information technology?

A copy of the draft supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD. 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions about the information collection requirements may be directed to the NRC Clearance Officer, Brenda Jo. Shelton, U.S. Nuclear Regulatory Commission, T–6 E 6, Washington, DC 20555–0001, by telephone at (301) 415–7233, or by Internet electronic mail at *INFOCOLLECTS@NRC.GOV.*

Dated at Rockville, Maryland, this 13th day of January, 2003.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–1160 Filed 1–16–03; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Reclearance of a Revised Information Collection; SF 3106 and SF 3106A

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for reclearance of a revised information collection. SF 3106, Application for Refund of Retirement Deductions/Federal Employees Retirement System (FERS), is used by former Federal employees under FERS, to apply for a refund of retirement deductions withheld during Federal employment, plus any interest provided by law. SF 3106A, Current/Former Spouse(s) Notification of Application for Refund of Retirement Deductions Under FERS, is used by refund applicants to notify their current/former spouse(s) that they are applying for a refund of retirement deductions, which is required by law.

Comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

Approximately 17,000 SF 3106 will be processed annually. The SF 3106 takes approximately 30 minutes to complete for a total of 8,500 hours annually. Approximately 13,600 of SF 3106A will be processed annually. The SF 3106A takes approximately 5 minutes to complete for a total of 1,133 hours. The total annual burden is 9,633 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via E-mail to *mbtoomey@opm.gov.* Please include a mailing address with your request.

DATES: Comments on this proposal should be received on or before March 18, 2003.

ADDRESSES: Send or deliver comments to Lawrence P. Holman, Acting Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3313, Washington, DC 20415–3520.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION, CONTACT: Cyrus S. Benson, Team Leader, Desktop Publishing and Printing Team, Budget and Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–924 Filed 1–16–03; 8:45 am]

BILLING CODE 6325–50–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Review; Comment Request for Review of a New Information Collection: RI 20–120

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) has submitted to the Office of Management and Budget (OMB) a request for review of a new information collection. RI 20–120, Request for Change to Unreduced Annuity, is a new form designed to collect information OPM needs to comply with the wishes of the retired Federal employee whose marriage has ended. We have always needed this information. In the past, we have considered the information originally provided in the correspondence from the retirees and have made further inquiries as needed. This new form will provide an organized way for the retiree to give us everything at one time.

We estimate we will process 5,000 RI 20–120's annually. This form takes an average of 30 minutes per response to complete. The annual burden is estimated to be 2,500 hours.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or E-mail to *mbtoomey@opm.gov.* Please include your mailing address with your request.

DATES: Comments on this proposal should be received on or before February 18, 2003.

ADDRESSES: Send or deliver comments to:

Ronald W. Melton, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW., Room 3349, Washington, DC 20415–3540, and

Stuart Shapiro, OPM Desk Officer, Office of Information & Regulatory Affairs, Office of Management and Budget, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Cyrus S. Benson, Team Leader, Desktop Publishing and Printing Team, Budget & Administrative Services Division, (202) 606–0623.

Office of Personnel Management.

Kay Coles James,

Director.

[FR Doc. 03–923 Filed 1–16–03; 8:45 am]

BILLING CODE 6325–50–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47177; File No. SR–Amex–2002–102]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange LLC To Create a New Percentage Order Type To Be Called ''Immediate Execution or Cancel Election''

January 13, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 10, 2002, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I, II, and III below, which items have been prepared by the Exchange. The 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 Amex proposes to amend Amex rule 131 to provide that if a percentage order is marked ''Immediate Execution or Cancel Election,'' the elected portion of a percentage order with this designation is to be executed immediately, in whole or in part, at the price of the electing transaction. If the elected portion cannot be so executed, the election shall be deemed cancelled, and shall revert back to the percentage order and be subject to subsequent election or conversion.

The text of the proposed rule change is available at the Office of the Secretary, the Amex, 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 it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, Amex rule 131 provides for three types of percentage orders: straight limit, last sale, and ''buy minus/sell plus.'' The election provisions of each type of percentage order operate as follows:

- *Straight Limit:* When a trade takes place, an amount of shares equal to the size of that trade is ''elected'' as a limit order, and becomes a ''held'' order executable at a price within the overall limit on the order. Typically, the limit price is above the market when the order is entered (in the case of an order to buy), or below the market (in the case of an order to sell).
- *Last Sale:* When a trade takes place, an amount of shares equal to the size of that trade is ''elected'' as a limit order, and becomes a ''held'' order executable at the price of that trade, or at a better price, as long as such price is within the overall limit of the order. Typically, the limit price is above the market when the order is entered (in the case of a buy order) or below the market (in the case of a sell order).
- *''Buy Minus/Sell Plus'':* When a trade takes place, an amount of shares equal to the size of the trade is elected, and becomes a ''held'' order executable only on stabilizing ticks within the overall limit of the order. An order of this type must be qualified by placing an overall limit price on the order.

As described below, the Exchange believes that the application of the election provisions does not meet the interests of some investors placing percentage orders, particularly last sale percentage orders:

- *Last Sale:* The Exchange believes that investors entering last sale percentage orders seek to trade along with the trend of the market, without initiating price changes or otherwise influencing the equilibrium of buying and selling interest. When a last sale percentage order is elected, it will typically receive an execution in one of two ways:

(1) There is sufficient additional liquidity at the price of the electing transaction for the elected portion to receive an immediate execution at the price of the electing transaction; or

(2) If the order cannot receive an immediate execution at the price of the electing transaction, it is sequenced with other limit orders at that price, and will receive an execution if and when there is sufficient contra side interest for trades to be effected at that price.

Executions pursuant to (2) above may not always be able to be effected, as the market trend may continue to move away from the price at which the order may be executed. Elected portions of the last sale percentage order may lag behind movement of the market, which defeats the investor's purpose in entering the order.

In response, the Exchange proposes to adopt a percentage order type called ''Immediate Execution or Cancel Election.'' The Exchange believes that, consistent with the underlying philosophy of the percentage order rules, any proposed approach to accommodating investors should limit the specialist's discretion in representing such orders, while still allowing a degree of flexibility to meet the needs of those entering the orders. The Exchange notes that ''Immediate or Cancel'' is a recognized order type under Exchange rule 131(k). By placing this designation on the percentage order, the investor would require the specialist to treat an election as cancelled unless the elected portion can be executed immediately (in whole or in part) at the price of the electing transaction. If the order cannot be so executed, the election would be cancelled, and the unexecuted elected portion would revert to the percentage order, subject to subsequent election (and execution/cancellation as above) or conversion (if that instruction also is specified on the order).

For example, where an ''Immediate Execution or Cancel Election'' buy percentage order for 1,000 shares at 30.50 is placed with the specialist and the next transaction consists of 500 shares at 30.25, the specialist would elect 500 shares and must immediately execute the order at the price of the electing transaction, 30.25, or better. If there is liquidity sufficient to execute only 300 shares at the price of the electing transaction, 30.25, or better, the specialist would execute 300 shares at that price, and the election of the remaining 200 shares would be canceled, and the 200 shares would revert back to an unelected percentage order. If, instead, there is no further market interest to sell at 30.25, and the market moves away from the price of the electing transaction to, for instance, 30.30, the entire election would be canceled,[3] and the unexecuted elected portion would revert back to a percentage order.

The Amex believes that this approach sets forth objective criteria to guide the specialist's representation of the order, while ensuring that the elected portion does not lead the market by initiating any significant price change, thereby defeating the investor's objectives. The investor's instructions, not the specialist's discretion, would dictate how the order is handled. The Exchange notes that an investor seeking to have a percentage order executed under current rules would be free to continue to do so by simply designating the order as one of the three currently existing order types.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act[4] in general and furthers the objectives of section 6(b)[5] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to file number SR–Amex–2002–102 and should be submitted by February 7, 2003.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret McFarland,

Deputy Secretary.

[FR Doc. 03–1104 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47164; File No. SR–BSE–2002–04]

Self-Regulatory Organizations; the Boston Stock Exchange, Incorporated; Order Granting Approval to Proposed Rule Change To Amend the Exchange's Minor Rule Violation Plan

January 10, 2003.

On May 17, 2002, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] a proposed rule change to amend its Minor Rule Violation Plan (''Plan''). The BSE amended the proposed rule change

[3] The specialist would not execute the order at 30.30, even though such an execution is within the maximum limit of the percentage order (30.50). In this regard, an Immediate Execution or Cancel Election percentage order is treated similar to a last sale percentage order. Telephone conversation between David Fisch, Managing Director, Amex, and Sapna Patel, Attorney, Division of Market Regulation, Commission on January 10, 2003.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

on August 23, 2002.[2] The BSE again amended the proposal on October 9, 2002.[3] The proposed rule change, as amended, was published for notice and comment in the **Federal Register** on October 29, 2002.[4] The Commission received no comments on the proposal.

The Commission has reviewed carefully the proposed rule change and finds it is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange[5] and, in particular, the requirements of section 6 of the Act[6] and the rules and regulations thereunder. The Commission finds specifically that the proposed rule change is consistent with section 6(b)(6) of the Act[7] in that it will provide a procedure whereby member organizations can be disciplined appropriately in those instances when a rule violation is minor in nature, but a sanction more serious than an admonition letter is appropriate. Additionally, the Commission finds the proposed rule change is consistent with the requirements of sections 6(b)(7)[8] and 6(d)(1)[9] of the Act. Section 6(b)(7) requires the rules of an exchange to be in accordance with the provisions of Section 6(d) of the Act, and, in general, to provide a fair procedure for the disciplining of members and persons associated with members. Section 6(d)(1) requires an exchange to bring specific charges, notify such member or person of, and give him an opportunity to defend against, such charges, and keep a record, in any proceeding to determine whether a member or person associated with a member should be disciplined. Finally, the Commission finds the proposal is consistent with Rule 19d–1(c)(2) under the Act,[10] which governs minor rule violation plans.

In approving this proposal, the Commission in no way minimizes the importance of compliance with these rules, and all other rules subject to the imposition of fines under the Plan. The Commission believes that the violation of any self-regulatory organization's rules, as well as Commission rules, is a serious matter. However, in an effort to provide the Exchange with greater flexibility in addressing certain violations, the Plan provides a reasonable means to address rule violations that do not rise to the level of requiring formal disciplinary proceedings. The Commission expects that the BSE will continue to conduct surveillance with due diligence, and make a determination based on its findings whether fines of more or less than the recommended amount are appropriate for violations of rules under the Plan, on a case by case basis, or if a violation requires formal disciplinary action.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[11] that the proposed rule change (SR–BSE–2002–04), as amended, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1052 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47171; File No. SR–CBOE–2002–71]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Reducing Certain Telecommunication Fees

January 13, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2002, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in items I, II and III below, which items have been prepared by the Exchange. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make a change to its fee schedule to reduce certain of its telecommunications fees.[4] 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 its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in item IV below. CBOE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Fee Schedule to reduce certain of its telecommunications fees effective January 1, 2003, due to its decision to defer a previously planned purchase of a new trading floor telephone system, for which these telecommunications rates had been raised by approximately 50% at the start of calendar year 2002 (this increase had previously been reduced by approximately 60% in May 2002). The new rates reduce the fees to a level approximately 10% higher than they were at the end of calendar year 2001, which will help offset increasing Exchange costs in this area. The

---

[2] *See* August 21, 2002 letter from John A. Boese, Assistant Vice President, Legal and Regulatory, BSE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, and attachments (''Amendment No. 1''). Amendment No. 1 completely replaced and superseded the original proposed rule change.

[3] *See* October 8, 2002 letter from John A. Boese, Assistant Vice President, Legal and Regulatory, BSE, to Nancy Sanow, Assistant Director, Division, Commission (''Amendment No. 2''). In Amendment No. 2, the BSE added language to set a standard by which violations of certain provisions of the Plan will be determined.

[4] *See* Securities Exchange Act Release No. 46705 (October 22, 2002), 67 FR 66029. The notice contained the text of the proposed rule change, as well as an explanation of the purpose for the proposed rule change.

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(6).

[8] 15 U.S.C. 78f(b)(7).

[9] 15 U.S.C. 78f(d)(1).

[10] 17 CFR 240.19d–1(c)(2).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] All telecommunications fees referred to herein are applicable only to members of the Exchange. Telephone conversation between Chris Hill, Attorney II, CBOE, and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission and Ian Patel, Attorney, Division of Market Regulation, Commission (January 9, 2003).

Exchange has informed the Commission that it also intends to file a separate proposed rule filing that will rebate the increased telecommunications fees that were collected during 2002 to the members and member organizations that paid them.[5]

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act[6] in general and furthers the objectives of section 6(b)(4) of the Act[7] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (f) of rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2002–71 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1106 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

[5] Telephone conversation between Chris Hill, Attorney II, CBOE, and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission and Ian Patel, Attorney, Division of Market Regulation, Commission (January 9, 2003).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47170; File No. SR–CBOE–2002–72]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Exchange Fees for options on the Russell 2000® Index

January 13, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2002, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in items I, II and III below, which items have been prepared by the Exchange. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make a change to its fee schedule related to options on the Russell 2000® Index (''RUT''). 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 its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in item IV below. CBOE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to impose a new per contract fee on the Designated Primary Market-Maker (''DPM'') for RUT options. Specifically, the Exchange proposes to impose an additional fee of $0.16 per contract to be charged to the DPM for options on the RUT for all RUT option transactions in which the DPM trades for its proprietary account. Currently, all DPMs are charged $0.19 per contract for transactions for their proprietary accounts. The charge to the DPM for the options on the RUT, therefore, now will be $0.35 per contract when the new $0.16 fee is combined with the $0.19 fee which is currently in effect for all DPMs. This fee will be used to assist the Exchange in offsetting a new per contract license fee that is being paid to Russell by CBOE.

The Exchange believes this fee is reasonable and justified because the DPM for the RUT has been awarded special status for the product (*i.e.* the DPM status) and thus, stands to gain the most from continued CBOE listing of the product, which is dependent upon payment of the per contract license fee. In addition, the current DPM for the RUT applied for the DPM status with full knowledge that the Exchange intended to impose a per contract license fee on the DPM to recoup some,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

but not all, of the per contract license fees that the Exchange pays in order to receive permission to trade the RUT at the CBOE. The DPM has indicated its willingness to pay this fee. In addition, the Exchange represents that the total amounts collected through this per contract fee shall not exceed the total per contract license fees paid to Russell. Finally, the Exchange believes that this proposed rule change is substantially identical to a previous CBOE rule filing, SR–CBOE–00–33, which the Exchange filed with the Commission on July 31, 2000.[4]

2. Statutory Basis

The Exchange believes that the proposal is consistent with section 6(b) of the Act[5] in general and furthers the objectives of section 6(b)(4) of the Act[6] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (f) of rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2002–72 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1107 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

[4] Securities Exchange Act Release No. 43226 (August 29, 2000), 65 FR 54332 (September 7, 2000).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47169; File No. SR–CBOE–2002–73]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Incorporated Relating to Pass-Through of Periodic License or Royalty Fees

January 13, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 26, 2002, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. CBOE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make a change to its fee schedule related to the pass-through of periodic license or royalty fees for DPM-traded products. 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 its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. CBOE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In connection with the trading of certain option classes and other securities on the Exchange, the Exchange is beginning to be confronted with a new cost, namely, a requirement to pay a periodic (*e.g.*, annual) license or royalty fees to third parties as a condition to listing and trading certain securities. These periodic license or royalty fees may be imposed on the Exchange in addition to any per contract license or royalty fees, and they differ from such per contract fees in that the required cost to the Exchange is fixed and does not vary based upon the trading volume in the applicable security. One example is the fee for listing and trading the Russell 2000®, which is an annual fee payable on a quarterly basis.[4] It is therefore not workable for the Exchange to assess per contract fees on variable trading volume in the products in order to recoup such fixed periodic costs.

[4] Telephone conversation between Chris Hill, Attorney II, CBOE, and Gordon Fuller, Counsel to the Assistant Director, Division of Market Regulation, Commission and Ian Patel, Attorney, Division of Market Regulation, Commission (January 9, 2003).

The Exchange therefore proposes to establish a policy whereby it will pass any periodic license or royalty fees through the DPM allocated to a security for which the Exchange pays such fees. This policy, which would be memorialized in the Exchange fee schedule under ''Miscellaneous Fees,'' would apply to any securities traded on the Exchange, whether a listed security or a security traded pursuant to unlisted trading privileges, that are allocated to a DPM and for which the Exchange pays a periodic license or royalty fee to authorize trading at the Exchange, including options, structured products, exchange-traded funds (''ETFs'') based on a stock index,[5] and Trust Issued Receipts (''TIRs'') (as described in Interpretation .04 to CBOE Rule 1.1). At the present time, the Exchange does not foresee any periodic license or royalty fees being imposed upon products that are not allocated to a DPM. If and when that occurs, however, the Exchange would address it by submitting to the Commission a separate proposed rule change that, like this one, would treat all such similarly situated products in the same manner.

The Exchange represents that any fee passed through to the DPM pursuant to this filing will reflect only the actual costs incurred by the Exchange for a periodic license or royalty fee in connection with Exchange trading of the security allocated to the DPM, and which are not otherwise offset by any other fees imposed by the Exchange. The Exchange also represents that it will inform any applicants for the DPM position in such products that they will have the periodic license or royalty fee passed through to them if they are awarded the DPM position for that product, and that this periodic pass through may be separate from any additional per contract license or royalty fee that may also be charged to the DPM and/or other market participants in connection with the trading of such product.

The Exchange believes this fee is reasonable and justified because DPMs for products with a periodic license or royalty fee have been awarded special status for the product (*i.e.* the DPM status) and thus, stand to gain the most from continued CBOE listing of the product, which will be dependent upon the payment of the periodic license or royalty fee. It also is more logistically workable to pass a periodic fee through to the single DPM entity, which consistently participates in a substantial percentage of the trading in such products, rather than attempting to identify and assess all the other market participants in such trading, which can vary in identity and the extent of their participation in such trading over time.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act[6] in general and furthers the objectives of Section 6(b)(4) of the Act[7] in particular in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among CBOE members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act and subparagraph (f) of Rule 19b–4 thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of CBOE. All submissions should refer to file number SR–CBOE–2002–73 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1108 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

[5] For ease of reference, this rule filing uses the term ETF to describe both Index Portfolio Receipts (''IPRs''), as described in Interpretation .02 to CBOE Rule 1.1, and Index Portfolio Shares (''IPSs'') as described in Interpretation .03 to CBOE Rule 1.1.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47163; File No. SR–CHX–2002–39]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Membership Dues and Fees

January 10, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice hereby is given that on December 30, 2002, the Chicago Stock Exchange, Inc. (''CHX'') filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which the CHX 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 CHX proposes to amend its membership dues and fees schedule effective through December 31, 2003, to provide for continued assessment of a marketing fee in instances where transactions in a subject issue meet certain criteria, described below. The text of the proposed rule change is available at the CHX and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it had received regarding the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX 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

Purpose

The proposed change to the CHX fee schedule would provide for continued assessment of a marketing fee, in an amount equal to $.01 per share, applicable to transactions occurring on or before December 31, 2003. The marketing fee would apply only to ''Subject Transactions'' [3] in ''Subject Issues'' [4] and would not be assessed if the specialist trading the Subject Issue elected to forego collection of the marketing fee.

The CHX currently assesses a marketing fee under a provision of the CHX fee schedule that, by its terms, expires on December 31, 2002.[5] Under the system currently in place, the CHX calculates, bills, and collects the marketing fee and remits the proceeds to the specialist firm trading the Subject Issue. The specialist firm then distributes the funds to order-sending firms in accordance with its payment-for-order flow arrangements relating to the Subject Issue (and possibly also to market makers who contribute to market share growth in certain instances).[6] The remaining undistributed funds in excess of $1000 are refunded, on a quarterly basis, to the paying parties pro rata, in proportion to the fees they have paid.

The CHX notes that the proposed marketing fee provision does not differ from the previous versions, except that it would extend application of the marketing fee through December 31, 2003. The CHX intends that the continued imposition of the marketing fee will allocate equitably the financial burden of seeking order flow for Subject Issues. According to the CHX, in the absence of the marketing fee the CHX specialist trading a Subject Issue is the sole bearer of the often substantial costs associated with attracting order flow to the CHX, as well as the licensing fees that the licensor of the product imposes.[7] CHX market makers participating in transactions in Subject Issues, conversely, do not currently share any of these costs. The proposed rule change would allow a specialist trading a Subject Issue to elect or decline imposition of the marketing fee depending on whether the specialist believes it is appropriate for a part of the financial burden of trading the Subject Issue to be allocated among those trading the Subject Issue. The CHX anticipates that the proposed rule change will continue to provide specialists trading Subject Issues with sufficient incentive to continue their efforts to attract additional order flow and increase market share.

Statutory Basis

The CHX believes that the proposed rule change is consistent with section 6(b)(4) of the Act [8] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement of Burden on Competition

The CHX believes that the proposed rule change will not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments Regarding the Proposed Rule Change Received From Members, Participants or Others

The CHX has not received any written comments with respect to the proposed extension of the marketing fee program.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other CHX charge and therefore has become effective pursuant to section 19(b)(3)(A) of the Act [9] and Rule 19b-4(f)(2) thereunder.[10] At any time within 60 days after the filing of the rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the CHX. All submissions should refer to File No.

---

[3] ''Subject Transaction'' means (a) any trade with a customer, whether the contra party is a specialist or a market maker, where the order is delivered to the CHX via the MAX system or where compensation is paid to induce the routing of the order to the CHX; or (b) any trade between a specialist and a market maker in which the market maker is exercising rights under the market maker entitlement rules.

[4] ''Subject Issue'' means any issue which constitutes an exchange-traded fund and meets the following two criteria: (a) average daily share volume in the issue exceeds 150,000 shares each month during a consecutive two month period; and (b) market maker share participation in the same issue exceeds 5% for each month during the same two-month period.

[5] *See* Securities Exchange Act Release No. 44646 (August 2, 2001), 66 FR 41641 (August 8, 2001) (SR–CHX–2001–10) (announcing immediate effectiveness of the new marketing fee provision to the CHX fee schedule through December 31, 2001); Securities Exchange Act Release No. 45282 (January 15, 2002), 67 FR 3517 (January 24, 2002) (SR–CHX–2001–30) (extending program through June 30, 2002); Securities Exchange Act Release No. 46233 (July 19, 2002), 67 FR 48960 (July 26, 2002) (SR–CHX–2002–19) (extending program through July 31, 2002); and Securities Exchange Act Release No. 46297 (August 1, 2002) 67 FR 51612 (August 8, 2002) (SR–CHX–2002–25) (extending program through December 31, 2002).

[6] *See* Securities Exchange Act Release No. 44646 (August 2, 2001), 66 FR 41641 (August 8, 2001) (SR–CHX–2001–10) (describing potential arrangements between specialists and market makers). According to the CHX, no such arrangements are currently in place. Conversation between Kathleen M. Boege, Associate General Counsel, CHX, and Gail Fortson, Paralegal Specialist, Division of Market Regulation, Commission, on January 10, 2003.

[7] The CHX's marketing fee program applies only to exchange-traded fund products, which virtually always have an associated licensing fee. Currently, the marketing fee is assessed only against the Nasdaq-100 Index exchange-traded fund, commonly known as ''QQQ.''

[8] 15 U.S.C. 78f(b)(4).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 19b–4(f)(2).

SR–CHX–2002–39 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1053 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47175; File No. SR–CHX–2002–38]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Stock Exchange, Inc. Relating to Membership Dues and Fees

January 13, 2003.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that on December 23, 2002, the Chicago Stock Exchange, Inc. (''Exchange'' or ''CHX'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CHX. The Exchange has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the CHX under Section 19(b)(3)(A)(ii) of the Act,[3] which renders the proposal effective upon filing with the SEC.[4] 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 CHX proposes to amend its membership dues and fees schedule (the ''Schedule''), effective January 1, 2003, to: (1) Increase membership dues from $5,000 to $6,000 per year; (2) eliminate the fee relating to member firm branch offices; (3) extend the OTC Fixed Fee Charge, Listed Specialist Credit Reduction Charge and Floor Broker Credit Reduction Charge; (4) increase the monthly caps on transaction fees on orders sent through the Exchange's MAX® system; (5) add a new processing fee for certain transactions in OTC securities; and (6) revise references to certain Nasdaq charges and make other clarifying changes.

The text of the proposed rule change is below. Proposed additions are in *italics* and proposed deletions are in [brackets].

Membership Dues and Fees

* * * * *

A. Membership Dues and Transfer Fees

All members: Effective [April 1, 2000] *January 1, 2003*, [$5,000] *$6,000* per year, payable monthly in equal installments.

Transfer of memberships: No change to text.

B. Self-Regulatory Organization Fee

No change to text.

C. Registration Fees

Firm or Corporation: No change to text.

[Office (other than principal)]:

[$25 per year (up to a maximum of 1,500 offices each year) and $25 for each additional registration during the year.]

Off-Floor Traders: No change to text.

Clerks: No change to text.

Registration Processing Fees: No change to text.

D. Specialist Assignment Fees

No change to text.

E. Specialist Fixed Fees

Except in the case of Exemption Eligible Securities (as defined above in Section D), which shall be exempt from assessment of fixed fees, specialists will be assigned a fixed fee per assigned stock on a monthly basis, to be calculated as follows:

Fixed Fee Per Dual Trading System Security = No change to text.

Fixed Fee For Specialist Firms Trading Nasdaq/NMS Securities =

The lowest monthly fixed fee charged each member firm for the period from January through June 2002, less the market data rebate earned by the firm in June, 2002. [(Effective July 2002)].

[For each month from September 2002 through December 2002,] *E*[e]ach specialist firm shall be charged a Fixed Fee Charge equal to that specialist firm's pro rata share of an additional $10,000 monthly fee. A specialist firm's pro rata share shall be based on the firm's percentage participation in the total market data rebates paid to specialist firms trading Nasdaq/NMS Securities in June 2002.

* * * * *

F. Transactions and Order Processing Fees

1. SEC Transaction Fees: No change to text.

2. NASD Fees on Cleared Transactions: No change to text.

3. Order Processing Fees: No change to text.

4. Transaction Fees:

a. to g: No change to text.

h. Effective January 1, [2001] *2003*, monthly maximums for fees:

(1) Maximum monthly transaction fees [$7,000] *$10,000* for orders sent via MAX

(2) Maximum monthly transaction fee $110,000 for transactions in NASDAQ/NMS Securities (*other than transactions included in (1) above*)

(3) Maximum monthly transaction fee $110,000 for transactions in Dual Trading System Securities (*other than transactions included in (1) above*

(4) Maximum monthly transaction fees shall not exceed the lesser of that specified in (1), (2) or (3) above, or $.40 per 100 average monthly gross round lot shares.

* * * * *

H. Equipment, Information Services and Technology Charges

* * * * *

Telephone Charges: No change to text.

[Tools of the Trade Access]

[Each specialist firm shall be billed on a monthly basis, based on usage by each of the firm's OTC/UTP co-specialists, for actual Tools of the Trade access charges that become due in accordance with the Exchange's license agreement with Financial Systemware, Inc.]

[Tools of the Trade Connection Charges]

[All Tools of the Trade Connection Charges (*i.e.*, the costs of providing access to and use of the Exchange's Tools of the Trade server to facilitate OTC/UTP trading) shall be allocated pro rata on a monthly basis among all specialist firms that use Tools of the Trade in OTC/UTP trading, based on the number of OTC/UTP co-specialists at each firm using Tools of the Trade software.]

Server and Network Infrastructure: All Server and Network Infrastructure.

Charges; Nasdaq Connection Charges: Charges and all Nasdaq Connection Charges (*i.e.*, the costs of providing access to and use of the Exchange's Nasdaq server*s* to facilitate OTC/UTP

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] The proposal affects only fees and charges assessed to members. Telephone conversation between Ellen Neely, General Counsel, CHX and Tim Fox, Attorney, Division of Market Regulation, Commission, January 9, 2003.

trading) shall be allocated pro rata on a monthly basis among all specialist firms engaged in OTC/UTP trading, based on the number of OTC/UTP co-specialists at each firm.

Time clocks: No change to text.

Cable TV: No change to text.

[ACT/Select Net access]: No change to text.

Nasdaq/Nasdaq Tools Fees and Charges

* * * * *

MAX Connection Charges: No change to text.

MAX Access Charge

$1,000 per access point, allocated pro rata among the firms that gain access to the Exchange's MAX system through that access point.

I. Clearing Support Fees

(Minimum clearing support fee is $600 per month)

1. Account Fees: No change to text.

2. CUSIP Fees: No change to text.

3. Processing Fees

Transactions in OTC securities that are executed by floor brokers in securities that are not assessed a Specialist OTC CUSIP Fee but are processed by the Exchange's clearing systems

$.0015/share, up to $100 per side

J. Listing Fees

No change to text.

K. Market Regulation and Market Surveillance Fees

No change to text.

L. Supplies and Reports

No change to text.

M. Credits

1. Specialist Credits

Total monthly fees owed by a specialist to the Exchange will be reduced (and specialists will be paid each month for any unused credits) by the application of the following credits:

a. [Effective July 1, 2002] [f]*F*or transactions in Tape A Securities:

CHX monthly CTA trade volume by stock	Transaction credit
<7%	18%
7%—12%	45%
>12%	70%

''Tape A Securities'' are securities reported on Tape A of the Consolidated Tape Association.

''Transaction Credit'' when used in connection with Tape A Securities means the applicable percentage of monthly CHX tape revenue from the Consolidated Tape Association generated by a particular stock. To the extent that CHX tape revenue is subject to a year end adjustment, specialist credits may be adjusted accordingly.

[For each month from September 2002 through December 2002,] [t]*T*he Transaction Credit calculated above for each specialist firm shall be decreased by an amount equal to that specialist firm's ''Credit Reduction Charge,'' which shall be calculated as follows:

(Total CHX Monthly Tape A Transaction Credits ÷ Total CHX Monthly Tape A & B Transaction Credits) × $40,000 = Tape A Pro Rata Share

(Specialist's Monthly Tape A Transaction Credits ÷ Total CHX Monthly Tape A Transaction Credits) × Tape A Pro Rata Share = Specialist's Credit Reduction Charge

b. [Effective July 1, 2002] [f]*F*or transactions in Tape B Securities:

CHX monthly CTA trade volume by stock	Transaction credit
≤5.75%	18%
>5.75%	50%

''Transaction Credit'' when used in connection with Tape B Securities means the applicable percentage of monthly CHX tape revenue from the Consolidated Tape Association generated by a particular stock. To the extent that CHX tape revenue is subject to a year end adjustment, specialist credits may be adjusted accordingly.

''Tape B Securities'' are securities reported on Tape B of the Consolidated Tape Association.

[For each month from September 2002 through December 2002,] [t]*T*he Transaction Credit calculated above for each specialist firm shall be decreased by an amount equal to that specialist firm's ''Credit Reduction Charge,'' which shall be calculated as follows:

(Total CHX Monthly Tape B Transaction Credits Total CHX Monthly Tape A & B Transaction Credits) x $40,000 = Tape B Pro Rata Share

(Specialist's Monthly Tape B Transaction Credits ÷ Total CHX Monthly Tape B Transaction Credits) x Tape B Pro Rata Share = Specialist's Credit Reduction Charge

2. Floor Broker Credits

a. Earned Credits. [Effective January 1, 2001,] [t]*T*otal monthly fees owed by a floor broker to the Exchange will be reduced by the application of the following Earned Credit (and floor brokers will be paid each month for any unused credits):

* * * * *

[For each month from September 2002 through December 2002,] [t]*T*he Earned Credit calculated above for each floor broker shall be decreased by an amount equal to that floor broker's ''Credit Reduction Charge,'' which shall be calculated as follows:

(Floor Broker's Monthly Earned Credit ÷ Total CHX Monthly Earned Credits) x $50,000 = Floor Broker's Credit Reduction Charge

* * * * *

3. Credits for Qualified Market Makers Registered in Cabinet Securities

No change to text.

* * * * *

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 CHX included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The CHX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rule change amends the Schedule in several ways. First, the proposal increases membership dues, for all members, from $5,000 to $6,000 per year and eliminates the fee relating to member firm branch offices. The Exchange believes that it is appropriate to eliminate the branch office fees given, among other things, its limited involvement in branch office examinations.

Next, the proposal extends, for an indefinite term, the OTC Specialist Fixed Fee Charge, Listed Specialist Credit Reduction Charge and Floor Broker Credit Reduction Charge. These charges were put in place late last year [5] and have the impact of increasing the OTC Specialist Fixed Fee and reducing the amount of tape credits available to

[5] *See* Securities Exchange Act Release No. 46592 (October 2, 2002), 67 FR 62999 (October 9, 2002) (SR–CHX–2002–28).

floor brokers and specialists trading listed securities.

The proposal also increases the monthly caps on transaction fees on orders sent through the Exchange's MAX® system, adds a new access charge for firms that send orders through the Exchange's MAX system and adds a new processing fee for certain transactions in OTC securities. The new access charge will apply to firms that send orders from outside the Exchange to the Exchange's MAX system and is designed to help defray the costs of maintaining system access. The new processing fee will apply to transactions by CHX floor brokers in OTC securities, when those securities are not traded by a CHX specialist, but where the floor broker transactions are processed by the Exchange's clearing systems.

Finally, this proposal revises references to certain Nasdaq charges and makes other clarifying changes. Specifically, the proposal updates references to Nasdaq's Tools of the Trade product to confirm that this product is now offered directly through Nasdaq and confirms that each of the Exchange's monthly transaction fee caps apply separately to different types of transaction charges.

The Exchange has proposed these fee changes in connection with the development of its 2003 operating budget and believes that these changes appropriately and equitably allocate among Exchange members the costs associated with providing various Exchange services and the overall costs associated with operating the Exchange. All of these changes to the Exchange's Schedule of Membership Dues and Fees are effective as of January 1, 2003.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b)(4) of the Act[6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The CHX 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.

[6] 15 U.S.C. 78(f)(b)(4).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change establishes or changes a member due, fee or other charge, it has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[7] and subparagraph (f)(2) of Rule 19b–4[8] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[9]

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 CHX. All submissions should refer to File No. SR–CHX–2002–38 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1102 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

[8] 17 CFR 240.19b–4(f)(2).

[9] 15 U.S.C. 78s(b)(3)(C).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47176; File No. SR–NASD–2003–01]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to Refunds of Member Surcharges in Arbitration

January 13, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on January 2, 2003 the National Association of Securities Dealers, Inc. (''NASD''), through its wholly owned subsidiary, NASD Dispute Resolution, Inc. (''NASD Dispute Resolution'') 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 NASD. 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 NASD is proposing to amend rule 10333(a) of the NASD Code of Arbitration Procedure to provide that, in certain circumstances, NASD will refund the member surcharge paid by a member firm named as a party to an arbitration proceeding (or where its employee/former employee has been named as a party). Below is the text of the proposed rule change. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Code of Arbitration Procedure

* * * * *

10333. Member Surcharge and Process Fees

(a) Member Surcharge

(1) Each member that is named as a party to an arbitration proceeding, whether in a Claim, Counterclaim, Cross-Claim or Third-Party Claim, shall be assessed a [non-refundable] surcharge pursuant to the schedule below when the Director of Arbitration perfects service of the claim naming the member on any party to the proceeding.

(2) For each associated person who is named, the surcharge shall be assessed

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

against the member or members that employed the associated person at the time of the events which gave rise to the dispute, claim or controversy. No member shall be assessed more than a single surcharge in any arbitration proceeding.

(3) The surcharge shall not be chargeable to any other party under Rules 10332(c) and 10205(c) of the Code. *The Director will refund the surcharge paid by a member in an arbitration filed by a customer if the arbitration panel: (A) denies all of the customer's claims against the member or associated person; and (B) allocates all forum fees assessed pursuant to Rule 10332(c) against the customer. The Director may also refund or cancel the member surcharge in extraordinary circumstances.*

(Remainder of rule unchanged.)

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in item IV below. NASD has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Rule 10332(c) of the Code requires that the arbitrators, in their awards, shall determine the amount chargeable to the parties as forum fees and shall determine who shall pay such forum fees. Generally such fees are divided among the parties, but the arbitrators may, in their discretion, allocate all forum fees against the claimant or the respondent.

Rule 10333(a) of the Code requires that each member that is named as a party in an arbitration, or that employed an associated person who is named as a party at the time of the events that gave rise to the dispute, must pay a surcharge. The amount of the surcharge is based on the amount asserted by the claimant to be in dispute. The member surcharge is non-refundable and, unlike forum fees, may not be allocated among the other parties, regardless of the outcome of the arbitration. As a result, member firms must pay the surcharge, which is typically higher than filing fees or forum fees, even when the arbitrators deny a customer's claim and allocate all forum fees against the customer.

To mitigate the impact of arbitration fees on member firms in such cases, NASD is amending rule 10333(a) to provide that it will refund the member surcharge paid by each member firm named as a party (or where its employee/former employee has been named as a party) in an arbitration filed by a customer in which the arbitration panel: (1) Denies all of the customer's claims; *and* (2) allocates all of the forum fees against the customer. In cases with more than one customer claimant, NASD will not refund the surcharge unless the arbitration panel denies all of the customers' claims and allocates all of the forum fees against one or more of the customer claimants.

In addition, from time to time, the NASD states that a refund of the member surcharge may be warranted in extraordinary circumstances that do not meet the criteria described above. As an example, the NASD states that occasionally a customer mistakenly names a member firm as a respondent, and later withdraws the claim as to that particular member firm. The Code as currently written would prohibit any refund or cancellation of the surcharge in such a case. To give NASD more flexibility in addressing such cases, NASD is further amending rule 10333(a) to provide that the Director of Dispute Resolution, in his or her discretion, may cancel or refund member surcharges in extraordinary circumstances when he or she determines that retention of the surcharge would be inappropriate.[3]

This rule change applies only to member surcharges under rule 10333(a) and does not affect any other fee required under the Code. The rule change will apply to all claims filed on or after January 13, 2003.

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[4] which requires, among other things, that the Association's rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest. NASD believes that the rule change will enhance the fairness of the NASD arbitration forum for member firms, particularly small member firms.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has been filed by NASD as establishing or changing a due, fee, or other charge imposed by the self-regulatory organization. Consequently, it has become effective pursuant to section 19(b)(3)(A) of the Act[5] and paragraph (f)(2) of rule 19b–4 thereunder.[6] At any time within 60 days of this filing, the Commission may summarily abrogate this proposal 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

[3] NASD has represented to Commission staff that they will monitor the effect of the refund of the member surcharge on NASD Dispute Resolution's operating budget. Also, if NASD raises customer arbitration fees in the future, NASD will reinstate this member surcharge. Telephone conversation between Laura Gansler, Counsel, NASD Dispute Resolution, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission, January 10, 2003.

[4] 15 U.S.C. 78o–3(b)(6).

[5] 15 U.S.C. 78s(b)(3)(A)(ii).

[6] 17 CFR 240.19b–4(f)(6).

available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–2003–01 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1111 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47161; File No. SR–NYSE–2001–46]

Self-Regulatory Organizations; Order Approving a Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc. Amending Section 804 to the NYSE Listed Company Manual and NYSE Rule 499

January 10, 2003.

On October 29, 2001, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the Exchange's procedures for issuer appeals of delisting determinations, and to institute a non-refundable appeal fee. On October 30, 2002, the Exchange submitted Amendment No. 1 to the proposed rule change.[3] On November 7, 2002, the Exchange submitted Amendment No. 2 to the proposed rule change.[4] The proposed rule change, as amended, was published in the **Federal Register** on November 19, 2002.[5] No comments were received on the proposed rule change. This order approves the proposed rule change, as amended.

I. Description of the Proposal

The Exchange proposes to amend Section 804 of the NYSE Listed Company Manual and NYSE Rule 499 to make the procedures for appealing delisting determinations, in its view, more efficient and effective, and to charge issuers a non-refundable appeal fee in the amount of $20,000.

Under the current procedures, both the issuer and the Exchange staff are required to file their appeal briefs at the same time. The Exchange believes that having the appellant submit its brief first would more effectively utilize the resources of both the Committee and the Exchange staff. Accordingly, the Exchange proposes to amend the procedures to specify that the issuer must submit its written brief first, including any accompanying materials. The Exchange will be permitted to respond to the issuer's brief. The proposal further states that the issuer and the Exchange will be given substantially equal periods for the submission of their briefs. In addition, the Exchange proposes to clarify that the briefing schedule will be set to provide the Committee with adequate time to review the materials submitted to it in advance of the review date.[6]

To assist in the Committee's evaluation, an issuer will be required to specify in its written request for review the grounds on which it intends to challenge the Exchange staff's determination, and whether it is requesting to make an oral presentation to the Committee.[7] The Exchange will state that document discovery and depositions are not permitted. The Exchange's proposed rules also provide the scope of the Committee's review of appeals, including the guidelines pursuant to which the Committee may decide to hear new issues or evidence not identified in an issuer's original request for review.[8]

In addition, the Exchange proposes to institute a non-refundable appeal fee in the amount of $20,000. The Exchange has not previously considered it necessary to charge a separate fee to companies appealing an Exchange delisting decision. However, in its filing, the Exchange noted that changes in policies and procedures adopted or formalized by the Exchange in recent years have resulted in a significant increase of issuers that are delisted.[9] During the 12 months ending December 31, 2001, the Exchange represented that it paid slightly in excess of $300,000 in legal fees to cover 11 delisting appeals completed during that time,[10] giving an average out of pocket cost of slightly less than $30,000 for each appeal. This does not include the resources of the Exchange's own Financial Compliance and Office of the General Counsel personnel consumed in servicing these appeals. According to the Exchange, it is only fair and appropriate that the

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division of Market Regulation (''Division''), Commission, dated October 29, 2002 (''Amendment No. 1''). Amendment No. 1 replaces the original proposed rule change in its entirety, and clarifies: (1) The scope of the NYSE Committee for Review's review on appeal; (2) that neither document discovery nor depositions are available; and (3) the rationale for requiring payment of a non-refundable fee in connection with a request for review.

[4] Letter from Darla C. Stuckey, Corporate Secretary, NYSE, to Nancy Sanow, Assistant Director, Division, Commission, dated November 7, 2002 (''Amendment No. 2''). Amendment No. 2 makes a minor technical correction to the proposed rule change.

[5] Securities Exchange Act Release No. 46802 (November 8, 2002), 67 FR 69789.

[6] The Exchange's Office of the General Counsel, which oversees the appeals process on behalf of the Committee, will schedule reviews on the first review day that is at least 25 business days from the date an issuer files the request for review, unless the next subsequent Review Day must be selected to accommodate the Committee's schedule, and can establish a briefing schedule that takes account of both the Committee's caseload and the complexities of the specific case. The Exchange represents that the Committee For Review typically meets every two months.

[7] The Exchange represented that the Committee's review shall be based on oral argument (if any) and the written briefs and accompanying materials submitted by the parties. Typically, accompanying materials include materials the issuer or NYSE staff relies on in support of its position and are supplied as exhibits to the brief submitted by the party.

[8] In this regard, the Commission specifically notes that the NYSE's proposal would not permit the issuer to argue grounds for reversing the NYSE staff's decision that are not identified in its request for review. However, the issuer would be permitted to ask the Committee for leave to adduce additional evidence or raise arguments not identified in its request for review, if it can demonstrate that the proposed additional evidence or new arguments are material to its request for review and that there was reasonable ground for not adducing such evidence or identifying such issues earlier. The proposed rule language would not, however, (i) authorize an issuer to seek to file a reply brief in support of its request for review or (ii) be deemed to limit the NYSE staff's response to a request for review to the issues raised in the request for review. Upon review of a properly supported request, the Committee may in its sole discretion permit new arguments or additional evidence to be raised before the Committee. Following such event, the Committee may, as it deems appropriate, (i) itself decide the matter, or (ii) remand the matter to the NYSE staff for further review. Should the Committee remand the matter to the staff, the proposed rules provide that the Committee will instruct the staff to (i) give prompt consideration to the matter, and, (ii) complete its review and inform the Committee of its conclusions no later than seven (7) days before the first Review Day which is at least 25 business days from the date the matter is remanded to the staff.

[9] The Exchange believes this increase is a result of changes in appeal procedures whereby a company that has appealed a delisting likely will be permitted to trade on the NYSE while the appeal is pending. *See* Securities Exchange Act Release No. 42863 (May 30, 2000), 65 FR 36488 (June 8, 2000). As an example, the Exchange noted that there were an average of 22 financial delistings per year during the three years from 1996 through 1998, but an average of 61 per year during the period 1999 through 2001. Regarding appeals, in a 21-month period since new appeal procedures were in effect in 2000, there were 18 appeals out of 114 delisting determinations. In contrast, during a previous 21-month period, there were only 6 appeals out of 104 delisting determinations.

[10] The Exchange has elected to use outside counsel to represent the Exchange's Financial Compliance staff in delisting appeals.

companies incurring these added out of pocket costs defray these costs by paying the proposed $20,000 appeal fee.[11]

II. Discussion

After careful review, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[12] In particular, the Commission finds that the proposal, as amended, is consistent with sections 6(b)(4), 6(b)(5) and 6(b)(7) of the Act.[13] Section 6(b)(4) of the Act [14] requires that exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. Section 6(b)(5) of the Act [15] requires, among other things, that the Exchange's rules be designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. Section 6(b)(7) of the Act [16] requires, among other things, that the Exchange's rules provide fair procedures for prohibiting or limiting any person with respect to access to services offered by the exchange or member thereof.

The Commission believes that the proposal is consistent with sections 6(b)(5) and 6(b)(7) of the Act because the new procedures set forth specific time frames for scheduling and conducting a review of an appeal to ensure that the appeal is done in a timely manner. In particular, the review will be scheduled at the next review date, which will be at least 25 business days from the date the request for review is filed with the NYSE unless the next subsequent review date must be selected to accommodate the Committee's schedule.[17] This change should help to ensure that the review process will not continue indefinitely and will provide clarity to the parties involved, especially since the existing rules were silent as to the timing of the Committee review date.

The new procedures also define the scope of the Committee's review on appeal and the guidelines pursuant to which the Committee may decide to hear new issues or evidence not identified in an issuer's original request for review. The procedures specify that document discovery and depositions will not be permitted. However, the Commission notes that the issuer may ask the Committee for leave to adduce additional evidence or raise arguments not identified in its request for review, if it can demonstrate that the proposed additional evidence or new arguments are material to its request for review and that there was reasonable ground for not adducing such evidence or identifying such issues earlier. If the case is remanded back to Exchange staff, the rules would require specific time frames for the Committee to hear the staff's conclusions. The Commission believes that these time frames should help to ensure that appeals are considered in a timely manner and resolved promptly. The Commission believes that this is particularly important since, as noted above, the NYSE may permit an issuer to continue to trade during the appeal process. In summary, the Commission believes that the procedures as proposed will provide issuers and Exchange staff a fair and reasonable process, and clarifies the procedures used, to present their arguments on appeal. The procedures also may contribute to a more proficient appeals process, by reducing unnecessary delay between the issuer's request for appeal, the hearing before the Committee, and its final determination. Therefore, the Commission finds the procedures are consistent with sections 6(b)(5) and 6(b)(7) of the Act.

The Exchange also proposes to institute a non-refundable appeal fee in the amount of $20,000. The Commission believes that the proposed fee is consistent with section 6(b)(4) of the Act [18] because it is designed to recoup the costs of processing requests for appeal and holding the subsequent proceedings, and thus is an equitable allocation of dues and fees among issuers. As noted above, the NYSE has indicated that there has been a significant increase in appeals recently due to changes whereby a company that has appealed a delisting would likely be permitted to trade on the Exchange during the appeal process. This has substantially increased the Exchange's overall legal costs in handling appeals. In addition to legal fees, the Exchange represents that it incurs additional administrative and personnel costs in servicing issuers. Although, the proposed appeal fee is greater than the amount currently charged at other listing markets, the Commission believes that the appeals fee is not overly excessive or burdensome to the extent that an issuer would be deterred from employing its due process right to appeal an Exchange staff determination and therefore is consistent with section 6(b)(7) of the Act.[19]

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NYSE–2001–46), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[21]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1050 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

[11] The Exchange does not believe that the appeal fee will deter companies from taking reasonable appeals. According to the Exchange, most companies that do appeal Exchange staff determinations are represented in that appeal by their own outside counsel, suggesting that they are able to invest a significant sum in the prosecution of their appeal. While the proposed Exchange appeal fee is greater than the amount charged at other listing markets, the Exchange notes that its original and continuing annual listing fees are also higher than those at other markets, and that its listed company population in general represents larger capitalization companies than on the other markets. The Exchange also notes that, particularly in the case of companies that have been delisted after attempting to utilize the financial plan process outlined in Section 802 of the NYSE *Listed Company Manual*, companies delisted by the Exchange typically have received a significant quantum of service and attention from the Exchange's Financial Compliance staff.

[12] In approving this proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 15 U.S.C. 78f(b)(4); 15 U.S.C. 78f(b)(5); 15 U.S.C. 78f(b)(7).

[14] 15 U.S.C. 78f(b)(4).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78f(b)(7).

[17] NYSE stated in its filing that the Committee For Review typically meets every two months.

[18] 15 U.S.C. 78f(b)(4).

[19] The Commission notes, however, that if the appeals fee was higher, it would have to determine whether the fee is consistent with section 6(b)(7) of the Act and acts as a deterrent to issuers exercising their due process rights.

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47160; File No. SR–NYSE–2002–63]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Amendments to Rules 98, 104A.50, 105, and 900 to Permit Single Stock Futures Hedging by Specialists

January 10, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on November 21, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'')

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

This proposal is to amend NYSE Rules 98, 104A.50, 105, and 900 to permit specialists to use exchange-traded single stock futures to hedge existing specialty stock positions in a manner comparable to stock options.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to permit specialists to use exchange-traded ''security futures'' [3] overlying single securities (hereinafter referred to as ''single stock futures'') to hedge specialty stock positions in a manner comparable to stock options. Single stock futures are contracts of sale, traded on a national exchange, such as OneChicago, LLC or Nasdaq Liffe, for the future delivery of a single security.

Rules 105, 98, 104A.50, and 900(d)(v) are proposed to be amended to make reference to ''single stock futures'' wherever stock options are referenced.

Background

Currently, Rule 105 permits the use by NYSE specialists of options on their specialty stocks subject to certain limitations and restrictions. The rule allows a specialist to acquire and hold, in his specialist trading account, a position in listed options on any of his specialty stocks ''where appropriate . . . to offset the risk of making a market in the underlying stock.'' Under the rule, a specialist may not establish and maintain an options position which is excessive either in terms of his or her existing position in the underlying specialty stock or in terms of a reasonable estimate of potential losses that may be incurred in relation to any such equity position.

In approving previous amendments to Rule 105, the Commission balanced the regulatory concerns regarding possible stock/option manipulation and the specialists' perceived information advantages against the benefits to the market to be derived from the Rule, namely enhanced market depth and liquidity. The Commission determined that the use of options by NYSE specialists resulted in substantial benefits to the markets for these stocks as well as the options markets.[4] By analogy, the Commission should determine that the use of single stock futures by specialists would result in similar substantial benefits to the markets for these stocks; this additional hedging mechanism would enable specialists to add to overall stock market liquidity and depth by taking specialty stock positions they might not otherwise assume or by reducing risks on positions they are required to assume.

Proposed Amendments to Rule 105

The Exchange is proposing to amend Rule 105(b) to define a ''single stock future'' as a contract of sale, traded on a national commodities exchange, for the future delivery of a single security. Appropriate cross-references to ''single stock futures'' have been added to Rule 105(a)-(d) to reflect that single stock futures can be used wherever options transactions are made.

In addition, paragraph (d) of the Guidelines to Rule 105 (the ''Guidelines'') would be added to explain the conditions for single stock futures transactions to hedge an existing specialty stock position with a net futures position. As with options, no anticipatory hedging would be allowed; only existing specialty stock positions may be hedged.

The proposed rule (paragraph (d)) states three conditions (similar to options conditions) that single stock futures transactions must meet:

(i) The transaction must result in a net futures position on the *opposite* side of the market from the underlying specialty stock position;

(ii) the transaction must be effected solely to offset the risk of making a market in the underlying specialty stock; and

(iii) the resulting net futures position must not exceed the number of shares of the specialty stock position that the specialist is offsetting.

Any single stock futures transaction that does not meet *all three* of the above conditions would be deemed to be in violation of Rule 105.

One single stock futures contract would be able to be used to hedge each 100 shares of the existing specialty stock position. (*See* proposed Rule 105(d), Example 5).

As with options contracts, a hedge that subsequently exceeds the specialty stock position being hedged as a result of 25% or more in the specialist's stock position or which becomes on the same side of the market as the specialty stock position, must be liquidated, unless the equivalent share position is 5000 shares or less. (*See* proposed paragraph (e) to the Guidelines, Examples 9 and 11).

Similarly, as with options contracts, Rule 105 has been amended to specify that as with options contracts, specialists may also not front-run blocks (paragraph (h) to the Guidelines) and must record futures positions in a separate ''memo'' account (paragraph (i) to the Guidelines). Additionally, specialists must report to the Exchange: (i) accounts in which single stock futures positions are held (paragraph (j)) and (ii) their positions in single stock futures (paragraph (k)).

Currently, paragraph (l) of the Guidelines to Exchange Rule 105 (''Rule 105(l)'') permits an approved person of a specialist to act as a primary market maker or specialist with respect to an option on a specialty stock, provided all the requirements of the Rule 98 exemptive program are met.[5] This paragraph has been re-lettered as paragraph (m) and incorporates references to market makers in single stock futures contracts. Thus, it is proposed that an approved person of an equity specialist may act as a primary market maker or specialist with respect to a stock futures contract, provided all the requirements of the Rule 98 exemptive program are met.

Paragraph (l) currently prohibits an approved person of an equity specialist acting as a market maker in any equity security in which the associated specialist is registered as such and which underlies an option as to which the approved person acts as an options market maker. Paragraph (l) has been re-

[3] The term ''security future'' is defined in Section 3(a)(55) of the Act. 15 U.S.C. 78c(a)(55).

[4] *See* Securities Exchange Act Release No. 28971 (March 13, 1991), 56 FR 11808 (March 20, 1991)(SR–NYSE–90–31).

[5] *See* Securities Exchange Act Release No. 45454 (Feb. 15, 2002), 67 FR 8567 (Feb. 25, 2002), approving SR–NYSE–2001–43 and amendments thereto.

lettered as (m) and provides the same prohibition with respect to market makers in single stock futures contracts.

Paragraph (n) is proposed to be added to explain the use of both options and single stock futures to hedge specialty stock positions. If a specialist chooses to hedge a specialty stock position with positions in both options and futures contracts, the resulting total market position, when established, may not exceed the size of the existing specialty stock position being hedged. Any excess or same side of the market equivalent position must be liquidated in accordance with the provisions of Rule 105.

Other Rule Amendments

Rules 98, 104A.50, and 900(d)(v) are proposed to be amended to incorporate references to single stock futures, where they currently refer to options.

Rule 98 would be amended to add single stock futures to the Rule's reference to Rule 105.

Rule 104A.50 would be amended to add a reference to single stock futures as an aspect of specialists' reporting requirements. Thus, every specialist must keep a record of all single stock futures purchases and sales (as they do with options currently) to hedge his specialty stock positions as permitted by Rule 105. Such transactions would be reported in such format and with such frequency as prescribed by the Exchange.

Rule 900(d)(v) currently prohibits a specialist against entering an order in the Exchange's Off-Hours Trading Facility if a resulting execution would result in the specialist having to take liquidating action pursuant to Rule 105. The rule would be amended to add a reference to single stock futures to the above prohibition against taking liquidating action.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[6] of the Act, in general, and furthers the objectives of section 6(b)(5),[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room.

Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to the file number SR–NYSE–2002–63 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1051 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47174; File No. SR–NYSE–2002–66]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc., Relating to Fee Increases and New Fees Applicable to Members and Member Organizations

January 13, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on December 23, 2002, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''). On January 10, 2003, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The proposed rule change is described in items I, II and III below, which items have been prepared by the Exchange. The NYSE has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under section 19(b)(3)(A)(ii) of the Act,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes changes to certain fees applicable to members and member organizations. The Exchange will (1) increase the existing cap on transaction charges; (2) increase existing fees for branch offices; (3) impose a new transaction charge for principal transactions; (4) impose new fees for Exchange technology services provided to brokers and specialists; and (5) change the fees charged to subscribers to

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaces in their entirety Form 19b–4 and Exhibit 1 of the original filing.

[4] 15 U.S.C. 78s(b)(3)(A)(ii).

the Exchange's Automated Bond System.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

NYSE 200[2]*3* Price List

TRANSACTION FEES

Regular Session Trading [1]

Equity Public Agency *and Principal* Transactions: 1

* * * * * * *

System orders under 2100 Shares 4 ..... No charge

* * * * * * *

Fee Limitations:

Equity Commissions 2%

Monthly Fee Per Firm ..... $[500,000] *$600,000*

* * * * * * *

Notes:

1 Does not apply to [principal] transactions by members *acting as specialist* for own account. *Also does not apply to principal transactions by a member in conjunction with ''facilitating'' a customer order of at least 10,000 shares. For this purpose ''facilitating'' refers to taking the other side of a customer's order, or acquiring/liquidating inventory to buy from/sell to a customer at an agreed-upon price.*

* * * * * * *

4 Not inclusive of orders of a member of member organization *trading for its own account as a competing market marker, or* trading as an agent for the account of a non-member competing market maker. Competing Market Maker: a specialist or market-maker bidding and offering over-the-counter, in a New York Stock Exchange traded security.

REGULATORY FEES

Registration Fees

Branch Office Fee—per branch (annual and new):

Number of Branches:

[First 250 branches $250.00

Next 250 branches 150.00

Over 500 branches ..... 125.00]

First 1000 branches $350.00

Next 2000 branches 250.00

Over 3,000 branches 225.00

* * * * * * *

FACILITY AND EQUIPMENT FEES

* * * * * * *

[Broker Booth Support System

On-Floor Terminal, Printer and Keyboard Location.1 ..... No charge for 1st Terminal per

Additional Terminals $3,600.00 2

Off-Floor Terminal, Printer and Keyboard ..... $3,600.00 per Terminal 2

Special Equipment:

Standard Panel Equipment ..... No Charge

Incremental Equipment	Per Panel Charges 2	
	14″ Flat Panel	10.5″ Flat Panel
Quantity:		
1	$1,850.00	$1,200.00
2–3	1,670.00	1,080,00
4–9	1,480.00	960.00
10+	1,300.00	840.00
Brackets		Variable 3

Notes:

1 Location defined as contiguous booths occupied by one firm or single booth shared by multiple firms.

2 Plus sales tax.

3 Depending on bracket required.

	Annual Fee		
	2003	*2004*	*2005*
Broker Services:			

	Annual Fee		
	2003	*2004*	*2005*
Terminal/Connection Fee (per terminal)	*$2,400.00*	*$4,800.00*	*$7,200.00*
Broker Booth Support System (BBSS) (per application entitlement)	*2,600.00*	*5,200.00*	*$7,800.00*
BBSS Printers (per printer)	*1,000.00*	*2,000.00*	*$3,000.00*
Broker Overview Support System (BOSS) (per application entitlement)	*1,200.00*	*2,400.00*	*$3,600.00*
Activity Logs (per subscription)	*1,000.00*	*2,000.00*	*$3,000.00*
OCS Direct Connect (connection fee)	*3,200.00*	*6,400.00*	*$9,600.00*
Wireless Connection (per antenna)	*2,000.00*	*4,000.00*	*$6,000.00*
e-Broker Application & Hardware (per handheld device)	*1,000.00*	*2,000.00*	*$3,000.00*
Maintenance Fee (% of the Subscribed Service)	*15%*	*15%*	*15%*
Specialist Technology:			
Display book—per book	*$32,666.63*	*$65,333.37*	*$98,000.00*

SYSTEM PROCESSING FEES

* * * * * * *

Automated Bond System: [1]

For subscribers accessing through dedicated terminals:	
Annual Subscription [2]	$13,000.00
Additional equipment—annual rate per each	
Terminals:	
2–5	8,000.00
6 and above	3,000.00
Controllers	2,000.00
Printers	2,500.00
Phone lines [3]	See Note [4]
Port charges [5]	3,000.00
Service calls—per terminal	250.00
Computer to Computer Service	
Report fee	5,000.00
Usage fee—per order entered: [6]	
1–25,000	0.30
25,001–50,000	0.20
50,001–100,000	0.10
100,001 and above	0.05

Notes:
[1] Automated Bond System and ABS are registered service marks of the New York Stock Exchange.
[2] Subscription includes one terminal, one controller and one printer.
[3] Installation presumes cabling to trading desk location is performed by customer.
[4] Line fee paid directly to telephone company.
[5] Fee applicable to ABS firms using their own equipment.
[6] Fee ranges are cumulative on a yearly basis and do not include orders entered through ABS terminals.

For subscribers accessing through web browser:	
Subscription (first access entitlement):	*$15,000*
Additional screen entitlements (each)	*$5,000*
Computer-to-computer interface:	
Report Fee	*$5,000*
Usage Fee—per order entered:*	
1 to 25,000	*0.30*
25,001 to 50,000	*0.20*
50,001 to 100,000	*0.10*
100,001 and above	*0.05*

**Fee ranges are cumulative on a yearly basis and do not include orders entered through ABS terminals. Maximum annual computer-to-computer fees are $20,000.*

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NYSE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item IV below. The NYSE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The NYSE is proposing changes to certain fees applicable to members and member organizations, all of which will become effective as of January 1, 2003. The Exchange has determined that these

fee increases are necessary to ensure that revenue is adequate to satisfy increasing costs for operations, technology, regulation and infrastructure.

The Exchange has long prided itself on having system capacity sufficient to handle a far greater volume of trading than is normally experienced in the market. As trading volume has increased exponentially in recent years the Exchange has similarly expanded capacity to keep pace. Particularly in the last several decades, the Exchange has also focused on supplying trading technology to the Floor of the Exchange to increase the speed and efficiency of trading and to enhance the reliability and efficiency of Exchange oversight and surveillance as well.

Traditionally, the Exchange has funded these efforts largely from its general revenues. At the same time, the Exchange has recognized in recent years that it is appropriate to cap the transaction charge exposure of the member organizations with a public business, for the benefit not only of those firms but also their investor customers. As noted herein transaction charges will remain capped although at a higher level, and transactions charges will be assessed on principal trades as well. However, the Exchange has also determined that it is appropriate to better align Exchange revenues with the value provided by the Exchange, particularly with respect to the technology provided by the Exchange for operations on its trading floor. Accordingly, the Exchange is proposing specific fees for certain of the Floor-related technology that is provided by the Exchange. In this way greater revenue can be obtained from the members and member organizations that directly use this technology in their business.

The NYSE is also proposing changes to the fees applicable to members and member organizations subscribing to the Exchange's Automated Bond System (ABS). These changes will be applied as subscribers switch from dedicated terminals to a web-based browser, as more fully explained below.

While all the fee changes proposed herein will impact members and member organizations, it should be noted that the Exchange is also increasing fees applicable to listed companies. Such listed company fee increases have been filed in a separate rule proposal. [5]

[5] See Securities Exchange Act Release No. 46960 (December 6, 2002), 67 FR 77124 (December 16, 2002).

What follows is a brief discussion of the proposed fees:

Increased Fees

Transaction Charges

In 1996, the Exchange established a cap on transaction charges of $400,000 per month per member organization. At that time, the intent was to increase the cap each year in proportion to increased trading volume. Had the Exchange invoked the indexing provision each year since 1996, the cap for 2002 would have been approximately $1.4 million. For competitive reasons, the Exchange elected not to implement any increase until 2001, when the cap was increased to $500,000, the current fee. No increase was made for 2002, even though volume increased over 20% from 2001. The Exchange proposes to increase this cap to $600,000 per month per member organization.

Branch Offices

The Exchange is proposing to increase initial fees and annual maintenance fees applicable to branch offices. Presently, member organizations are charged an initial fee at the time that they open a new branch office, as well as an annual maintenance fee that is charged for each of their open branch offices. A three-tiered fee structure is used to assess these fees. As a member organization's branch network grows, they move up through the tiers of the fee structure, paying a stepped-down rate based on their applicable level. This structure provides an incremental reduction in fees for those branch offices that exceed the level of each breakpoint. The current three-tier structure is outlined below:

Number of branch offices	Initial branch opening fee (charged per office)	Annual maintenance fee (charged per office)
First 250 branch offices	$250	$250
Next 250 branch offices	150	150
Over 500 branch offices	125	125

The Exchange proposes amending the existing fee structure as follows:

Number of branch offices	Initial branch opening fee (charged per office)	Annual maintenance fee (charged per office)
First 1,000 branch offices	$350	$350
Next 2,000 branch offices	250	250
Over 3,000 branch offices	225	225

New Fees

Principal Transactions

The Exchange's current transaction fee schedule is applied only to trades executed by members and member organizations on an agency basis. The Exchange is proposing to subject principal transactions, by members and member organizations other than those acting as specialists, to transaction fees using the same schedule as is applied to agency transactions. The transaction charges for principal transactions will also be included within the proposed overall transaction fee cap of $600,000 per month per member organization. The Exchange will not apply this new transaction fee to member principal trading that is effected in conjunction with facilitating a customer's order of at least 10,000 shares. ''Facilitating'' refers to taking the other side of a customer's order, or acquiring/liquidating inventory to buy from/sell to a customer at an agreed-upon price.

Trading Floor Technology

The Exchange proposes to introduce new fees for trading floor technology.

Brokers

In 1993, the Exchange commenced a program of providing technology services to its floor broker members as part of its Integrated Technology Plan package. Since that time, the Exchange has invested over $150 million in broker-related technology services, including the Broker Booth Support System (BBSS), the Wireless Data System (WDS) and companion applications, used on the floor of the NYSE by brokers at a nominal fee or free of charge.

The Exchange is establishing a fee structure for the broker-related services based on a flexible menu of services to which users can subscribe. These broker services are provided not only by the Exchange, but are also available from competing order management vendors and, in some cases, by member firms' own technology groups. In establishing a menu of fees and applicable services, brokers are free to choose which services they want to subscribe to from the Exchange. The fees will be phased in over a three-year period. The fees noted below are the full fees that will be

applicable once the phase-in is completed.

Terminal/Connection Fee (per Terminal): $600 per Month

This is the fee for flat panel terminals and the wired network known as Integrated Technology Plan Network (ITPN) for brokers. Any broker subscribing to a NYSE terminal, whether for market data display, their own application display or BBSS, is subject to this fee.

Broker Booth Support System (BBSS) (per Application Entitlement): $650 per Month

The BBSS service is a sophisticated order management system that allows floor brokers to log, track, route and report on orders. In addition, it has connections to the NYSE's DOT service and includes an e-mail service. Subscribers with over 25 BBSS applications receive a 25% discount for every application thereafter.

BBSS Printers (per Printer): $250 per Month

Two years ago the entire inventory of BBSS printers on the floor of the Exchange was replaced with new thermal printers. Users can alternately route traffic from several terminals to one printer if they choose.

Broker Overview Support System (BOSS) (per Application Entitlement): $300 per Month

The BOSS system allows managers to review online message traffic through all BBSS terminals on one screen.

Activity Logs (per Subscription): $250 per Month

Logs are available in several different formats and are used for billing, tracking, and record retention purposes.

OCS Direct Connect (Connection Fee): $800 per Month

Links e-Broker and BBSS to the NYSE's On-Line Comparison (OCS) service for real time delivery of reports of execution into the comparison process.

Wireless Connection (per Antenna): $500 per Month

The system provides service to the NYSE's e-Broker devices and to proprietary and vendor hand held data devices on the trading floor. This fee applies to all users of the Wireless Data Network, and is based upon the number of wireless antennae cards issued to the firm and configured in the Exchange systems as eligible for active transmission on the trading floor.

e-Broker Application & Hardware (per Handheld Device): $250 per Month

In 1997, the NYSE introduced the first generation of broker hand held devices on any equity trading floor. Since that time the NYSE has upgraded the service through five generations of hardware and software. Today the NYSE offers two devices, which have essentially the same function in different forms. This fee is additive to the connection fee above and is based upon the number of hand held devices subscribed to by the member or member firm.

Maintenance Fee: 15 Percent of the Subscribed Services

The NYSE provides real time Operations and Technical support on the trading floor before, during and after trading hours. Inventories of all equipment are maintained and are available for swap out in real time. In addition, the NYSE introduces into production new and upgraded equipment from time to time.

Specialists

The NYSE began developing technology for specialists with the implementation of the Designated Order Turnaround, or DOT, system, in the 1970's, which provided a delivery system for electronic orders to a specialist. In 1983, the electronic Display Book was developed and introduced on a pilot basis. In the 1990's, the Display Book was significantly re-developed and enhanced. Most recently, Network NYSE components such as NYSE Direct+, OpenBook, and Institutional Express have all been implemented through the Display Book. Specialists handle approximately 97% of the Exchange's message traffic—approximately 6 million orders, 3.5 million quotes, and over 3 million reports—electronically with the assistance of the Display Book. The NYSE develops and operates the Display Book, as well as its companion application, Specialist Portfolio. No fees are currently paid by specialists for these services.

The proposed fee per Display Book is $98,000 per year, to be phased in over a three-year period.

Automated Bond System (ABS)

The Automated Bond System, or ABS, provides screen-based trading for NYSE-traded bonds, primarily corporate and convertible debt. The system, which commenced operations in 1977, allows subscribing members and member organizations to enter limited priced orders in ABS directly through terminals in their offices as well as through a computer-to-computer order-entry and trade reporting link. ABS displays and matches limited price orders on a strict price and time priority basis and reports bond quotations and trades to market data vendors on a real-time basis. ABS screen displays allow subscribers to view the ''book'' of orders in each bond. The Exchange is in the process of migrating ABS service from dedicated terminals to a web-based browser.

ABS pricing was last revised in 1987. The current annual price schedule involves an initial subscription fee entitling the subscriber to one terminal access and the supporting equipment for such access—a controller and a printer (phone lines between the controllers and the system's mainframe are paid directly by the subscriber firm to the carrier). The current ABS price schedule has two rates for additional terminal access. One rate is for terminals provided by the Exchange, the other rate is for terminals provided by the subscribing firm itself. With the new browser distribution this distinction disappears and, therefore, the same rate would apply for all additional ''screen entitlements.'' The browser also eliminates the need for controllers and the associated line charges incurred by ABS firms. Firms will also be responsible for their own printers and, thus, printer charges are being removed. The charges for computer-to-computer order entry and reports will be modified by the application of a $20,000 annual ceiling on this fee.

The new price schedule will be applied to each subscriber as it completes its migration to browser access.

The Exchange proposes amending the existing fee structure as follows:

Current ABS fee structure (annual)	
Subscription: (one terminal, access to mainframe)	$13,000
Additional two—five (each)	8,000
Additional six and above (each)	3,000
Subscriber terminals ''Port'' charge (each)	3,000
Additional links to mainframe	2,000
Computer-to-computer interface:	
Report Fee	$5,000
Usage Fee*—per order entered:	
1 to 25,000	0.30
25,001 to 50,000	0.20
50,001 to 100,000	0.10
100,001 and above	0.05

*Fee ranges are cumulative on a yearly basis and do not include orders entered through ABS terminals.

Proposed ABS fees (annual)	
Subscription (first access entitlement)	$15,000
Additional screen entitlements (each)	$5,000
Computer-to-computer interface:	
Report Fee	$5,000
Usage Fee*—per order entered:	
1 to 25,000	0.30
25,001 to 50,000	0.20
50,001 to 100,000	0.10
100,001 and above	0.05

*Fee ranges are cumulative on a yearly basis and do not include orders entered through ABS terminals. Maximum annual computer-to-computer fees are $20,000.

2. Statutory Basis

The NYSE believes that the basis under the Act for this proposed rule change is the requirement under section 6(b)(4)[6] that an exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NYSE does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The only written comment received by the Exchange related to the proposed increase to the fees for opening and maintaining a branch office. The commenting member organization stated that it recognized the need to generally increase the fee revenue of the Exchange, and its responsibility to bear its fair share of such increase. The organization was concerned, however, that the fee increase affects it disparately, given its business model. The organization has a large branch network, but generally only one registered representative per branch. It states that it has three times the number of branches than the second place firm in this category, but without a high rank in terms of revenues, net capital or total numbers of registered representatives.

The Exchange has carefully considered the affect of all its fees across its membership, and is sensitive to how its members are affected by the various fees charged by the Exchange. The Exchange notes that the branch office fees have been and continue to be tiered to ameliorate the impact on those organizations with large numbers of branches. The Exchange is also mindful of the overall benefit afforded each member and member organization by the Exchange's maintenance of a strong and well-regarded program of regulation, and its regulatory charges, including the branch office fees, are a part of the Exchange's efforts to align revenue with the value provided by the Exchange to its members and to their customers. After careful evaluation, the Exchange concluded that branch office fees did not create an inappropriate burden on a member organization such as the one which presented the above comment.[7]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change has become effective pursuant to section 19(b)(3)(A)(ii) of the Act[8] and subparagraph (f)(2) of rule 19b–4 thereunder,[9] because it establishes or changes a due, fee, or other charge imposed by the Exchange. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. For purposes of calculating the 60-day abrogation period, the Commission considers the proposed rule change to have been filed on January 10, 2003, when Amendment No. 1 was filed.

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, including the comment letter filed by Edward Jones, dated December 27, 2002, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to file number SR–NYSE–2002–66 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–1109 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

[6] 15 U.S.C. 78f(b)(4).

[7] The Commission notes that it also received a comment letter regarding this filing from Edward Jones, dated December 27, 2002. The Commission will carefully consider the points raised by Edward Jones regarding the fee increases relating to branch offices.

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47165; File No. SR–PCX–2002–09]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Pacific Exchange, Inc. To Transfer Responsibility for Certain Auto–Ex Determinations From the Options Floor Trading Committee to Two Floor Officials

January 10, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and rule 19b–4 thereunder,[2] notice is hereby given that on February 11, 2002, the Pacific Exchange, Inc. (''PCX'') filed with the Securities and Exchange Commission the proposed rule change as described in items I, II and III below, which the PCX has prepared. On December 31, 2002, the PCX filed Amendment No. 1 to the proposed rule change, which replaced the original filing in its entirety. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change, as amended.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The PCX is proposing to amend PCX Rule 6.87 in order to give two PCX floor officials, rather than the PCX's Options Floor Trading Committee (''OFTC''), the authority to make day-to-day determinations with respect to the PCX's Automatic Execution System (''Auto–Ex''). The text of the proposed rule change is below. New text is italicized and deleted text is in brackets.

Automatic Execution System

Rule 6.87(a)—No Change.

(b) Eligible Orders.

(1) Only non-broker/dealer customer orders are eligible for execution on the Exchange's Auto–Ex System, except that [the Options Floor Trading Committee (''OFTC'')] *two Floor Officials* may determine, on an issue-by-issue basis, to allow the following types of orders to be executed on Auto–Ex:

(A) Broker-dealer orders; or

(B) Broker-dealer orders that are not for the accounts of Market Makers or Specialists on an exchange who are exempt from the provisions of Regulation T of the Federal Reserve Board pursuant to section 7(c)(2) of the Securities Exchange Act of 1934.

Broker-dealer orders entered through the Exchange's Member Firm Interface (MFI) will not be automatically executed against orders in the limit order book. Broker-dealer orders may interact with orders in the limit order book only after being re-routed to a floor broker for representation in the trading crowd. Broker-dealer orders are not eligible to be placed in the limit order book pursuant to rule 6.52.

(2) If [the OFTC] *two Floor Officials* permit[s] broker-dealer orders to be automatically executed in an issue pursuant to this rule, then [it] *they* may also permit the following with respect to such orders:

(A) The maximum order size eligibility for broker-dealer orders may be less than the applicable order size eligibility for non-broker-dealer customer orders.

(B) Non-broker-dealer customer orders may be eligible for automatic execution at the NBBO pursuant to rule 6.87(i) while broker-dealer orders are not so eligible.

(C) Broker-dealer orders may be re-routed for manual representation when the NBBO is crossed or locked pursuant to rule 6.87(j) while non-broker-dealer customer orders would not be re-routed for manual handling in such circumstances.

(3)—(4)—No change.

(5) The Options Floor Trading Committee (''OFTC'') *or its delegate consisting of two Floor Officials* shall determine the size of orders that are eligible to be executed on Auto–Ex. *The OFTC or its delegate, two Floor Officials, may approve requests of the Lead Market Makers to execute orders on Auto–Ex in sizes greater than 20 contracts.* Although the order size parameter may be changed on an issue-by-issue basis by the OFTC *or its delegate, two Floor Officials,* the maximum order size for execution through Auto–Ex is as follows:

(A) Equity Options: the maximum order size for execution through Auto–Ex for equity options is one hundred (100) contracts;

(B) Index Options: the maximum order size for execution through Auto–Ex is one hundred (100) contracts for:

(i)—(iii)—No change.

(6) The OFTC *or its delegate consisting of two Floor Officials* may increase the size of Auto–Ex eligible orders in one or more classes of multiply traded equity options to the extent that other options exchanges permit such larger-size orders in multiply traded equity options of the same class or classes to be entered into their own automated execution systems. If the OFTC *or its delegate, two Floor Officials* intend[s] to increase the Auto–Ex order size eligibility pursuant to this subsection, the Exchange will notify the Securities and Exchange Commission pursuant to section 19(b)(3)(A) of the Exchange Act.

(c)—(d)—No change.

(e) Market Maker Requirements and Eligibility. Any Exchange Member who is registered as a Market Maker and who has obtained written authorization from a clearing member is eligible to participate on the Auto–Ex system, subject to the following conditions and requirements:

(1)—No Change.

(2) All Auto–Ex trades to which a Market Maker is a party will be assigned to and clear into that Market Maker's designated account. Market Makers may designate that their Auto–Ex trades be assigned to and clear into either an individual account or a joint account in which that Market Maker is a participant. Unless exempted by [the Options Floor Trading Committee] *two Floor Officials,* only one participant in a joint account may use the account for trading in a particular option issue at one time.

(3)—(7)—No change.

(f)—(h)—No change.

(i) Auto–Ex NBBO. The Options Floor Trading Committee (''OFTC'') *or its delegate, two Floor Officials* may *approve an LMM's request to* designate electronic orders in an option issue to receive automatic executions at prices reflecting the national best bid or offer (''NBBO''), provided that the OFTC *or its delegate, two Floor Officials* may *also* designate, for an option issue, that an order will default for manual representation in the trading crowd [of] *if* the order would be executed at a price that is more than one trading increment away from the PCX market price. *LMMs may determine the maximum size of orders that are eligible to receive executions at the national bid or offering price, provided that this determination is subject to the approval of the OFTC or its delegate, two Floor Officials.*

(j) Crossed or locked Markets. [The OFTC] *Two Floor Officials* may *approve an LMM's request to* designate, for an option issue, that an order will default for manual representation in the trading crowd [is] *if* the NBBO is crossed or locked.

(k)–(p)—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the PCX included statements concerning the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

purpose of and basis for the proposed rule change and discussed any comments it had received. The text of the statements may be examined at the places specified in item IV below. The PCX has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of the statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The OFTC conducts general supervision of the PCX options floor and recommends to the PCX's Board of Governors the rules that it believes are necessary for members to conduct fair and orderly transactions on the trading floor.[3] Individual members of the OFTC serve as floor officials and routinely make certain *ad hoc* decisions on the trading floor pursuant to PCX rules.[4] Under PCX rules, the OFTC maintains supervision over various issues that arise with respect to Auto-Ex and exercises its discretion in resolving those issues. Currently, PCX rules assign the responsibility over some Auto-Ex determinations to the entire OFTC and the responsibility for other Auto-Ex determinations to two floor officials. Consequently, the responsibility of making day-to-day determinations with respect to Auto-Ex is sometimes exercised by the full OFTC and at other times by two floor officials. The PCX believes that this split of responsibility is inconsistent and not clearly defined in current PCX rule 6.87.

The PCX now proposes to amend PCX rule 6.87 in order to transfer the responsibility for making *ad hoc* decisions on more routine Auto-Ex matters from the OFTC to two floor officials. The OFTC currently meets semi-monthly to address system-wide Auto-Ex issues, and the PCX believes that it is impractical for the OFTC to convene on the trading floor to make *ad hoc* decisions or to grant exemptive relief on a case-by-case basis. The PCX believes that referring the case-by-case decisions to two floor officials will prove to be efficient and effective, and more in line with the practical operations of the trading floor. Specifically, the PCX proposes to assign the responsibility from the OFTC to two floor officials with respect to the following matters:

Rule 6.87(b)—Eligible orders: Under the proposed rule, two floor officials would be permitted to grant exemptions, on an issue-by-issue basis, allowing certain broker-dealer orders to be executed on Auto-Ex under specific circumstances.[5] The proposed rule further permits the OFTC to delegate to two floor officials the power to approve case-by-case requests of Lead Market Makers (''LMMs'') to execute Auto-Ex orders in sizes greater than the market maker's Auto-Ex size commitment and to increase the size of eligible orders in one or more classes of multiply traded options.[6]

Rule 6.87(e)—Market Maker Requirements and Eligibility: Under the proposed rule, two floor officials may grant an exemption to the rule that only one participant in a joint account may use the account for trading in a particular option issue at one time.

Rule 6.87(i) '' Auto-Ex NBBO: Under the proposed rule, the OFTC may delegate to two floor officials the power to approve an LMM's request to designate electronic orders in an option issue to receive automatic executions at prices reflecting the national best bid or offer (''NBBO'') under certain circumstances. The proposed rule further provides that LMMs may determine the maximum size of orders that are eligible to receive executions at the national bid or offering price, provided that this determination is subject to the approval of the OFTC or its delegate, two floor officials.

Rule 6.87(j)—Crossed or Locked Markets: Under the proposed rules, two floor officials may approve an LMM's request to designate that an order will default for manual representation in the trading crowd if the NBBO is crossed or locked.

The proposed rule continues to grant to the OFTC the responsibility to make broad-based decisions.[7]

2. Statutory Basis

The PCX believes that the proposed rule change is consistent with section 6(b) of the Act[8] and furthers the objectives of section 6(b)(5) of the Act[9] in that it has been designed to facilitate transactions in securities, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PCX does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The PCX neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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 PCX consents, the Commission will—

(A) By order approve the 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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–2002–09 and should be submitted by February 7, 2003.

[3] *See* PCX Constitution article IV, section 8(a).

[4] *Id* at section 8(e); *see, e.g.,* PCX rule 6.87(h) (two Floor Officials may declare a floor-wide ''fast market'' under certain circumstances).

[5] *See* PCX rule 6.87(b)(1) and (2).

[6] See PCX rule 6.87(b)(5) and (6).

[7] *See, e.g.,* PCX rule 6.87(k) (assigning to the OFTC the responsibility to determine the manner in which orders entered through the Auto-Ex system will be assigned).

[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]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1103 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47148; File No. SR–Phlx–2002–79]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Application Fee and the ETP Application Fee

January 9, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 17, 2002, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its schedule of dues, fees and charges to increase its current Application Fee from $200 to $350, and to delete the reference to the separate ETP Application Fee.

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 received on the proposed rule change. 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

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's schedule of dues, fees and charges to increase its current Application Fee to $350 in order to generate additional revenue. The Exchange currently charges a $200 Application Fee for applications handled by the Exchange's Membership Services Department, including applications for Exchange membership and foreign currency options (''FCO'') participation and for other applications including for approval as a seat lessor or as an inactive nominee.[3] The Application Fee is charged only upon the first such approval and is non-recurring; however, a lapse for six months or more necessitates the payment of an Application Fee for reapplication. For example, if a member ceases to be a member on January 1st and applies on or after July 1st of that year to once again become a member, an Application Fee will be charged. Application Fees are used to help offset Exchange clerical and administrative expenditures related to application processing including, but not limited to, regulatory background checks, registration and fingerprint card processing.[4]

Similarly, a $200 ETP Application Fee is charged to applicants for equity trading permits (''ETPs'') who, at the time application is made, are not Exchange members or FCO participants.[5] The Exchange proposes to delete the $200 ETP Application Fee from the fee schedule and to simply apply the Application Fee discussed in the previous paragraph to ETP applications to the same extent the Application Fee applies to membership applications. This proposal is intended to remove unnecessary complexity and duplication from the Exchange's fee schedule in order to avoid confusion.

2. Statutory Basis

The Exchange believes that its proposal to amend its schedule of dues, fees and charges is consistent with section 6(b) of the Act[6] in general, and furthers the objectives of section 6(b)(4) of the Act[7] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among Exchange members and issuers and other persons using its facilities, in particular, in that it fairly allocates costs associated with application processing to those individuals and firms making such applications. The proposal also simplifies the fee schedule by eliminating the reference to the separate ETP Application Fee.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange 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

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 proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1)

[2] 17 CFR 240.19b–4.

[3] Under Exchange rules a lessor need not be an Exchange member. *See* Phlx Rule 931, Approved Lessor.

[4] The Exchange has not designated the Application Fee as eligible for the Monthly Member Credit. *See* Securities Exchange Act Release No. 44292 (May 11, 2001), 66 FR 27715 (May 18, 2001) (approving SR–Phlx–2001–49). The Monthly Member Credit allows Exchange members to receive a monthly credit of up to $1,000 to be applied against certain fees, dues, charges and other such amounts.

[5] *See* Securities Exchange Act Release No. 45523 (March 8, 2002), 67 FR 11738 (March 15, 2002).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

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. Phlx–2002–79 and should be submitted by February 7, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–1049 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

UNITED STATES SENTENCING COMMISSION

Sentencing Guidelines for United States Courts

AGENCY: United States Sentencing Commission.

ACTION: Notice of proposed amendments to sentencing guidelines, policy statements, and commentary. Request for public comment, including public comment regarding retroactive application of any of the proposed amendments.

SUMMARY: Pursuant to section 994(a), (o), and (p) of title 28, United States Code, the United States Sentencing Commission is considering promulgating certain amendments to the sentencing guidelines, policy statements, and commentary. This notice sets forth the proposed amendments and, for each proposed amendment, a synopsis of the issues addressed by that amendment.

The specific amendments proposed in this notice are as follows: (1) A proposed amendment to repromulgate the temporary, emergency amendment implementing the Sarbanes-Oxley Act, Public Law. 107–204, as a permanent, non-emergency amendment, and issues for comment; (2) a proposed amendment to repromulgate the temporary, emergency amendment implementing the Bipartisan Campaign Reform Act of 2002, Public Law. 107–155, as a permanent, non-emergency amendment; (3) a proposed amendment implementing section 11009 of the 21st Century Department of Justice Appropriations Authorization Act, Public Law. 107–273, which directs the Commission to review and amend the sentencing guidelines, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence or drug trafficking crime in which the defendant used body armor; (4) a proposed amendment to § 2D1.1 (Unlawful Manufacturing, Importing, Exporting, or Trafficking (Including Possession with Intent to Commit These Offenses); Attempt or Conspiracy) that provides increased penalties for offenses involving oxycodone; (5) issues for comment addressing section 11008 of the 21st Century Department of Justice Appropriations Authorization Act, Public Law. 107–273, regarding an appropriate enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a federal judge, magistrate judge, or any other official described in section 111 or section 115 of title 18, United States Code; and (6) an issue for comment regarding section 225 of the Homeland Security Act of 2002 (the Cyber Security Enhancement Act of 2002), Public Law. 107–296, which directs the Commission to review and amend, if appropriate, the sentencing guidelines and policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code. Additional issues for comment regarding the 21st Century Department of Justice Appropriations Authorization Act and the Cyber Security Enhancement Act of 2002 were published in the **Federal Register** on December 18, 2002 (*see* 67 FR 77532).

DATES: Written public comment regarding the proposed amendments set forth in this notice, including public comment regarding retroactive application of any of these proposed amendments, should be received by the Commission not later than March 17, 2003.

ADDRESSES: Public comment should be sent to: United States Sentencing Commission, One Columbus Circle, NE., Suite 2–500, Washington, DC 20002–8002, Attention: Public Affairs.

FOR FURTHER INFORMATION CONTACT: Michael Courlander, Public Affairs Officer, Telephone: (202) 502–4590.

SUPPLEMENTARY INFORMATION: The United States Sentencing Commission is an independent agency in the judicial branch of the United States Government. The Commission promulgates sentencing guidelines and policy statements for federal courts pursuant to 28 U.S.C. 994(a). The Commission also periodically reviews and revises previously promulgated guidelines pursuant to 28 U.S.C. 994(o) and submits guideline amendments to the Congress not later than the first day of May of each year pursuant to 28 U.S.C. 994(p). The Commission also may promulgate emergency amendments if required to do so by specific congressional legislation.

The Commission seeks comment on the proposed amendments, issues for comment, and any other aspect of the sentencing guidelines, policy statements, and commentary.

The proposed amendments are presented in this notice in one of two formats. First, some of the amendments are proposed as specific revisions to a guideline or commentary. Bracketed text within a proposed amendment indicates a heightened interest on the Commission's part for comment and suggestions for alternative policy choices; for example, a proposed enhancement of (2) levels indicates that the Commission is considering, and invites comment on, alternative policy choices regarding the appropriate level of enhancement. Similarly, bracketed text within a specific offense characteristic or application note means that the Commission specifically invites comment on whether the proposed provision is appropriate. Second, the Commission has highlighted certain issues for comment and invites suggestions on how the Commission should respond to those issues.

The Commission also requests public comment regarding whether the Commission should specify for retroactive application to previously sentenced defendants any of the proposed amendments published in this notice. The Commission requests comment regarding which, if any, of the proposed amendments that may result in a lower guideline range should be made retroactive to previously sentenced defendants pursuant to § 1B1.10 (Reduction in Term of Imprisonment as a Result of Amended Guideline Range).

Additional information pertaining to the proposed amendments described in this notice may be accessed through the Commission's website at *http://www.ussc.gov*.

Authority: 28 U.S.C. 994(a), (o), (p), (x); USSC Rules of Practice and Procedure, Rule 4.4.

Diana E. Murphy,

Chair.

1. Corporate Fraud

Synopsis of Proposed Amendment

This proposed amendment implements directives to the

[8] 17 CFR 200.30–3(a)(12).

Commission contained in sections 805, 905, and 1104 of the Sarbanes-Oxley Act of 2002 (the ''Act''), Public Law 107–204. The directives pertain to fraud and obstruction of justice offenses and require the Commission to promulgate amendments addressing, among other things, officers and directors of publicly traded companies who commit fraud and related offenses, offenses that endanger the solvency or financial security of a substantial number of victims, fraud offenses that involve significantly greater than 50 victims, and obstruction of justice offenses that involve the destruction of evidence. Under emergency amendment authority, the Commission promulgated guideline amendments, effective January 25, 2003, to implement these directives and now seeks comment on the following proposed permanent amendment.

First, the proposed amendment addresses the directive contained in section 1104 of the Act regarding fraud offenses involving significantly greater than 50 victims by expanding the victims table in § 2B1.1(b)(2). Currently, subsection (b)(2) provides a two level enhancement if the offense involved more than 10 but less than 50 victims, or was committed through mass-marketing, or a four level enhancement if the offense involved 50 or more victims. The proposed amendment provides an additional two levels, for a total of six levels, if the offense involved 250 or more victims.

Second, the proposed amendment modifies § 2B1.1(b)(12)(B) to address directives contained in sections 805 and 1104 of the Act pertaining to securities and accounting fraud offenses and fraud offenses that endanger the solvency or financial security of a substantial number of victims. Subsection (b)(12)(B) currently provides a four level enhancement and a minimum offense level of 24 if the offense substantially jeopardized the safety and soundness of a financial institution. The proposed amendment expands the scope of this enhancement by providing two additional prongs in response to the directive. The first prong applies to offenses that substantially endanger the solvency or financial security of an organization that, at any time during the offense, was a publicly traded company or had 1,000 or more employees. This prong of the enhancement is based on a presumption that if the offense endangered the solvency or financial security of an organization that was a publicly traded company or had 1,000 or more employees, the offense similarly affected a substantial number of individual victims. As a result, the court is not required to determine whether the offense endangered the solvency or financial security of each individual victim. The second prong applies to offenses that substantially endangered the solvency or financial security of 100 or more victims, regardless of whether a publicly traded company or other organization was affected by the offense. The court could apply this prong as an alternative to the first prong in cases in which there is sufficient evidence to determine that the amount of loss suffered by individual victims of the offense substantially endangered the solvency or financial security of the victims.

The corresponding application note to the new enhancement sets forth a non-exhaustive list of factors that the court shall consider in determining whether the offense endangered the solvency or financial security of a publicly traded company or an organization with 1,000 or more employees. The note includes references to insolvency, filing for bankruptcy, substantially reducing the value of the company's stock, and substantially reducing the company's workforce among the list of factors that the court shall consider when applying the new enhancement.

The proposed amendment also modifies application of the other prong of subsection (b)(12), the financial institutions enhancement, to be consistent structurally with the new enhancement. Currently, the presence of any one of the enumerated factors automatically triggers application of the financial institutions enhancement. Under the proposed amendment, the application note to the financial institutions enhancement sets forth a non-exhaustive list of factors that the court shall consider in determining whether the offense substantially jeopardized the safety and soundness of a financial institution. The note includes references to insolvency, substantially reducing benefits to pensioners and insureds, and inability on demand to refund fully any deposit, payment, or investment, among the factors that the court shall consider when applying this enhancement.

Third, the proposed amendment addresses the directive contained in section 1104 of the Act pertaining to fraud offenses committed by officers or directors of publicly traded corporations by providing a new four level enhancement at § 2B1.1(b)(13). The enhancement applies if the offense involved a violation of securities law and, at the time of the offense, the defendant was an officer or director of a publicly traded company. The enhancement would apply regardless of whether the defendant was convicted under a specific securities fraud statute (*e.g.*, 18 U.S.C. 1348, a new offense created by the Act specifically prohibiting securities fraud) or under a general fraud statute (*e.g.*, 18 U.S.C. 1341 prohibiting wire fraud), provided that the offense involved a violation of securities law. The corresponding application note provides that in cases in which the new enhancement applies, the current enhancement for abuse of position of trust at § 3B1.3 (Abuse of Position of Trust or Use of Special Skill) does not apply.

Pursuant to the corresponding application note, ''securities law'' (1) means 18 U.S.C. 1348, 1350, and the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)); and (2) includes the rules, regulations, and orders issued by the Securities and Exchange Commission pursuant to the provisions of law referred to in section 3(a)(47).

Fourth, the proposed amendment expands the loss table at subsection (b)(1). Currently, the loss table provides sentencing enhancements in two level increments up to a maximum of 26 levels for offenses in which the loss exceeded $100,000,000. The proposed amendment provides two additional levels to the table; an increase of 28 levels for offenses in which the loss exceeded $200,000,000, and an increase of 30 levels for offenses in which the loss exceeded $400,000,000. These proposed additions to the loss table would address congressional concern expressed in the Act regarding particularly extensive and serious fraud offenses, and would more fully effectuate increases in statutory maximum penalties, for example, the increase in the statutory maximum penalties for wire fraud and mail fraud offenses from five to 20 years (section 903 of the Act). The proposed amendment also amends the tax table in § 2T4.1 to conform to the proposed changes made to the loss table in § 2B1.1.

Also with respect to loss, the proposed amendment includes the reduction that resulted from the offense in the value of equity securities or other corporate assets among the factors the court may consider in estimating loss under subsection (b)(1).

Fifth, the proposed amendment implements the directives pertaining to obstruction of justice offenses contained in sections 805 and 1104 of the Act. First, the proposed amendment increases the base offense level in § 2J1.2 (Obstruction of Justice) from level 12 to level 14. Second, the proposed amendment adds a new two

level enhancement to § 2J1.2 that applies if the offense (1) involved the destruction, alteration, or fabrication of a substantial number of records, documents, or tangible objects; (2) involved the selection of any essential or especially probative record, document, or tangible object to destroy or alter; or (3) was otherwise extensive in scope, planning, or preparation.

Sixth, the proposed amendment addresses new offenses created by the Act. Section 1520 of title 18, United States Code, is referenced to § 2E5.3 (False Statements and Concealment of Facts in Relation to Documents Required by the Employee Retirement Income Security Act; Failure to Maintain and Falsification of Records Required by the Labor Management Reporting and Disclosure Act). This offense provides a statutory maximum of 10 years' imprisonment if the defendant certifies the publicly traded company's periodic financial report knowing that the statement does not comply with all requirements of the Securities and Exchange Commission (and 20 years' imprisonment if that certification is done willfully). The proposed amendment also expands the current cross reference in § 2E5.3(a)(2) specifically to cover fraud and obstruction of justice offenses. Accordingly, if a defendant who is convicted under 18 U.S.C. 1520 certified the financial report of a publicly traded company in order to facilitate a fraud, the proposed change to the cross reference provision would require the court to apply § 2B1.1 instead of § 2E5.3. Other new offenses are proposed to be included in Appendix A (Statutory Index) as well as the statutory provisions of the relevant guidelines.

Proposed Amendment

Section 2B1.1(b)(1) is amended by striking the period; and by adding at the end the following:

''(O) More than $200,000,000 add 28

(P) More than $400,000,000 add 30.''.

Section 2B1.1(b)(2) is amended to read as follows:

''(2) (Apply the greatest) If the offense—

(A) (i) involved 10 or more victims; or (ii) was committed through mass-marketing, increase by 2 levels;

(B) involved 50 or more victims, increase by 4 levels; or

(C) involved 250 or more victims, increase by 6 levels.''.

Section 2B1.1(b)(12)(B) is amended to read as follows:

''(B) the offense (i) substantially jeopardized the safety and soundness of a financial institution; (ii) substantially endangered the solvency or financial security of an organization that, at any time during the offense, (I) was a publicly traded company; or (II) had 1,000 or more employees; or (iii) substantially endangered the solvency or financial security of 100 or more victims, increase by 4 levels.''.

Section 2B1.1(b) is amended by adding at the end the following:

''(13) If the offense involved a violation of securities law and, at the time of the offense, the defendant was an officer or a director of a publicly traded company, increase by 4 levels.''.

The Commentary to § 2B1.1 captioned ''Statutory Provisions'' is amended by inserting ''1348, 1350,'' after ''1341–1344,''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 1 by adding after ''Resources).'' the following new paragraph:

'' 'Equity securities' has the meaning given that term in section 3(a)(11) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(11)).'';

by inserting after ''Secretary of the Interior.'' the following new paragraph:

'' 'Publicly traded company' means an issuer (A) with a class of securities registered under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or (B) that is required to file reports under section 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(d)). 'Issuer' has the meaning given that term in section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c).'';

and by adding at the end the following:

'' 'Victim' means (A) any person who sustained any part of the actual loss determined under subsection (b)(1); or (B) any individual who sustained bodily injury as a result of the offense. 'Person' includes individuals, corporations, companies, associations, firms, partnerships, societies, and joint stock companies.''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 2(C) by redesignating subdivision (iv) as (v); and by adding after subdivision (iii) the following new subdivision:

''(iv) The reduction that resulted from the offense in the value of equity securities or other corporate assets.''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 3 by striking ''Victim and Mass-Marketing Enhancement under'' in the heading and inserting ''Application of''; by striking subdivision (A) and inserting the following:

''(A) Definition.—For purposes of subsection (b)(2), 'mass-marketing' means a plan, program, promotion, or campaign that is conducted through solicitation by telephone, mail, the Internet, or other means to induce a large number of persons to (i) purchase goods or services; (ii) participate in a contest or sweepstakes; or (iii) invest for financial profit. 'Mass-marketing' includes, for example, a telemarketing campaign that solicits a large number of individuals to purchase fraudulent life insurance policies.'';

In subdivision (B)(i)(I) by striking ''described in subdivision (A)(ii) of this note;'' and inserting ''any victim as defined in Application Note 1;'';

In subdivision (B)(ii)(IV) by inserting ''at least'' after ''to have involved''; and in subdivision (C) by inserting ''or (C)'' after ''(B)''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended by redesignating Notes 11 through 15 as Notes 12 through 16, respectively.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended by striking Note 10 and inserting the following:

''10. Application of Subsection (b)(12)(B).—

(A) Application of Subsection (b)(12)(B)(i).—The following is a non-exhaustive list of factors that the court shall consider in determining whether, as a result of the offense, the safety and soundness of a financial institution was substantially jeopardized:

(i) The financial institution became insolvent.

(ii) The financial institution substantially reduced benefits to pensioners or insureds.

(iii) The financial institution was unable on demand to refund fully any deposit, payment, or investment.

(iv) The financial institution was so depleted of its assets as to be forced to merge with another institution in order to continue active operations.

(B) Application of Subsection (b)(12)(B)(ii).—

(i) Definition.—For purposes of this subsection, 'organization' has the meaning given that term in Application Note 1 of § 8A1.1 (Applicability of Chapter Eight).

(ii) In General.—The following is a non-exhaustive list of factors that the court shall consider in determining whether, as a result of the offense, the solvency or financial security of an organization that was a publicly traded company or that had more than 1000 employees was substantially endangered:

(I) The organization became insolvent or suffered a substantial reduction in the value of its assets.

(II) The organization filed for bankruptcy under Chapters 7, 11, or 13 of the Bankruptcy Code (title 11, United States Code).

(III) The organization suffered a substantial reduction in the value of its equity securities or the value of its employee retirement accounts.

(IV) The organization substantially reduced its workforce.

(V) The organization substantially reduced its employee pension benefits.

(VI) The liquidity of the equity securities of a publicly traded company was substantially endangered. For example, the company was delisted from its primary listing exchange, or trading of the company's securities was halted for more than one full trading day.

11. Application of Subsection (b)(13).—

(A) Definition.—For purposes of this subsection, 'securities law' (i) means 18 U.S.C. 1348, 1350, and the provisions of law referred to in section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)); and (ii) includes the rules, regulations, and orders issued by the Securities and Exchange Commission pursuant to the provisions of law referred to in such section.

(B) In General.—A conviction under a securities law is not required in order for subsection (b)(13) to apply. This subsection would apply in the case of a defendant convicted under a general fraud statute if the defendant's conduct violated a securities law. For example, this subsection would apply if an officer of a publicly traded company violated regulations issued by the Securities and Exchange Commission by fraudulently influencing an independent audit of the company's financial statements for the purposes of rendering such financial statements materially misleading, even if the officer is convicted only of wire fraud.

(C) Nonapplicability of § 3B1.3 (Abuse of Position of Trust or Use of Special Skill).—If subsection (b)(13) applies, do not apply § 3B1.3.''.

The Commentary to § 2B1.1 captioned ''Application Notes'' is amended in Note 16, as redesignated by this amendment, by striking subdivision (v); and by redesignating subdivisions (vi) and (vii) as subdivisions (v) and (vi), respectively.

The Commentary to § 2B1.1 captioned ''Background'' is amended in the last paragraph by inserting ''(i)'' after ''(B)''.

Section 2E5.3 is amended in the heading by adding at the end; ''Destruction and Failure to Maintain Corporate Audit Records''.

Section 2E5.3(a)(2) is amended to read as follows:

''(2) If the offense was committed to facilitate or conceal (A) an offense involving a theft, a fraud, or an embezzlement; (B) an offense involving a bribe or a gratuity; or (C) an obstruction of justice offense, apply § 2B1.1 (Theft, Property Destruction, and Fraud), § 2E5.1 (Offering, Accepting, or Soliciting a Bribe or Gratuity Affecting the Operation of an Employee Welfare or Pension Benefit Plan; Prohibited Payments or Lending of Money by Employer or Agent to Employees, Representatives, or Labor Organizations), or § 2J1.2 (Obstruction of Justice), as applicable.''.

The Commentary to § 2E5.3 captioned ''Statutory Provisions'' is amended by inserting ''§'' before ''1027''; and by inserting '', 1520'' after ''1027''.

Section 2J1.2(a) is amended by striking ''12'' and inserting ''14''.

Section 2J1.2(b) is amended by adding at the end the following:

''(3) If the offense (A) involved the destruction, alteration, or fabrication of a substantial number of records, documents, or tangible objects; (B) involved the selection of any essential or especially probative record, document, or tangible object, to destroy or alter; or (C) was otherwise extensive in scope, planning, or preparation, increase by 2 levels.''.

The Commentary to § 2J1.2 captioned ''Statutory Provisions'' is amended by inserting '', 1519'' after ''1516''.

Section 2T4.1 is amended in the table by striking the period and adding at the end the following:

''(O) More than $200,000,000 34

''(P) More than $400,000,000 36.''.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 1347 the following new lines:

''18 U.S.C. 1348 2B1.1

18 U.S.C. 1349 2X1.1

18 U.S.C. 1350 2B1.1''.''

Appendix A (Statutory Index) is amended in the line referenced to 18 U.S.C. 1512(c) by striking ''(c)'' and inserting ''(d)''.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 1512(b) the following new line:

''18 U.S.C. 1512(c) 2J1.2''.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 1518 the following new lines:

''18 U.S.C. 1519 2J1.2

18 U.S.C. 1520 2E5.3''.

Issues for Comment: Corporate Fraud

1. On January 8, 2003, the Commission promulgated a temporary, emergency amendment in response to directives contained in the Sarbanes-Oxley Act of 2002. The Commission specified an effective date of January 25, 2003, for the amendment. The amendment will remain in effect until the Commission repromulgates the emergency amendment as a permanent amendment under the Commission's general promulgation authority at 28 U.S.C. 994(p).

(A) As part of that emergency amendment, the Commission expanded the loss table in § 2B1.1(b)(1). The amendment provided two additional levels to the table; an increase of 28 levels for offenses in which the loss exceeded $200,000,000 and an increase of 30 levels for offenses in which the loss exceeded $400,000,000. The Commission requests comment regarding whether, when it repromulgates the emergency amendment as a permanent amendment, the loss table should be modified more extensively to provide increased offenses levels for offenses involving lower loss amounts. The Commission requests comment specifically on the following three options and invites public comment on any other alternative loss table:

Section § 2B1.1(b)(1) is amended to read as follows:

Option A:

''(1) If the loss exceeded $5,000, increase the offense level as follows:

Loss (apply the greatest)	Increase in level
(A) $5,000 or less	no increase
(B) More than $5,000	add 2
(C) More than $10,000	add 4
(D) More than $25,000	add 6
(E) More than $60,000	add 8
(F) More than $100,000	add 10
(G) More than $200,000	add 12
(H) More than $400,000	add 14
(I) More than $700,000	add 16
(J) More than $1,000,000	add 18
(K) More than $2,500,000	add 20
(L) More than $7,000,000	add 22
(M) More than $20,000,000	add 24
(N) More than $50,000,000	add 26
(O) More than $100,000,000	add 28
(P) More than $200,000,000	add 30.''.

Option B:

''(1) If the loss exceeded $5,000, increase the offense level as follows:

Loss (apply the greatest)	Increase in level
(A) $5,000 or less	no increase
(B) More than $5,000	add 2
(C) More than $10,000	add 4

Loss (apply the greatest)	Increase in level
(D) More than $25,000	add 6
(E) More than $50,000	add 8
(F) More than $100,000	add 10
(G) More than $200,000	add 12
(H) More than $400,000	add 14
(I) More than $800,000	add 16
(J) More than $1,600,000	add 18
(K) More than $3,200,000	add 20
(L) More than $7,000,000	add 22
(M) More than $20,000,000 ...	add 24
(N) More than $50,000,000 ...	add 26
(O) More than $100,000,000	add 28
(P) More than $200,000,000 ..	add 30.''.

Option C:

''(1) If the loss exceeded $5,000, increase the offense level as follows:

Loss (apply the greatest)	Increase in level
(A) $5,000 or less	no increase
(B) More than $5,000	add 2
(C) More than $10,000	add 4
(D) More than $30,000	add 6
(E) More than $70,000	add 8
(F) More than $100,000	add 10
(G) More than $200,000	add 12
(H) More than $400,000	add 14
(I) More than $600,000	add 16
(J) More than $800,000	add 18
(K) More than $1,000,000	add 20
(L) More than $2,500,000	add 22
(M) More than $7,000,000	add 24
(N) More than $20,000,000 ...	add 26
(O) More than $50,000,000 ...	add 28
(P) More than $100,000,000 ..	add 30
(Q) More than $200,000,000	add 32
(R) More than $400,000,000	add 34.''.

Additionally, the Commission requests comment regarding whether, when it repromulgates the emergency amendment as a permanent amendment, it should amend § 2B1.1(a) to provide an alternative base offense level, either in conjunction with, or in lieu of, an amendment to the loss table, that would apply based on the statutory maximum term of imprisonment applicable to the offense of conviction. Specifically, the Commission requests comment on amending § 2B1.1(a) to read as follows:

''(a) Base Offense Level:

(1) 7, if the defendant was convicted of an offense referenced to this guideline for which the maximum term of imprisonment prescribed by law is [5][10][15][20] years or more; or

(2) 6, otherwise.''.

(B) As part of the emergency amendment, the Commission promulgated a new enhancement at § 2B1.1(b)(13) that provides a four level enhancement if the offense involved a violation of securities law and, at the time of the offense, the defendant was an officer or director of a publicly traded company. The Commission requests comment regarding whether, when it repromulgates the emergency amendment as a permanent amendment, it should expand the scope of § 2B1.1(b)(13) to include other individuals or entities who may have a fiduciary or similar statutory duty of trust and confidence to the investor. For example, should the Commission include in § 2B1.1(b)(13) a registered broker or dealer (*see* 15 U.S.C. 78c(a)(47)), an associated person of a registered broker or dealer (*see* 15 U.S.C. 78c(18)), an investment adviser (*see* 15 U.S.C. 80b-2(a)(11)), or a person associated with an investment adviser (*see* 15 U.S.C. 80b-2(a)(17))? Additionally, should the Commission expand the scope of the enhancement to apply to entities or individuals that offer and manage securities, commodities, and futures but who are not regulated under securities law (as defined by the Commission in Application Note 11 of § 2B1.1, effective January 25, 2003)? For example, should the enhancement apply in cases involving violations of the Commodities Exchange Act (7 U.S.C. 1 *et seq.*) or other federal laws that govern the regulation of securities, commodities, and futures?

The Commission additionally requests comment regarding whether, when it repromulgates the emergency amendment as a permanent amendment, it should maintain the magnitude of the enhancement in § 2B1.1(b)(13) at four levels. If not, what should be the magnitude of the enhancement?

2. The Commission requests comment regarding whether it should provide separate guidelines for theft, property destruction, and fraud offenses that currently are referenced to § 2B1.1. If the Commission provided separate guidelines for these offenses, what components of current § 2B1.1 would be appropriate for each of the separate guidelines? Would the definition of ''loss'' need to be modified in any fashion as a result of providing separate guidelines? Should the Commission, in conjunction with, or in lieu of, separate guidelines, amend § 2B1.1 to provide separate loss tables for theft and fraud offenses? If so, how should the Commission determine which table would be applicable to the offenses referenced to § 2B1.1? For example, should the Commission use the pre-consolidation Appendix A references to determine which table would be applicable to an offense?

3. The Commission has received information suggesting that in certain cases involving fraud-related contempt, courts have not applied the appropriate guideline. The relevant guideline, § 2J1.1 (Contempt), directs the court to apply § 2X5.1 (Other Offenses), which in turn instructs the court to apply the ''most analogous guideline.'' Specifically, in certain cases in which the misconduct constituting contempt is a violation of a court order enjoining fraudulent behavior, courts inappropriately may have applied the obstruction of justice guideline, § 2J1.2, instead of the guideline relating to fraud, § 2B1.1 (Theft, Property Destruction, and Fraud). The Commission requests comment regarding whether this issue should be addressed and, if so, in what manner. For example, should the Commission add an application note to § 2J1.1 that clarifies that for offenses in which the misconduct constituting contempt is a violation of a judicial order enjoining fraudulent behavior, the most analogous guideline is § 2B1.1? Should the application note more generally state that for offenses in which the misconduct constituting contempt is fraud, the most analogous guideline is § 2B1.1? In addition, the Commission has received information suggesting that the enhancement in § 2B1.1(b)(7)(C) is not always applied as appropriate in cases involving fraud-related contempt. Should the Commission clarify, possibly in the same application note discussed above, that in contempt cases involving violations of court orders enjoining fraudulent behavior, the enhancement in § 2B1.1(b)(7)(C) should apply?

4. The emergency amendment effective January 25, 2003, increased the base offense level in § 2J1.2 (Obstruction of Justice) from level 12 to level 14 and provided a new enhancement in § 2J1.2 addressing the directive relating to the destruction of evidence and offenses that are otherwise extensive in scope, planning, or preparation. The Commission requests comment regarding whether, in light of these changes to § 2J1.2, modifications also should be made to § 2J1.3 (Perjury or Subornation of Perjury; Bribery of Witness) in order to maintain proportionate sentencing between these two guidelines. For example, should the Commission increase the base offense level in § 2J1.3 or increase the magnitude of the enhancement of the current specific offense characteristics?

2. Campaign Finance

Synopsis of Proposed Amendment

This proposed amendment responds to the Bipartisan Campaign Reform Act of 2002 (the ''Act''), Public Law 107–155. Under emergency amendment authority, the Commission promulgated a temporary amendment, effective January 25, 2003, to implement the Act.

The Commission now seeks comment on a proposed permanent amendment to implement the Act. The most pertinent provision for the Commission is section 314, which states:

''(a) IN GENERAL.—The United States Sentencing Commission shall—

(1) promulgate a guideline, or amend an existing guideline under section 994 of title 28, United States Code, in accordance with paragraph (2), for penalties for violations of the Federal Campaign Act of 1971 and related election laws; and

(2) submit to Congress an explanation of any guidelines promulgated under paragraph (1) and any legislative or administrative recommendations regarding enforcement of the Federal Campaign Act of 1971 and related election laws.

(b) CONSIDERATIONS.—The Commission shall provide guidelines under subsection (a) taking into account the following considerations:

(1) Ensure that the sentencing guidelines and policy statements reflect the serious nature of such violations and the need for aggressive and appropriate law enforcement action to prevent such violations.

(2) Provide a sentencing enhancement for any person convicted of such violation if such violation involves—

(A) a contribution, donation, or expenditure from a foreign source;

(B) a large number of illegal transactions;

(C) a large aggregate amount of illegal contributions, donations, or expenditures;

(D) the receipt or disbursement of governmental funds; and

(E) an intent to achieve a benefit from the Federal Government.

(3) Assure reasonable consistency with other relevant directives and guidelines of the Commission.

(4) Account for aggravating or mitigating circumstances that might justify exceptions, including circumstances for which the sentencing guidelines currently provide sentencing enhancements.

(5) Assure the guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.''.

Since section 314 directed the Commission to provide a guideline for violations of the Federal Election Campaign Act of 1971 (the ''FECA'') and related elections laws, examination of the FECA's criminal penalty provisions (and related criminal penalty provisions) is necessary. Section 309(d)(1) of the FECA sets forth the Act's criminal penalty provisions as follows:

(1) Violations of the FECA as Penalized Under Section 309(d)(1)(A)

Section 309(d)(1)(A) is the main penalty provision of the FECA (2 U.S.C. 437g(d)(1)(A)). As amended by section 312 of the Act, it states that ''[a]ny person who knowingly and willfully commits a violation of any provision of this Act which involves the making, receiving, or reporting of any contribution, donation, or expenditure (i) aggregating $25,000 or more during a calendar year shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both; or (ii) aggregating $2,000 or more (but less than $25,000) during a calendar year shall be fined under such title, imprisoned for not more than 1 year, or both.''. (Before amendment by the Act, section 309(d)(1)(A) of the FECA provided for a maximum term of imprisonment of one year, or a fine, or both.)

The major violations of the FECA to which section 309(d)(1)(A) applies are:

(A) The Ban on Soft Money

Section 323 of the FECA (2 U.S.C. 441i) prohibits national political party committees (including senatorial and congressional campaign committees) from accepting soft money from any person (including an individual) after November 6, 2002.

(B) Restrictions on Hard Money Contributions

The FECA limits the amount of hard money that may be contributed to a Federal campaign. The FECA limits the amount of hard money that persons other than multicandidate political committees may contribute as follows:

(i) The contribution to a candidate for Federal office may not exceed $2,000 per election. (The limit used to be $1,000; *see* section 315(a)(1)(A) of the FECA, as amended by section 307(a)(1) of the Act.)

(ii) The contribution to a national party committee may not exceed $25,000 per calendar year. (The limit used to be $20,000; *see* section 315(a)(1)(B) of the FECA, as amended by section 307(a)(2) of the Act.)

(iii) The contribution to any other political committee, including a political action committee (PAC), may not exceed $5,000 per calendar year. (No change in the former law; *see* section 315(a)(1)(C) of the FECA.)

(iv) The contribution to a State or local political party may not exceed $10,000 per calendar year. (The limit used to be $5,000; *see* section 315(a)(1)(D) of the FECA, as amended by section 102(3) of the Act.)

The FECA limits the amount of hard money that multicandidate political committees may contribute as follows:

(i) The contribution to a candidate for Federal office may not exceed $5,000 per election. (*See* section 315(a)(2)(A) of the FECA.)

(ii) The contribution to a national party committee may not exceed $15,000 per calendar year. (*See* section 315(a)(2)(B) of the FECA.)

(iii)The contribution to any other political committee, including a political action committee (PAC), may not exceed $5,000 per calendar year. (No change in the former law; *see* section 315(a)(2)(C) of the FECA.)

(iv) The contribution to a State or local political party may not exceed $5,000 per calendar year. (*See* section 315(a)(2)(C) of the FECA.)

(C) The Ban on Contributions and Donations by Foreign Nationals

Section 319 of the FECA (2 U.S.C. 441e) makes it ''unlawful for (1) a foreign national, directly or indirectly, to make (A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election; (B) a contribution or donation to a committee of a political party; or (C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 304(f)(3)); or (2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.''.

''Foreign national'' is broadly defined to mean (1) a foreign principal, as defined in the Foreign Agent Registration Act of 1938 (22 U.S.C. 611(b)); or (2) an individual who is not a citizen or national of the United States or who is not lawfully admitted for permanent residence. The term ''foreign prinicipal'' includes foreign governments and corporations.

(D) Restrictions on Electioneering Communications

Section 304(f) of the FECA, as added by section 201 of the Act, requires any person who makes a disbursement for the direct costs of producing and airing electioneering communications exceeding $10,000 in a calendar year to file a disclosure statement to the Federal Election Commission.

Section 316 of the FECA (2 U.S.C. 441b) makes it unlawful for any national bank, a corporation organized by authority of any Federal law, or any labor union to make a contribution or

expenditure in connection with any federal election to any federal political office, or a disbursement, using non-PAC money, for an ''electioneering communication''.

An electioneering communication is any broadcast, cable, or satellite communication which (A) refers to a clearly identified candidate for Federal office; (B) is made within 60 days before a general election or 30 days before a primary election. The communication must be targeted to the pertinent electorate. *See* 2 U.S.C. 434(f)(3)(C).

(2) Violations of Section 316(b)

Section 309(d)(1)(B) of the FECA states that ''[i]n the case of a knowing and willful violation of section 316(b)(3), the penalties set forth in this subsection shall apply to a violation involving an amount aggregating $250 or more during a calendar year.'' Such violation of section 316(b)(3) may incorporate a violation of section 317(b), 320, or 321.

Section 316(b)(3) of the FECA (2 U.S.C. 441b(b)(3)) makes it unlawful for a national bank, any corporation organized by authority of any law of Congress, or any labor union (A) to use a political fund to make a political contribution or expenditure from money or anything of value that was secured by physical force, job discrimination, financial reprisals (or the threat thereof), or from dues, fees, or other money required as a condition of membership in the labor organization or as a condition of employment; (B) who solicits an employee for contribution to a political fund to fail to inform the employee of the purposes of the fund at the time of the solicitation; and (C) who solicits an employee for contribution to a political fund to fail to inform the employee of his right to refuse to contribute without reprisal.

The sections which may incorporate violations of section 316(b)(3) of the FECA are section 317(b), which prohibits government contractors from making contributions of currency in excess of $100 for any candidate for Federal office, section 320 which prohibits a person from making a contribution in the name of another or accepting a contribution so made, and section 321, which prohibits any person from making contributions of currency in excess of $100 for any candidate for Federal office.

(3) Fraudulent Misrepresentations Under Section 322

Section 309(d)(1)(C) of the FECA states that ''[i]n the case of a knowing and willful violation of section 322, the penalties set forth in this subsection shall apply without regard to whether the making, receiving, or reporting of a contribution or expenditure of $1,000 or more is involved.''.

Section 322(a) of the FECA (2 U.S.C. 441h) states that ''[n]o person who is a candidate for Federal office or an employee or agent of such a candidate shall (1) fraudulently misrepresent himself or any committee or organization under his control as speaking or writing or otherwise acting for or on behalf of any other candidate or political party or employee or agent thereof on a matter which is damaging to such other candidate or political party or employee or agent thereof; or (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).''.

Section 322(b) states that ''[n]o person shall (1) fraudulently misrepresent the person as speaking, writing, or otherwise acting for or on behalf of any candidate or political party or employee or agent thereof for the purpose of soliciting contributions or donations; or (2) willfully and knowingly participate in or conspire to participate in any plan, scheme, or design to violate paragraph (1).''.

(4) Conduit Contributions under Section 320

Section 309(d)(1)(D) of the FECA states that ''[a]ny person who knowingly and willfully commits a violation of section 320 involving an amount aggregating more than $10,000 during a calendar year shall be (i) imprisoned for not more than 2 years if the amount is less than $25,000 (and subject to imprisonment under subparagraph (A) if the amount is $25,000 or more); (ii) fined not less than 300 percent of the amount of the violation and not more than the greater of (I) $50,000; or (II) 1,000 percent of the amount involved in the violation; or (iii) both imprisoned under clause (i) and fined under clause (ii).''.

Section 320 of the FECA (2 U.S.C. 441f) states that ''[n]o person shall make a contribution in the name of another person or knowingly permit his name to be used to effect such a contribution, and no person shall knowingly accept a contribution made by one person in the name of another person.''.

In addition to changes made to the FECA, section 302 of the Act amended section 607 of title 18, United States Code, to make it ''unlawful for any person to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election from a person who is located in a room or building occupied in the discharge of official duties by an officer or employee of the United States. It shall be unlawful for an individual who is an officer or employee of the Federal Government, including the President, Vice President, and Members of Congress, to solicit or receive a donation of money or other thing of value in connection with a Federal, State, or local election, while in any room or building occupied in the discharge of official duties by an officer or employee of the United States, from any person.''. The penalty is a fine of not more than $5,000, not more than 3 years or imprisonment, or both.

In order to implement the directive in the Act, this proposed amendment expands the scope of Chapter Two, Part C (Offenses Involving Public Officials) by providing within that Part a new guideline for offenses under the FECA and related offenses. A new guideline, rather than amendment of an existing guideline, seems more appropriate to implement the directive. Currently there exists no guideline which already incorporates the elements of the FECA and related offenses, although the fraud guideline in particular (§ 2B1.1) and the public corruption guidelines to a lesser degree (Chapter Two, Part C) provide some overlap in the elements of the offense and aggravating conduct. In addition, the enhancements required to be added by the directive in the Act would fit nicely into a guideline devoted solely to campaign finance offenses but would prove unwieldy if added to the fraud or public corruption guidelines, which cover so many other non-campaign finance offenses.

The proposed amendment provides for a base offense level of level 8. The statutorily authorized maximum term of imprisonment for the conduct covered by the proposed guideline was raised by the Act from one year for all such offenses to two years for some offenses and five years for others. The base offense level is set at level 8 in recognition of the relative similarity of these offenses to fraud offenses covered by § 2B1.1 and public corruption offenses covered by Chapter Two, Part C. A base offense level of level 8 both insures proportionality with relatively similar offenses and permits various sentencing enhancements directed by the Act to operate as well.

The proposed amendment also creates a number of specific offense characteristics in response to the directive in section 314(b) of the Act. First, the directive requires the Commission to provide an enhancement if the offense involved a large aggregate amount of illegal contributions, donations, or expenditures. To address

this consideration, the proposed amendment provides a specific offense characteristic, at subsection (b)(1), that uses the fraud loss table in § 2B1.1 to incrementally increase the offense level according to the dollar amount of the illegal transactions. This approach would foster proportionality with related guidelines, notably the fraud guideline and the public corruption guidelines (which also reference the fraud loss table) and would provide incremental, rather than a flat, punishment according to the dollar amount involved in the offense.

The proposed amendment provides commentary to explain that ''illegal transactions'' include any conduct prohibited by the FECA and related election laws and, with respect to dollar amounts limited by the FECA, only those amounts that exceed the amount a person may legitimately contribute, solicit, or expend. The proposed amendment also provides references in the definition to the FECA's definitions of ''contribution'' and ''expenditure''.

Second, the proposed amendment provides a two part enhancement at subsection (b)(2), providing for the greater of a two level enhancement if the offense involved a contribution, donation, or expenditure from a foreign national and a four level enhancement if the offense involved a contribution, donation, or expenditure from a foreign government or organization.

Third, the proposed amendment provides an alternative pronged enhancement at subsection (b)(3) if (1) the offense involved a donation, contribution, or expenditure, disbursement, or receipt of government funds, or (2) the defendant committed the offense for the purpose of achieving a specific, identifiable nonmonetary Federal benefit. The proposed amendment defines ''governmental funds'' to mean any Federal, State, or local funds. It is anticipated that this enhancement will apply in situations such as using governmental funds awarded in a contract to make a donation or contribution. The FECA itself addresses this type of situation but in very few places. For example, section 317 of the FECA, 2 U.S.C. 441c, prohibits any person who enters into a contract with the United States for the rendition of services, the provision of materials, supplies, or equipment, or the selling of any land or property to the United States, if the payment from the United States is to be made in whole or in part from funds appropriated from Congress and before completion of or negotiation for the contract, to make or solicit a contribution of money or anything of value to a political party, committee, or candidate for public office or to any person for a political purpose. (This provision does not prohibit, however, the establishment of a segregated account to be used for political purposes.) The concern behind this provision of the FECA, therefore, is to prevent the use of federal funds for political purposes. The same concern pertains to State and local funds as well. It is also anticipated that this enhancement will apply in situations in which a State or local elected official uses State or local resources to finance his or her campaign for Federal office.

Commentary is provided for the alternative prong in subsection (b)(3)(B) on the intent to achieve a specific, identifiable nonmonetary Federal benefit to make clear that the intent of this prong is not to enhance the sentence for seeking heightened access to public officials generally; rather, the enhancement provides greater punishment for defendants who are seeking some specific benefit such as a Presidential pardon or information proprietary to the government.

Fourth, the amendment proposes to add an enhancement at subsection (b)(4) if the defendant engaged in thirty or more illegal transactions during the course of the offense, whether or not the defendant was convicted of the conduct. This enhancement is added in response to the directive to provide an enhancement if the offense involved a large number of illegal transactions.

Fifth, the amendment proposes to add an enhancement at subsection (b)(5) if the contribution, donation, or expenditure was obtained through, or a solicitation was made by, intimidation, threat of harm, including pecuniary harm, or coercion.

Sixth, the proposed amendment provides a cross reference in the new guideline to either the bribery guideline or the gratuity guideline, if the offense involved such conduct and the resulting offense level is greater than that determined under the new guideline.

The proposed amendment also amends the guideline on fines for individual defendants, § 5E1.2, to set forth the fine provisions unique to FECA. This part of the amendment also provides that the defendant's participation in a conciliation agreement with the Federal Election Commission pursuant to section 309 of the FECA may be a potentially legitimate factor for the court to consider in evaluating where to sentence an offender within the presumptive fine guideline range.

The proposed amendment also includes counts under this proposed guideline under the grouping provision under § 3D1.2(d). Finally, the Statutory Index is amended to incorporate these offenses.

Proposed Amendment

Chapter Two, Part C is amended in the heading by adding at the end ''AND VIOLATIONS OF FEDERAL ELECTION CAMPAIGN LAWS''.

Chapter Two, Part C is amended by striking the introductory commentary in its entirety.

Chapter Two, Part C is amended by adding at the end the following new guideline and accompanying commentary:

''§ 2C1.8. Making, Receiving, or Failing to Report a Contribution, Donation, or Expenditure in Violation of the Federal Election Campaign Act; Fraudulently Misrepresenting Campaign Authority; Soliciting or Receiving a Donation in Connection with an Election While on Certain Federal Property

(a) Base Offense Level: 8

(b) Specific Offense Characteristics

(1) If the value of the illegal transactions exceeded $5,000, increase by the number of levels from the table in § 2B1.1 (Theft, Property Destruction, and Fraud) corresponding to that amount.

(2) (Apply the greater) If the offense involved, directly or indirectly, an illegal transaction made by or received from—

(A) a foreign national, increase by 2 levels; or

(B) a government of a foreign country, increase by 4 levels.

(3) If (A) the offense involved the contribution, donation, solicitation, expenditure, disbursement, or receipt of governmental funds; or (B) the defendant committed the offense for the purpose of obtaining a specific, identifiable non-monetary Federal benefit, increase by 2 levels.

(4) If the defendant engaged in 30 or more illegal transactions, increase by 2 levels.

(5) If the offense involved a contribution, donation, solicitation, or expenditure made or obtained through intimidation, threat of pecuniary or other harm, or coercion, increase by 4 levels.

(c) Cross Reference

(1) If the offense involved a bribe or gratuity, apply § 2C1.1 (Offering, Giving, Soliciting, or Receiving a Bribe; Extortion Under Color of Official Right) or § 2C1.2 (Offering, Giving, Soliciting, or Receiving a Gratuity), as appropriate, if the resulting offense level is greater than the offense level determined above.

Commentary

Statutory Provisions: 2 U.S.C. 437g(d)(1), 439a, 441a, 441a-1, 441b, 441c, 441d, 441e, 441f, 441g, 441h(a), 441i, 441k; 18 U.S.C. 607. For additional provision(s), *see* Statutory Index (Appendix A).

Application Notes

1. Definitions.—For purposes of this guideline:

'Foreign national' has the meaning given that term in section 319(b) of the Federal Election Campaign Act of 1971, 2 U.S.C. 441e(b).

'Government of a foreign country' has the meaning given that term in section 1(e) of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611(e)).

'Governmental funds' means money, assets, or property, of the United States government, of a State government, or of a local government, including any branch, subdivision, department, agency, or other component of any such government. 'State' means any of the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, the Northern Mariana Islands, or American Samoa. 'Local government' means the government of a political subdivision of a State.

'Illegal transaction' means (A) any contribution, donation, solicitation, or expenditure of money or anything of value, or any other conduct, prohibited by the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq;* (B) any contribution, donation, solicitation, or expenditure of money or anything of value made in excess of the amount of such contribution, donation, solicitation, or expenditure that may be made under such Act; and (C) in the case of a violation of 18 U.S.C. 607, any solicitation or receipt of money or anything of value under that section. The terms 'contribution' and 'expenditure' have the meaning given those terms in section 301(8) and (9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8) and (9)), respectively.

2. Application of Subsection (b)(3)(B).—Subsection (b)(3)(B) provides an enhancement for a defendant who commits the offense for the purpose of achieving a specific, identifiable non-monetary Federal benefit that does not rise to the level of a bribe or a gratuity.

Subsection (b)(3)(B) is not intended to apply to offenses under this guideline in which the defendant's only motivation for commission of the offense is generally to achieve increased visibility with, or heightened access to, public officials. Rather, subsection (b)(3)(B) is intended to apply to defendants who commit the offense to obtain a specific, identifiable non-monetary Federal benefit, such as a Presidential pardon or information proprietary to the government.

3. Application of Subsection (b)(4).—Subsection (b)(4) shall apply if the defendant engaged in any combination of 30 or more illegal transactions during the course of the offense, whether or not the illegal transactions resulted in a conviction for such conduct.

4. Departure Provision.—In a case in which the defendant's conduct was part of a systematic or pervasive corruption of a governmental function, process, or office that may cause loss of public confidence in government, an upward departure may be warranted.''.

Section 3D1.2(d) is amended by inserting '', 2C1.8'' after ''2C1.7''.

The Commentary to § 5E1.2 captioned ''Application Notes'' is amended in the second sentence of Note 5 by striking ''and'' after ''Control Act;'' and by inserting before the period at the end the following:

''; and 2 U.S.C. 437g(d)(1)(D), which authorizes, for violations of the Federal Election Campaign Act under 2 U.S.C. 441f, a fine up to the greater of $50,000 or 1,000 percent of the amount of the violation, and which requires, in the case of such a violation, a minimum fine of not less than 300 percent of the amount of the violation.

There may be cases in which the defendant has entered into a conciliation agreement with the Federal Election Commission under section 309 of the Federal Election Campaign Act of 1971 in order to correct or prevent a violation of such Act by the defendant. The existence of a conciliation agreement between the defendant and Federal Election Commission, and the extent of compliance with that conciliation agreement, may be appropriate factors in determining at what point within the applicable fine guideline range to sentence the defendant, unless the defendant began negotiations toward a conciliation agreement after becoming aware of a criminal investigation''.

Appendix A (Statutory Index) is amended by inserting before the line referenced to 7 U.S.C. 6 the following new lines:

''2 U.S.C. 437g(d) 2C1.8
2 U.S.C. 439a 2C1.8
2 U.S.C. 441a 2C1.8
2 U.S.C. 441a-1 2C1.8
2 U.S.C. 441b 2C1.8
2 U.S.C. 441c 2C1.8
2 U.S.C. 441d 2C1.8
2 U.S.C. 441e 2C1.8
2 U.S.C. 441f 2C1.8
2 U.S.C. 441g 2C1.8
2 U.S.C. 441h(a) 2C1.8
2 U.S.C. 441i 2C1.8
2 U.S.C. 441k 2C1.8''.

Appendix A (Statutory Index) is amended by inserting after the line referenced to 18 U.S.C. 597 the following new line:

''18 U.S.C. 607 2C1.8''.

3. Use of Body Armor in a Crime of Violence or Drug Trafficking Crime

Synopsis of Proposed Amendment

In December 2002, the Commission published general issues for comment (*see* 67 FR 77532) regarding how to implement the directive in section 11009 of the 21st Century Department of Justice Appropriations Authorization Act (the ''Act''), Public Law 107–273. The directive requires the Sentencing Commission to ''review and amend the Federal sentencing guidelines and the policy statements of the Commission, as appropriate, to provide an appropriate sentencing enhancement for any crime of violence (as defined in section 16 of title 18, United States Code) or drug trafficking crime (as defined in section 924(c) of title 18, United States Code) (including a crime of violence or drug trafficking crime that provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) in which the defendant used body armor.'' The Act further states that it is the sense of Congress that any such enhancement should be at least two levels.

In response to the directive, the proposed amendment provides for a new adjustment at § 3A1.5 (Use of Body Armor) for the use of body armor in an offense involving a crime of violence or drug trafficking crime. A proposed application note provides definitions of ''crime of violence'', ''drug trafficking crime'', and ''body armor''.

The definitions of ''crime of violence'' and ''drug trafficking crime'' are those required by the directive. Consequently, the definition of ''drug trafficking crime'' (taken from 18 U.S.C. 924(c)(2)) includes any felony punishable under the Controlled Substances Act, and the definition of ''crime of violence'' (taken from 18 U.S.C. 16) includes offenses that involve the use or attempted use of physical force against property as well as persons. Both of these definitions are somewhat broader than the definitions of ''crime of violence'' and drug trafficking offense'' used in a number of other guidelines. The definition of ''body armor'' is borrowed from the statutory definition provided in 18 U.S.C. 921(a)(35).

Background commentary is proposed to provide a cite for the directive

underpinning the new guideline. A conforming amendment is proposed for the heading of Part A of Chapter Three to accommodate the expanding scope of that part.

An issue for comment follows the proposed amendment requesting comment regarding whether the adjustment for use of body armor should be defendant based or relevant conduct based.

Proposed Amendment

Chapter Three, Part A, is amended in the heading by striking ''VICTIM-RELATED'' and inserting ''GENERAL''.

Chapter Three, Part A, is amended by adding at the end the following new guideline:

''§ 3A1.5. Use of Body Armor in Drug Trafficking Offenses and Crimes of Violence

If the offense (1) was a drug trafficking crime or a crime of violence; and (2) involved the use of body armor, increase by [2][4][6] levels.

Commentary

Application Note:

1. Definitions.—For purposes of this guideline:

'Body armor' means any product sold or offered for sale, in interstate or foreign commerce, as personal protective body covering intended to protect against gunfire, regardless of whether the product is to be worn alone or is sold as a complement to another product or garment. *See* 18 U.S.C. 921(a)(35).

'Crime of violence' has the meaning given that term in 18 U.S.C. 16.

'Drug trafficking crime' has the meaning given that term in 18 U.S.C. 924(c)(2).

Background: This section implements the directive in the James Guelff and Chris McCurley Body Armor Act of 2002 (section 11009(d) of the 21st Century Department of Justice Appropriations Authorization Act, Public Law. 107–273).''.

Issue for Comment

The proposed amendment provides an increase if the offense was a drug trafficking crime or a crime of violence and involved the use of body armor. The Commission requests comment regarding whether the adjustment for body armor should be based on all conduct within the scope of relevant conduct, as proposed, or based on the actions of only the defendant; *i.e.*, should the enhancement apply only if the defendant used or directed the use of body armor, rather than if the offense generally involved the use of body armor? Alternatively, should the enhancement provide a two level increase if the offense generally involved the use of body armor and a heightened increase (*e.g.*, 4 or 6 levels) if the defendant used or directed the use of body armor? If so, what should be the extent of the increase?

4. Oxycodone

Synopsis of Proposed Amendment

This proposed amendment responds to proportionality issues in the sentencing of oxycodone trafficking. Oxycodone is an opium alkaloid found in certain prescription pain relievers such as Percocet and Oxycontin. This prescription drug is generally sold in pill form, and the sentencing guidelines currently establish penalties for oxycodone trafficking based on the entire weight of the pill. The proportionality issues arise because of the formulations of the different medicines and because different amounts of oxycodone are found in pills of identical weight.

As an example of the first issue, the drug Percocet contains the non-prescription pain reliever acetaminophen in addition to oxycodone. The weight of the oxycodone component accounts for a very small proportion of the total weight of the pill. This is in contrast to Oxycontin in which the weight of the oxycodone accounts for a substantially greater proportion of the weight of the pill. For example, a Percocet pill containing five milligrams of oxycodone weighs approximately 550 milligrams (oxycodone accounting for 0.9 percent of the total weight of the pill) while the weight of an Oxycontin pill containing 10 milligrams of oxycodone is approximately 135 milligrams (oxycodone accounting for 7.4 percent of the total weight). Consequently, at sentencing, the same five year sentence results from the trafficking of 364 Percocet pills or 1,481 Oxycontin pills. Additionally, the total amount of the narcotic oxycodone involved in this example is vastly different depending on the drug. The 364 Percocets produce 1.6 grams of actual oxycodone while the 1,481 Oxycontin pills produce 14.8 grams of oxycodone.

The second issue results from differences in the formulation of Oxycontin. Three different amounts of oxycodone (10, 20, and 40 milligrams) are contained in pills of identical weight (135 milligrams). As a result, an individual trafficking in a particular number of Oxycontin pills would receive the same sentence regardless of the amount of oxycodone contained in the pills.

To remedy these proportionality issues it is proposed that sentences for oxycodone offenses be calculated using the weight of the actual oxycodone instead of the current mechanism of calculating the weight of the entire pill. Currently, the Drug Equivalency Tables in § 2D1.1 equate 1 gram of oxycodone mixture to 500 grams of marihuana. The proposal would equate 1 gram of actual oxycodone to 6,700 grams of marihuana. This equivalency would keep penalties for offenses involving 10 milligrams of Oxycontin identical to current levels but would increase penalties for all other doses of Oxycontin. At the same time, penalties for Percocet would be substantially reduced.

Proposed Amendment

Section 2D1.1 is amended in subdivision (B) of the ''*Notes to Drug Quantity Table'' by adding at the end the following new paragraph:

''The term 'Oxycodone (actual)' refers to the weight of the controlled substance, itself, contained in the pill or capsule.''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 9 by striking ''or methamphetamine'' and inserting ''methamphetamine, or oxycodone''.

The Commentary to § 2D1.1 captioned ''Application Notes'' is amended in Note 10 in the Drug Equivalency Tables in the subdivision captioned ''Schedule I or II Opiates*'' by striking ''1 gm of Oxycodone = 500 gm of marihuana'' and inserting ''1 gm of Oxycodone (actual) = 6700 gm of marihuana''.

5. The 21st Century Department of Justice Appropriations Authorization Act

Issue for Comment

In December 2002, the Commission published general issues for comment (*see* 67 FR 77532) on implementation of directives in the 21st Century Department of Justice Appropriations Authorization Act (the ''Act''), Pub. L. 107–273. The Commission seeks additional public comment on the issues pertaining to section 11008(e) of the Act, as set forth herein. Section 11008(e) directs the Commission as follows:

''(1) IN GENERAL.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall review and amend the Federal sentencing guidelines and the policy statements of the commission, if appropriate, to provide an appropriate sentencing

enhancement for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in section 111 or 115 of title 18, United States Code.

(2) FACTORS FOR CONSIDERATION.—In carrying out this section, the United States Sentencing Commission shall consider, with respect to each offense described in paragraph (1)—

(A) any expression of congressional intent regarding the appropriate penalties for the offense;

(B) the range of conduct covered by the offense;

(C) the existing sentences for the offense;

(D) the extent to which sentencing enhancements within the Federal guidelines and the authority of the court to impose a sentence in excess of the applicable guideline range are adequate to ensure punishment at or near the maximum penalty for the most egregious conduct covered by the offense;

(E) the extent to which the Federal sentencing guideline sentences for the offense have been constrained by statutory maximum penalties;

(F) the extent to which the Federal sentencing guidelines for the offense adequately achieve the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code;

(G) the relationship of the Federal sentencing guidelines for the offense to the Federal sentencing guidelines for other offenses of comparable seriousness;

(H) any other factors that the Commission considers to be appropriate.''.

Section 111 of title 18, United States Code, makes it unlawful to forcibly assault, resist, oppose, impede, intimidate, or interfere with (A) any person designated in section 1114 of title 18 (*i.e.*, any officer or employee of the United States, including any member of the uniformed services in the performance of that person's official duties, or any person assisting that person in the performance of those official duties); or (B) any person who formerly served as a person designated in section 1114 on account of that person's performance of official duties during the term of service.

The Act increased the statutory maximum term of imprisonment for offenses under 18 U.S.C. 111 from three years to eight years; and for the use of a dangerous weapon or inflicting bodily injury in the commission of an offense under 18 U.S.C. 111, from ten to 20 years.

Section 115 of title 18, United States Code, makes it unlawful to (A) assault, kidnap, or murder, attempt or conspire to kidnap or murder, or threaten to assault, kidnap, or murder, a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under 18 U.S.C. 1114; or (B) threaten to assault, kidnap, or murder a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under 18 U.S.C. 1114; in order to impede, intimidate, or interfere with the performance of the official's official duties.

Section 115 of title 18, United States Code, also makes it unlawful to assault, kidnap, or murder, attempt or conspire to kidnap or murder, or threaten to assault, kidnap, or murder, a former United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under 18 U.S.C. 1114, or a member of the former official's immediate family, in retaliation for the performance of the official's duties during the official's term of service.

The Act increased the maximum terms of imprisonment for threatened assaults under 18 U.S.C. 115 from three to six years, and for all other threats under 18 U.S.C. 115, from five to ten years.

In addition, the Act also increased the maximum term of imprisonment under 18 U.S.C. 876 from five years to 10 years for mailing a communication to a United States judge, a Federal law enforcement officer, or an official covered by 18 U.S.C. 1114 containing a threat to kidnap or injure any person (the penalty remained five years for mailing such a communication to any other person).

The Act also increased the maximum term of imprisonment under 18 U.S.C. 876 from two years to 10 years for mailing, with the intent to extort anything of value, a communication to a United States judge, a Federal law enforcement officer, or an official covered by 18 U.S.C. 1114 containing a threat to injury another's property or reputation or a threat to accuse another of a crime (the penalty remained two years for mailing such a communication to any other person). The other statutory maximum terms of imprisonment for offenses under 18 U.S.C. 876 were not changed by the Act. Mailing threatening communications containing a ransom demand for the release of a kidnapped person or containing a threat to kidnap with the intent to extort something of value remain punishable by up to 20 years' imprisonment.

The Act contained a number of other miscellaneous provisions directly or indirectly affecting the guidelines, as described below.

The Commission requests comment on the following:

1. Should the Commission provide an enhancement in the assault guidelines for offenses involving influencing, assaulting, resisting, impeding, retaliating against, or threatening a Federal judge, magistrate judge, or any other official described in 18 U.S.C. 111 or 115? If so, what would be an appropriate increase for such enhancement? Are there additional, related enhancements that the Commission should provide in the assault guidelines, particularly given the directive to consider providing sentences at or near the statutory maximum for the most egregious cases? Would such an enhancement be appropriate for other Chapter Two guidelines that cover these offenses, such as the guidelines covering attempted murder (§ 2A2.1), kidnapping (§ 2A4.1), and threatening communications (§ 2A6.1)? Should the Commission increase the three level adjustment in § 3A1.2 (Official Victims), and if so, what should be the extent of the adjustment (*e.g.*, should the adjustment at § 3A1.2 be [4][5][6] levels)?

2. Do the current base offense levels in each of the assault and threatening communications guidelines provide adequate punishment for the covered conduct? If not, what would be appropriate base offense levels for §§ 2A2.2, 2A2.3, 2A2.4, and 2A6.1? For example, should the base offense level for offenses involving obstructing or impeding officers under § 2A2.4 be level 15, the same as for aggravated assault, and contain the same enhancements as the aggravated assault guideline, so that an assault of an official unaccompanied by serious bodily injury would nevertheless be severely punished?

3. Should the Commission consider more comprehensive amendments to the assault guidelines as part of, or in addition to, its response to the directives? For example, should the Commission consolidate §§ 2A2.3 and 2A2.4? Should the Commission amend § 2A2.3(b)(1) to provide a two level enhancement for bodily injury? Some commentators have argued that such an amendment would bring the minor and aggravated assault guidelines more in line with one another because there may be cases in which an assault that does not qualify as an aggravated assault

under § 2A2.2 nevertheless involves bodily injury. Are there any other application issues pertaining to the assault guidelines that the Commission should address?

4. Section 3001 of the Act amends 18 U.S.C. 1512 (relating to tampering with a witness, victim, or an informant) in a number of ways. Section 3001 expands the scope of section 1512 to cover the use of physical force or threat of physical force with the intent to influence, delay, or prevent the testimony of any person in an official proceeding, or induce any person to withhold testimony or alter, destroy, mutilate, or conceal an object with the intent to impair the integrity or availability of the object for use in an official proceeding.

Section 3001 also increases the statutory maximum penalties for violations of section 1512 that involve the use or attempted use of physical force from 10 years' to 20 years' imprisonment (statutory maximum term of imprisonment under section 1512 is 20 years for attempted murder and 10 years for the threatened use of physical force). Additionally, conspiracy to commit an offense under section 1512 or under 18 U.S.C. 1513 (relating to retaliating against a witness, victim, or an informant) are now subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

The Commission, as part of the emergency amendment implementing the Sarbanes-Oxley Act, increased the base offense level in § 2J1.2 (Obstruction of Justice) from level 12 to level 14 (*see* Proposed Amendment 1, proposing to repromulgate the temporary, emergency amendment as a permanent amendment). The Commission requests comment regarding whether the offense levels in § 2J1.2 further should be increased in response to the maximum statutory penalties provided for these offenses, and if so, what should be the extent of the increase? For example, should the Commission increase further the base offense level in § 2J1.2 and, if so, to what offense level? Should the Commission increase the magnitude of the eight level enhancement at subsection (b)(1) for offenses that involve causing or threatening to cause physical injury to a person, or property damage, in order to obstruct the administration of justice? Alternatively, should the Commission increase the magnitude of the enhancement at subsection (b)(1) only for offenses which involve actual physical injury to a person? In addition, are higher offense levels needed specifically for cases under section 1513 involving particularly severe retaliation against government witnesses, or is the availability of departures for such cases sufficient? *See, e.g., United States* v. *Levy,* 250 F.3d 1015 (6th Cir. 2001). Should an enhancement be added to § 3C1.1 (Obstructing or Impeding the Administration of Justice) for threatening, intimidating, tampering with, or retaliating against, a witness, and if so, what should be the extent of the enhancement?

5. The Act contains a number of miscellaneous provisions that may make amendments to the guidelines appropriate as follows:

(A) Section 14102 amends section 3 of the Sherman Act (15 U.S.C. 3) by providing a maximum fine of $10,000,000 for any corporation, and a maximum fine of $350,000 and three years' imprisonment for any person who monopolizes, or attempts to monopolize, or combines or conspires with any other person or persons, to monopolize any part of the trade or commerce in or between any of the States, the District of Columbia, the territories of the United States, and foreign states. Should the Commission provide a Statutory Index reference to § 2R1.1 (Bid-Rigging, Price-Fixing or Market Allocation Agreements Among Competitors) for this offense? In addition, an amendment to Application Note 5 of § 5E1.2 (Fines for Individual Defendants) may be appropriate to incorporate the special fine provision.

(B) Section 3005 of the Act amends 21 U.S.C. 841 (relating to drug penalties) and 960 (relating to drug import and export penalties) to clarify that supervised release requirements for violations of those sections apply notwithstanding 18 U.S.C. 3583. An amendment to § 5D1.2 (Term of Supervised Release) may be appropriate to incorporate this provision.

(C) Section 2103 of the Act amends 18 U.S.C. 3565(b) and 3583(g) to require mandatory revocation of probation and supervised release, respectively, for testing positive, as part of drug testing, of illegal controlled substances more than three times over the course of one year. Amendments to § 7B1.3 (Revocation of Probation or Supervised Release) may be appropriate to incorporate this provision. In addition, the Commission requests comment regarding whether § 7B1.3 should be amended to address more comprehensively other provisions requiring mandatory revocation of probation of supervised release for certain violations.

(D) Section 3007 of the Act made a technical amendment to 18 U.S.C. 3583(d) to clarify that restitution is an appropriate condition of supervised release. An amendment to § 5D1.3 (Conditions of Supervised Release) may be appropriate to incorporate this provision.

6. Cybercrime

Issue for Comment

On December 18, 2002, the Commission published a general issue for comment regarding section 225 of the Homeland Security Act of 2002 (the Cyber Security Enhancement Act of 2002), Public Law 107–296. *See* 67 FR 77532. The Commission seeks additional public comment on more detailed questions pertaining to section 225 as set forth herein.

Section 225 directs the Commission to review and amend, if appropriate, the sentencing guidelines and policy statements applicable to persons convicted of an offense under section 1030 of title 18, United States Code, to ensure that the sentencing guidelines and policy statements reflect the serious nature of such offenses, the growing incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses.

The directive also includes a number of factors for the Commission to consider, including the potential and actual loss resulting from the offense, the level of sophistication and planning involved in the offense, whether the offense was committed for purposes of commercial advantage or private financial benefit, whether the defendant acted with malicious intent to cause harm in committing the offense, the extent to which the offense violated the privacy rights of individuals harmed, whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice, whether the violation was intended to, or had the effect of, significantly interfering with or disrupting a critical infrastructure, and whether the violation was intended to, or had the effect of, creating a threat to public health or safety, or injury to any person.

Section 1030 of title 18, United States Code, proscribes a variety of conduct relating to the misuse of computers, including conduct relating to the obtaining and communicating of restricted information (*see* 18 U.S.C. 1030(a)(1)), the unauthorized accessing of information from financial institutions, the United States government and ''protected computers'' (*see* 18 U.S.C. 1030(a)(2)), the unauthorized accessing of a government computer (*see* 18 U.S.C. 1030(a)(3)),

fraud (*see* 18 U.S.C. 1030(a)(4)), the damaging of a protected computer resulting in certain types of specified harms (*see* 18 U.S.C. 1030(a)(5)), trafficking in passwords (*see* 18 U.S.C. 1030(a)(6)), and extortionate threats to cause damage to a ''protected computer'' (*see* 18 U.S.C. 1030(a)(7)). The statutory maximums for violations of section 1030 range from one year to life, depending upon the subsection violated and, in certain cases, whether certain aggravating factors are present. For example, although a violation of subsection (a)(2) generally carries a statutory maximum term of imprisonment of one year, if the offense was committed for purposes of commercial advantage or private financial gain (or one of the other aggravating conditions is met) the statutory maximum term of imprisonment is five years (*see* 18 U.S.C. 1030(c)(2)(B)). Section 1030 also provides heightened penalties for subsequent offenses. Currently Appendix A (Statutory Index) references convictions of section 1030 to §§ 2B1.1 (Theft, Fraud, and Property Destruction), 2B2.3 (Trespass), 2B3.2 (Extortion by Force or Threat of Injury or Serious Damage), and 2M3.2 (Gathering National Defense Information) depending on the conduct involved in the offense.

In response to the directive, the Commission is required to consider the eight identified factors and ''the extent to which the guidelines may or may not account for them.'' Certain factors that the Commission must consider relate to, and in some instances mirror, either aggravating factors that result in higher statutory penalties under 18 U.S.C. 1030, or elements of certain offenses under 18 U.S.C. 1030. For example, the Commission has been directed to consider ''whether the offense was committed for purposes of commercial advantage or private financial benefit.'' As noted above, this factor is specifically referenced in the statute as an aggravating factor with respect to violations of section 1030(a)(2). The current guidelines, however, do not provide for enhanced punishment for violations of section 1030(a)(2) that involve this aggravated purpose. Similarly, the Commission has been directed to consider ''whether the offense involved a computer used by the government in furtherance of national defense, national security, or the administration of justice.'' Violations of section 1030(a)(5) require proof of one of five specified harms, one of which is ''damage affecting a computer system used by or for a government entity in furtherance of the administration of justice, national defense, or national security.'' (*see* 18 U.S.C. 1030(a)(5)(A) and (B)). The guidelines currently do not provide for an enhanced punishment when this type of harm results from a violation of section 1030(a)(5). Certain other factors that the Commission must consider already may be taken into account, in part or in whole, by the existing guidelines. For example, one factor that the Commission must consider is ''the level of sophistication and planning involved in the offense.'' Currently, § 2B1.1(b)(8)(C) provides a two level increase and a minimum offense level of 12 for offenses that involve sophisticated means. This factor, therefore, may be at least partially accounted for by the existing guidelines.

The Commission requests comment regarding how it should address the directive and the extent to which the eight factors have or have not been accounted for by the guidelines. In addition, the Commission requests comment regarding whether it should provide enhancements in any of the guidelines that pertain to violations of 18 U.S.C. 1030 (*e.g.*, §§ 2B1.1, 2B2.3, 2B3.2, and 2M3.2) based on any of the factors listed in the directive? If so, which factors should be the bases for enhancements? What level enhancements (*e.g.*, [2] or [4] levels) would be appropriate and should the Commission provide a minimum offense level for any enhancement? Should any of the factors listed in the directive be identified in the guidelines as encouraged bases for upward departure? If so, for which violations of section 1030 and under which guidelines? Should any such enhancements or departure provisions be limited so as to apply only to specific violations of 18 U.S.C. 1030, and if so, which ones?

Alternatively, should the Commission structure an enhancement in any of the relevant guidelines to apply to convictions under 18 U.S.C. 1030, in general, or under certain subsections of section 1030 that the Commission may identify as warranting increased punishment? If any such enhancement is limited to certain subsections, what subsections should trigger that enhancement? Should the Commission provide an enhancement in the relevant guidelines that applies based on a combination of a conviction under section 1030 and certain serious conduct (*e.g.*, conduct relating to one of the eight factors contained in the directive, an aggravating factor resulting in an increased statutory maximum under the statute, or a particular element of an offense under section 1030) that may be pertinent to the particular guideline under which the defendant is being sentenced? For any enhancement that the Commission may promulgate in response to this directive, what level enhancement would be appropriate (*e.g.*, [2] [4] levels)?

The Cyber Security Enhancement Act of 2002 also increased the statutory maximum term of imprisonment for convictions under 18 U.S.C. 1030(a)(5)(A)(i) (intentional damage to a protected computer) when certain aggravating conduct is present. The statute now provides a maximum term of imprisonment of twenty years' imprisonment if the offender knowingly or recklessly caused or attempted to cause serious bodily injury and provides a statutory maximum of life imprisonment if the offender knowingly or recklessly caused or attempted to cause death. The Commission requests comment regarding whether the current enhancement for an offense involving a conscious or reckless risk of death or serious bodily injury in § 2B1.1(b)(11), which provides a two level enhancement and a minimum offense level of 14, is sufficient in light of the increased statutory maximum terms of imprisonment for convictions with aggravating conduct under 18 U.S.C. 1030(a)(5)(A)(i). Alternatively, should the Commission provide an upward departure for such convictions? Should the Commission provide a cross reference in § 2B1.1 to the appropriate Chapter Two, Part A, Subpart 1 (Homicide) guideline in order to account for 18 U.S.C. 1030(a)(5)(A)(i) offenses that result in death?

Application Note 2(A)(v)(III) of § 2B1.1 provides a special rule of construction regarding offenses involving unlawful access to a protected computer. That rule states that for such offenses, actual loss includes the pecuniary harm of reasonable costs to the victim of conducting a damage assessment and restoring the system and data to their condition prior to the offense, and any lost revenue due to interruption of service. This rule differs slightly from the statutory definition of loss provided in 18 U.S.C. 1030(e)(11), which was amended by the USA PATRIOT Act, Public Law 107–56, to include, in addition to the factors already included in the guidelines, the cost of responding to an offense, the cost of restoring the program or information to its condition prior to the offense, and any cost incurred or other consequential damages incurred because of interruption of service. Should the Commission modify the guidelines' rule to mirror the statutory definition of loss?

Should the Commission provide any additional clarification of the definition of loss for cybercrime offenses in any of the relevant guidelines, including § 2B3.2 (Extortion)?

Additionally, the Act increased the statutory maximum term of imprisonment for offenses under 18 U.S.C. 2701 (unlawful access to stored communications). In particular, the Act increased the maximum penalty for a first offense committed for purposes of commercial advantage, malicious destruction or damage, or private commercial gain from one year to five years' imprisonment, and for subsequent offenses from two years' to ten years' imprisonment. The scope of these heightened penalties (as set forth in 18 U.S.C. 2701(b)(1)) also was expanded to apply to offenses committed ''in furtherance of any criminal or tortious act in violation of the Constitution or laws of the United States or any State.'' The penalties for all other offenses under 18 U.S.C. 2701 were increased from a statutory maximum of six months' imprisonment to a maximum of one year imprisonment for a first offense, and a maximum of five years' imprisonment for subsequent offenses. Currently, the guidelines do not reference 18 U.S.C. 2701 offenses. The Commission requests comment regarding whether it should amend Appendix A (Statutory Index) to include a reference to 18 U.S.C. 2701, and if so, to which guideline or guidelines should the statute be referenced? Additionally, if the Commission does reference the statute in Appendix A, are there any enhancements that the Commission should provide in any relevant guideline in light of, or relating to, the heightened penalties set forth in 18 U.S.C. 2701(b)?

[FR Doc. 03–1123 Filed 1–16–03; 8:45 am]

BILLING CODE 2210–01–U

SOCIAL SECURITY ADMINISTRATION

The Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of meeting.

DATES: February 10, 2003, 10 a.m.—3 p.m.*; February 11, 2003, 5 a.m.—5 p.m.; February 12, 2003, 9 a.m.—1 p.m.

*The full deliberative panel meeting ends at 3 p.m. The standing committees of the Panel will meet from 3:15 p.m. until 6:15 p.m.

ADDRESSES: Ritz-Carlton Hotel (Pentagon City), 1250 South Hayes Street, Arlington, VA 22202, Phone: (703) 415–5000.

SUPPLEMENTARY INFORMATION:

Type of meeting: This is a quarterly meeting open to the public. The public is invited to participate by coming to the address listed above. Public comment will be taken during the quarterly meeting. The public is also invited to submit comments in writing on the implementation of the Ticket to Work and Work Incentives Improvement Act (TWWIIA) of 1999 at any time.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces a meeting of the Ticket to Work and Work Incentives Advisory Panel (the Panel). Section 101(f) of Public Law 106–170 establishes the Panel to advise the Commissioner of SSA, the President, and the Congress on issues related to work incentives programs, planning and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the TWWIIA. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a) of that Act.

Interested parties are invited to attend the meeting. The Panel will use the meeting time to receive briefings, hear presentations, conduct full Panel deliberations on the implementation of TWWIIA and receive public testimony. The topics for the meeting will include discussion of the Panel's Third Annual Interim Report to Congress, SSA's early intervention demonstration project and agency updates from SSA and HHS.

The Panel will meet in person commencing on Monday, February 10, 2003 from 10 a.m. to 3 p.m. (standing committee meetings from 3:15 p.m. to 6:15 p.m.); Tuesday, February 11, 2003 from 9 a.m. to 5 p.m.; and Wednesday, February 12, 2003 from 9 a.m. to 1 p.m.

Agenda: The Panel will hold a quarterly meeting. Briefings, presentations, full Panel deliberations and other Panel business will be held Monday, Tuesday and Wednesday, February 10, 11, and 12, 2003. Public testimony will be heard in person Monday, February 10, 2003 from 2:30 p.m. to 3 p.m. and on Wednesday, February 12, 2002 from 9 a.m. to 9:30 a.m. Members of the public must schedule a timeslot in order to comment. In the event that the public comments do not take up the scheduled time period for public comment, the Panel will use that time to deliberate and conduct other Panel business.

Individuals interested in providing testimony in person should contact the Panel staff as outlined below to schedule time slots. Each presenter will be called on by the Chair in the order in which they are scheduled to testify and is limited to a maximum five-minute verbal presentation. Full written testimony on TWWIIA Implementation, no longer than 5 pages, may be submitted in person or by mail, fax or email on an on-going basis to the Panel for consideration.

Since seating may be limited, persons interested in providing testimony at the meeting should contact the Panel staff by e-mailing Kristen M. Breland, at *kristen.m.breland@ssa.gov* or calling (202) 358–6423.

The full agenda for the meeting will be posted on the Internet at *http://www.ssa.gov/work/panel* at least one week before the meeting or can be received in advance electronically or by fax upon request.

Contact Information: Anyone requiring information regarding the Panel should contact the TWWIIA Panel staff. Records are being kept of all Panel proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the Panel staff by:

- Mail addressed to Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW, Suite 700, Washington, DC, 20024.
- Telephone contact with Kristen Breland at (202) 358–6423.
- Fax at (202) 358–6440.
- E-mail to *TWWIIAPanel@ssa.gov*.

Dated: January 10, 2003.

Deborah M. Morrison,

Designated Federal Officer.

[FR Doc. 03–1084 Filed 1–16–03; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice Before Waiver With Respect to Land at Luray Caverns Airport, Luray, VA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The FAA is publishing notice of proposed release of approximately eight (8) acres of land at the Luray Caverns Airport, Luray, Virginia to the

Virginia Department of Transportation for the relocation of Virginia State Route 652. There are no impacts to the Airport and the land is not needed for airport development as shown on the Airport Layout Plan. The road is being relocated to provide more space for airport related development and the existing Route 652 right-of-way will be exchanged for the relocated road right-of-way.

DATES: Comments must be received on or before February 18, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Terry J. Page, Manager, FAA Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Edwin P. Markowitz, Secretary-Treasurer Luray-Page County Airport Commission, at the following address: Mr. Edwin P. Markowitz, Secretary-Treasurer, Luray-Page County Airport Commission, 270 Circle View Road, Luray, Virginia 22835.

FOR FURTHER INFORMATION CONTACT: Mr. Terry Page, Manager, Washington Airports District Office, 23723 Air Freight Lane, Suite 210, Dulles, VA 20166; telephone (703) 661–1354, fax (703) 661–1370, email *Terry.Page@faa.gov.*

SUPPLEMENTARY INFORMATION: On April 5, 2000, new authorizing legislation became effective. That bill, the Wendell H. Ford Aviation investment and Reform Act for the 21st Century, Public Law 10–181 (Apr. 5, 2000; 114 Stat. 61) (AIR 21) requires that a 30-day public notice must be provided before the Secretary may waive any condition imposed on an interest in surplus property.

Issued in Chantilly, Virginia on January 6, 2003.

Terry J. Page,

Manager, Washington Airports District Office, Eastern Region.

[FR Doc. 03–1121 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Arcata/Eureka Airport, Eureka, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Arcata/Eureka Airport under the provisions of the 49 United States Code (U.S.C.) section 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before February 18, 2003.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Room 3012, Lawndale, CA 90261, or San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303. In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Allen Campbell, Public Works Director, County of Humboldt, at the following address: 1106 Second Street, Eureka, CA 95501. Air carriers and foreign air carriers may submit copies of written comments previously provided to the County of Humboldt under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Marlys Vandervelde, Airports Program Analyst, San Francisco Airports District Office, 831 Mitten Road, Room 210, Burlingame, CA 94010–1303, Telephone: (650) 876–2806. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Arcata/Eureka Airport under the provisions of the 49 United States Code (U.S.C.) section 40117 and Part 158 of the Federal Aviation Regulations (14 CFR part 158). On December 20, 2002, the FAA determined that the application to impose and use the revenue from a PFC submitted by the County of Humboldt was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than March 22, 2003.

The following is a brief overview of the impose and use application number 03–05–C–00–ACV:

Level of proposed PFC: $4.50.

Proposed charge effective date: June 1, 2003.

Proposed charge expiration date: July 1, 2003.

Total estimated PFC revenue approved in this application: $93,000.

Brief description of the proposed project: Install Security/Perimeter Fence.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA Regional Airports Division located at: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Room 3012, Lawndale, CA 90261. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the County of Humboldt, Department of Public Works.

Issued in Hawthorne, California, on January 3, 2003.

Mia Paredes Ratcliff,

Acting Manager, Airports Division, Western-Pacific Region.

[FR Doc. 03–1131 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2002–12844]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FMCSA announces its decision to exempt 35 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs).

DATES: January 17, 2003.

FOR FURTHER INFORMATION CONTACT: For information about the vision exemptions in this notice, you may contact Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (202) 366–2987, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Background

On November 12, 2002, the FMCSA published a Notice of its receipt of

applications from 35 individuals, and requested comments from the public (67 FR 68719). The 35 individuals petitioned the FMCSA for exemptions from the vision requirement in 49 CFR 391.41(b)(10), which applies to drivers of commercial motor vehicles (CMVs) in interstate commerce. They are: Doris V. Adams, Thomas E. Adams, Rodger B. Anders, Thomas J. Boss, Jack W. Boulware, Mark L. Braun, Howard F. Breitkreutz, Ryan J. Christensen, Kenneth E. Coplan, William T. Cummins, John E. Evenson, Leon Frieri, Wayne H. Holt, Steven C. Humke, Leon E. Jackson, Neil W. Jennings, Jimmy C. Killian, Craig M. Landry, Earl E. Louk, William R. Mayfield, Thomas E. Mobley, Richard E. Nordhausen, James P. Oliver, Jesse R. Parker, Tony E. Parks, Andrew H. Rusk, Henry A. Shelton, Richard L. Sheppard, Jayland R. Siebers, Deborah A. Sigle, David A. Stafford, Ronald A. Stevens, Kenneth E. Vigue, Jr., David G. Williams, and Richard A. Winslow.

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The statute also allows the agency to renew exemptions at the end of the 2-year period. Accordingly, the FMCSA has evaluated the 35 petitions on their merits and made a determination to grant the exemptions to all of them. The comment period closed on December 12, 2002. One comment was received, and its contents were carefully considered by the FMCSA in reaching the final decision to grant the petitions.

Vision And Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green, and amber (49 CFR 391.41(b)(10)).

Beginning in 1992, the Federal Highway Administration (FHWA) has undertaken studies to determine if this vision standard should be amended. The final report from our medical panel recommends changing the field of vision standard from 70° to 120°, while leaving the visual acuity standard unchanged. (*See* Frank C. Berson, M.D., Mark C. Kuperwaser, M.D., Lloyd Paul Aiello, M.D., and James W. Rosenberg, M.D., ''Visual Requirements and Commercial Drivers,'' October 16, 1998, filed in the docket, FHWA–98–4334.) The panel's conclusion supported the FMCSA's (and previously the FHWA's) view that the present standard is reasonable and necessary as a general standard to ensure highway safety. The FMCSA also recognizes that some drivers do not meet the vision standard, but have adapted their driving to accommodate their vision limitation and demonstrated their ability to drive safely.

The 35 applicants fall into this category. They are unable to meet the vision standard in one eye for various reasons, including amblyopia, retinal and macular scars, and loss of an eye due to trauma. In most cases, their eye conditions were not recently developed. All but 13 of the applicants were either born with their vision impairments or have had them since childhood. The 13 individuals who sustained their vision conditions as adults have had them for periods ranging from 4 to 60 years.

Although each applicant has one eye which does not meet the vision standard in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye and, in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. The doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and performance tests designed to evaluate their qualifications to operate a CMV. All these applicants satisfied the testing standards for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a commercial vehicle, with their limited vision, to the satisfaction of the State. The Federal interstate qualification standards, *i.e.* the FMCSRs, however, require more.

While possessing a valid CDL or non-CDL, these 35 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision disqualifies them from driving in interstate commerce. They have driven CMVs with their limited vision for careers ranging from 3 to 40 years. In the past 3 years, two of the drivers have had convictions for traffic violations. One of these convictions was for speeding, and one was for ''failure to secure load.'' One driver was involved in an accident but did not receive a citation.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the November 12, 2002, Notice. Since there were no docket comments on the specific merits or qualifications of any applicant, we have not repeated the individual profiles here. Our summary analysis of the applicants is supported by the information published at 67 FR 68719.

Basis for Exemption Determination

Under 49 U.S.C. 31315 and 31136(e), the FMCSA may grant an exemption from the vision standard in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, the FMCSA considered not only the medical reports about the applicants' vision, but also their driving records and experience with the vision deficiency. To qualify for an exemption from the vision standard, the FMCSA requires a person to present verifiable evidence that he or she has driven a commercial vehicle safely with the vision deficiency for 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of accidents and traffic violations. Copies of the studies have been added to the docket. (FHWA–98–3637)

We believe we can properly apply the principle to monocular drivers, because data from the vision waiver program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively. (*See* 61 FR 13338, 13345, March 26, 1996.) The fact that experienced monocular drivers with good driving records in the waiver program demonstrated their ability to drive safely supports a conclusion that other monocular drivers, meeting the

same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that accident rates for the same individual exposed to certain risks for two different time periods vary only slightly. (*See* Bates and Neyman, University of California Publications in Statistics, April 1952.) Other studies demonstrated theories of predicting accident proneness from accident history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future accidents. (*See* Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971.) A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall accident predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 35 applicants receiving an exemption, we note that the applicants have had only one accident and two traffic violations in the last 3 years. The applicants achieved this record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, the FMCSA concludes their ability to drive safely can be projected into the future.

We believe the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances are more compact than on highways. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he or she has been performing in intrastate commerce. Consequently, the FMCSA finds that exempting these applicants from the vision standard in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the agency will grant the exemptions for the 2-year period allowed by 49 U.S.C. 31315 and 31136(e) to the 35 applicants listed in the November Notice.

We recognize that the vision of an applicant may change and affect his/her ability to operate a commercial vehicle as safely as in the past. As a condition of the exemption, therefore, the FMCSA will impose requirements on the 35 individuals consistent with the grandfathering provisions applied to drivers who participated in the agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

The FMCSA received one comment in this proceeding. The comment was considered and is discussed below.

Advocates for Highway and Auto Safety (Advocates) expresses continued opposition to the FMCSA's policy to grant exemptions from the Federal Motor Carrier Safety Regulations, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which the FMCSA presents driver information to the public and makes safety determinations; (2) objects to the agency's reliance on conclusions drawn from the vision waiver program; (3) claims the agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31315 and 31136(e)); and finally (4) suggests that a recent Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

After considering the comment to the docket and based upon its evaluation of the 35 exemption applications, the FMCSA exempts Doris V. Adams, Thomas E. Adams, Rodger B. Anders, Thomas J. Boss, Jack W. Boulware, Mark L. Braun, Howard F. Breitkreutz, Ryan J. Christensen, Kenneth E. Coplan, William T. Cummins, John E. Evenson, Leon Frieri, Wayne H. Holt, Steven C. Humke, Leon E. Jackson, Neil W. Jennings, Jimmy C. Killian, Craig M. Landry, Earl E. Louk, William R. Mayfield, Thomas E. Mobley, Richard E. Nordhausen, James P. Oliver, Jesse R. Parker, Tony E. Parks, Andrew H. Rusk, Henry A. Shelton, Richard L. Sheppard, Jayland R. Siebers, Deborah A. Sigle, David A. Stafford, Ronald A. Stevens, Kenneth E. Vigue, Jr., David G. Williams, and Richard A. Winslow from the vision requirement in 49 CFR 391.41(b)(10), subject to the following conditions: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving,

so it may be presented to a duly authorized Federal, State, or local enforcement official.

In accordance with 49 U.S.C. 31315 and 31136(e), each exemption will be valid for 2 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31315 and 31136. If the exemption is still effective at the end of the 2-year period, the person may apply to the FMCSA for a renewal under procedures in effect at that time.

Issued on: January 13, 2003.

Brian M. McLaughlin,

Associate Administratior for Policy and Program Development.

[FR Doc. 03–1135 Filed 1–16–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34285]

Wisconsin & Southern Railroad Co.—Acquisition Exemption—Soo Line Railroad Company d/b/a Canadian Pacific Railway

Wisconsin & Southern Railroad Co. (WSOR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from Soo Line Railroad Company d/b/a Canadian Pacific Railway approximately 32.5 miles of rail line known as the Waterloo Spur, extending between milepost 132.11 at Watertown, WI, and milepost 164.61 in Madison, WI. WSOR states that it has been leasing and operating the line since 1998,[1] and that the sole purpose of this transaction will merely be to convert its leasehold interest into an ownership interest, with no adverse effects on railroad employees.

WSOR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier.

WSOR states that it expects to consummate the transaction shortly after January 1, 2003.[2]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34285, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, 555 12th Street, NW., Suite 950N, Washington, DC 20004.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: January 13, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–1137 Filed 1–16–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34294]

State of Vermont—Acquisition Exemption—Certain Assets of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company

The State of Vermont (Vermont) has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from the Estates of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company (collectively, the Sellers),[1] the Sellers' rights, title and ownership interest in the right-of-way, trackage and other physical assets of a 61.58-mile rail line, extending between milepost 63.58 in Newbury (Wells River) and milepost 2.0 in Newport, in Orange, Caledonia and Orleans Counties, VT (the Subject Line).[2] The Sellers will retain the rights and obligations to provide common carrier service on the line. In a separate transaction, the Sellers will convey the retained common carrier obligation and right to provide service to the Washington County Railroad Company (WCRC) through an exclusive operating easement.[3]

Consummation of the transaction was expected to occur on December 26, 2002 (7 days after the exemption was filed), but not before Montreal, Maine & Atlantic Railway, Ltd. has consummated its acquisition of certain other rail assets belonging to the BAR rail system in Vermont and Maine.[4]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34294, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Edward J. Fishman, Kirkpatrick & Lockhart LLP, 1800 Massachusetts Ave., NW., Washington, DC 20036–1221.

Board decisions and notices are available on our website at *http://www.stb.dot.gov*.

Decided: January 13, 2003.

---

[1] *See Wisconsin & Southern Railroad Co.—Lease and Operation Exemption—Soo Line Railroad Company d/b/a Canadian Pacific Railway,* STB Finance Docket No. 33571 (STB served May 27, 1998).

[2] Because WSOR's annual revenues exceed $5 million, it filed a petition on November 26, 2002, requesting waiver of the Board's notice requirements at 49 CFR 1150.42(e). WSOR indicated there that it needed to consummate the acquisition no later than December 31, 2002, because the institution funding the acquisition had to close the transaction by the end of the 2002 calendar year. WSOR's request was granted by decision served December 20, 2002. However, by facsimile filed on January 8, 2003, WSOR now indicates that, due to a financing-related delay, it does not anticipate closing the transaction until some time in January or early February 2003.

[1] The Sellers are railroads in the Bangor and Aroostook Railroad Company (BAR) rail system. On August 15, 2001, an involuntary petition for bankruptcy under chapter 11 of the Bankruptcy Act was filed against BAR before the United States Bankruptcy Court for the District of Maine (Court). On May 14, 2002, the Sellers, filed voluntary petitions for relief under chapter 11 before the Court.

[2] Vermont simultaneously filed a motion to dismiss this notice of exemption. The motion will be handled in a separate decision.

[3] WCRC has contemporaneously filed a notice of exemption in *Washington County Railroad Company—Acquisition and Operation—Certain Rights of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company*, STB Finance Docket No. 34302, to acquire an exclusive operating easement on the Subject Line.

[4] In *Montreal, Maine & Atlantic Railway LLC—Acquisition and Operation Exemption—Bangor & Aroostook Railroad Company, Canadian American Railroad Company, the Northern Vermont Railroad Company Incorporated, Newport & Richford Railroad Company and Van Buren Bridge Company,* STB Finance Docket No. 34110 (STB served Sept. 19, 2002), Montreal, Maine & Atlantic Railway, LLC (MM&A—LLC) was authorized to acquire and operate, among other things, some 518 miles of BAR's rail lines and other assets in Maine and Vermont. These assets do not include the Subject Line. In a subsequent decision served on December 18, 2002, the Board granted a motion to substitute Montreal, Maine & Atlantic Railway, Ltd. as the party that may acquire and operate these assets in lieu of MM&A—LLC.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–1148 Filed 1–16–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34302]

Washington County Railroad Company—Acquisition and Operation Exemption—Certain Rights of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company

The Washington County Railroad Company (WCRC) has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from the Estates of Newport and Richford Railroad Company (N&R), Northern Vermont Railroad Company Incorporated (NVT) and Canadian American Railroad Company (CDAC) (collectively, the Sellers),[1] an exclusive operating easement on a 61.58-mile rail line, extending between milepost 63.58 in Newbury (Wells River) and milepost 2.0 in Newport, in Orange, Caledonia and Orleans Counties, VT (the Wells River-Newport Line).[2] WCRC also seeks to acquire from CDAC, by assignment, an exclusive operating easement over a connecting 40-mile line of railroad extending between approximately milepost 123 in Hartford (White River Junction) and milepost 163 in Newbury (Wells River), VT (the White River Junction-Wells River Line).[3] As a result of these transactions, WCRC will have the right and obligation to provide common carrier service on a combined 101.58-mile rail line between Hartford and Newport, VT pursuant to the exclusive operating easements.

Consummation of the transaction was expected to occur on December 26, 2002 (7 days after the exemption was filed), but not before Montreal, Maine & Atlantic Railway, Ltd. has consummated its acquisition of certain other rail assets belonging to the BAR rail system in Vermont and Maine.[4]

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34302, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on David W. Wulfson, Washington County Railroad Company, One Railway Lane, Burlington, VT 05401–5290.

Board decisions and notices are available on our website at *http://www.stb.dot.gov*.

Decided: January 13, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–1149 Filed 1–16–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34300]

Jeffrey L. Sutch and Leonard J. Smolsky-Intracorporate Family Transaction Exemption

Jeffrey L. Sutch and Lenorad J. Smolsky (Applicants), have filed a verified notice of exemption to merge Penn-Jersey Lines, Inc. (PJRL) into SMS Rail Service, Inc. (SLRS) with SLRS as the surviving entity.[1]

The transaction was scheduled to be consummated on or after December 27, 2002, the effective date of the exemption (7 days after the notice was filed).

The proposed merger transaction will eliminate the administrative expense of maintaining two separate organizations, thus reducing the operating costs of each. The merger will permit the consolidation of the railroads' equipment, their locomotives and cars, thus resulting in improved service to the shippers served by the two railroads.

This is a transaction within a corporate family of the type specifically exempted from prior review and approval under 49 CFR 1180.2(d)(3). The Applicants state that the transaction will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c) however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III railroad carriers. Because this transaction involves Class III rail carriers only, the Board, under that statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

[1] *See Penn-Jersey Rail Lines Inc.—Acquisition and Operations Exemption—WMI Properties, Inc.,* STB Finance Docket No. 33414 (STB served June 24, 1997); *SMS Rail Service, Inc.—Lease and Operate Exemption—Pureland Association, Inc.,* STB Finance Docket No. 32494 (STB served May 26, 1994); and Jeffrey L. Sutch and Leonard J. *Smolsky—Continuance in Control Exemption—Penn-Jersey Rail Lines, Inc.,* STB Finance Docket No. 33415 (STB served June 24, 1997).

Both PJRL and SLRS are Class III carriers. PJRL's lines are in Pennsylvania. SLRS's lines are in New Jersey.

[1] The Sellers are railroads in the Bangor and Aroostook Railroad Company (BAR) rail system. On August 15, 2001, an involuntary petition for bankruptcy under chapter 11 of the Bankruptcy Act was filed against BAR before the United States Bankruptcy Court for the District of Maine (Court). On May 14, 2002, the Sellers, filed voluntary petitions for relief under chapter 11 before the Court.

[2] In a related matter, the State of Vermont (Vermont) has contemporaneously filed a notice of exemption in *State of Vermont—Acquisition—Certain Assets of Newport and Richford Railroad Company, Northern Vermont Railroad Company Incorporated and Canadian American Railroad Company*, STB Finance Docket No. 34294, to acquire the Sellers' rights, title and ownership interest in the right-of-way, trackage and other physical assets on the Wells River-Newport Line. Vermont simultaneously filed a motion to dismiss that notice of exemption. The motion will be handled in a separate decision.

[3] The Wells River-Newport Line connects with the White River Junction-Wells River Line at Wells River (despite the difference in milepost designations, which is the result of different milepost systems). Vermont already owns the White River Junction-Wells River Line. *See State of Vermont—Acquisition Exemption—Certain Assets of Boston and Maine Corporation*, STB Finance Docket No. 33830 (STB served Dec. 20, 1999).

[4] In *Montreal, Maine & Atlantic Railway LLC—Acquisition and Operation Exemption—Bangor & Aroostook Railroad Company, Canadian American Railroad Company, the Northern Vermont Railroad Company Incorporated, Newport & Richford Railroad Company and Van Buren Bridge Company*, STB Finance Docket No. 34110 (STB served Sept. 19, 2002), Montreal, Maine & Atlantic Railway LLC (MM&A) was authorized to acquire and operate, among other things, certain rail lines and other assets of the Seller in Maine and Vermont not including the Subject Line. In a subsequent decision served on December 18, 2002, the Board granted a motion to substitute Montreal, Maine & Atlantic Railway, Ltd. as the party that may acquire and operate the BAR system assets in lieu of Montreal Maine & Atlantic Railway LLC.

An original and ten copies of all pleadings referring to STB Finance Docket No. 34300, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, 1920 N Street, NW., 8th Floor, Washington, DC 20036–1601.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: January 10, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 03–971 Filed 1–16–03; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Transportation Security Administration

Intercity Bus Security Grant Program; Application Notice Describing the Program Priorities and Establishing the Closing Date for Receipt of Applications Under the Intercity Bus Security Grant Program.

AGENCY: Transportation Security Administration, Department of Transportation.

ACTION: Notice inviting applications for the Intercity Bus Security Grant Program.

SUMMARY: The Intercity Bus Security Grant Program will improve security for operators and passengers by providing financial assistance to eligible applicants for intercity bus security enhancements and training.

The Intercity Bus Security Grant Program priorities are as follows: The order of listing does not indicate the level of priority. (1) Protecting or isolating the driver, (2) Monitoring, tracking, and communication technologies for over-the-road buses, (3) Implementing and operating passenger and baggage screening programs at terminals and over-the-road buses, (4) Developing an effective security assessment/security plan that identifies critical security needs and vulnerabilities; and (5) Training driver, dispatchers, ticket agents, and other personnel in recognizing and responding to criminal attacks and terrorists threats, evacuation procedures, passenger screening procedures, and baggage inspection.

Proposals that address other than these five programs priorities will be considered but preference will be given to proposals that address program priorities. Applications may be submitted by private and public operators of over-the-road buses, bus associations and other associations related to the intercity bus industry. The Transportation Security Administration is coordinating with the Federal Motor Carrier Safety Administration and Federal Transit Administration in this effort. Authority for this program is contained in the fiscal year 2002 Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, Pub. L. 107–206, 116 Stat. 820.

DATES: The program announcement and application forms for the Intercity Bus Security Grant Program are expected to be available on or about January 17, 2003. Applications must be received on or before 4 p.m. EST, February 28, 2003.

ADDRESSES: Program Announcement #02MLPA0002 for the Intercity Bus Security Grant Program will be available through the TSA Internet at *http://www.tsa.dot.gov* under Business Opportunities.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Heying, Transportation Security Administration, Office of Maritime and Land Security, 400 7th Street, SW., TSA–8, Washington, DC 20590, (202) 772–1118, e-mail: *Mary.Heying@tsa.dot.gov.*

SUPPLEMENTARY INFORMATION: Total anticipated funding available for Intercity Bus Security Grant Program is $14,850,000. Awards under this program are subject to availability of funds.

Dated: January 8, 2003.

J.M. Loy, ADM,

Under Secretary of Transportation for Security.

[FR Doc. 03–1142 Filed 1–16–03; 8:45 am]

BILLING CODE 4110–62–M

DEPARTMENT OF THE TREASURY

Departmental Offices; Debt Management Advisory Committee Meeting

Notice is hereby given, pursuant to 5 U.S.C. App. 2, 10(a)(2), that a meeting will be held at the U.S. Treasury Department, 15th and Pennsylvania Avenue, NW., Washington, DC, on February 4, 2003, of the following debt management advisory committee: The Bond Market Association Treasury Borrowing Advisory Committee.

The agenda for the meeting provides for a technical background briefing by Treasury staff, followed by a charge by the Secretary of the Treasury or his designate that the Committee discuss particular issues, and a working session. Following the working session, the Committee will present a written report of its recommendations.

The background briefing by Treasury staff will be held at 9 a.m. Eastern time and will be open to the public. The remaining sessions and the committee's reporting session will be closed to the public, pursuant to 5 U.S.C. App. 2, 10(d) and Pub. L. 103–202, § 202(c)(1)(B) (31 U.S.C. 3121 note).

This notice shall constitute my determination, pursuant to the authority placed in heads of departments by 5 U.S.C. App. 2, § 10(d) and vested in me by Treasury Department Order No. 101–05, that the closed portions of the meeting are concerned with discussions of the issues presented to the Committee by the Secretary and recommendations of the Committee to the Secretary, pursuant to Pub. L. 103–102, § 202(c)(1)(B). Thus, this information is exempt from disclosure under that provision and 5 U.S.C. § 552b(c)(3)(B). In addition, the closed portions of the meeting are concerned with information that is exempt from disclosure under 5 U.S.C. § 552b(c)(9)(A). The public interest requires that such meetings be closed to the public because the Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community. When so utilized, such a committee is recognized to be an advisory committee under 5 U.S.C. App. 2, § 3.

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of the advisory committee, premature disclosure of the committee's deliberations and reports would be likely to lead to significant financial speculation in the securities market. Thus, these meetings fall within the exemption covered by 5 U.S.C. § 552b(c)(9)(A).

The Office of Financial Markets is responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of 5 U.S.C. § 552b. The Designated Federal Officer or other responsible agency official who may be contacted for additional information is Paul Malvey, Director, Office of Market Finance at 202–622–2630.

Dated: January 13, 2003.

Brian C. Roseboro,

Assistant Secretary, Financial Markets.

[FR Doc. 03–1115 Filed 1–16–03; 8:45 am]

BILLING CODE 4810–25–M

Corrections

Federal Register

Vol. 68, No. 12

Friday, January 17, 2003

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Part 679

[Docket No. 020718172–2303–02; I.D. 051402C]

RIN 0648–AQ08

Fisheries of the Exclusive Economic Zone Off Alaska; Steller Sea Lion Protection Measures for the Groundfish Fisheries Off Alaska

Correction

In rule document 02–32844 beginning on page 204 in the issue of January 2, 2003, make the following corrections:

1. On page 204, in the first column, the CFR part listings should read as set forth above.

§679.23 [Corrected]

2. On page 214, in the third column, in §679.23, starting ten lines from the bottom, the following text should appear following §679.23(d)(2)(iv):

(3) *Directed fishing for Pacific cod* (i) *Hook-and-line, pot, or jig gear.* Subject to other provisions of this part, directed fishing for Pacific cod with hook-and-line, pot, or jig gear in the Western and Central Regulatory Areas is authorized only during the following two seasons:

(A) *A season.* From 0001 hours, A.l.t., January 1 through 1200 hours, A.l.t., June 10; and

[FR Doc. C2–32844 Filed 1–16–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
January 17, 2003

Part II

Securities and Exchange Commission

17 CFR Parts 228, et al.
Standards Relating to Listed Company Audit Committees; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229, 240, 249 and 274

[Release Nos. 33–8173; 34–47137; IC–25885; File No. S7–02–03]

RIN 3235–AI75

Standards Relating to Listed Company Audit Committees

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: As directed by the Sarbanes-Oxley Act of 2002, we are proposing a new rule to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with the audit committee requirements established by the Sarbanes-Oxley Act of 2002. These requirements relate to: the independence of audit committee members; the audit committee's responsibility to select and oversee the issuer's independent accountant; procedures for handling complaints regarding the issuer's accounting practices; the authority of the audit committee to engage advisors; and funding for the independent auditor and any outside advisors engaged by the audit committee. The new rule must become effective by April 26, 2003, and under our proposals, the new requirements would need to be operative by the national securities exchanges and national securities associations no later than the first anniversary of the publication of our final rule in the **Federal Register**. The proposals would implement the requirements of Section 10A(m)(1) of the Securities Exchange Act of 1934, as added by Section 301 of the Sarbanes-Oxley Act of 2002.

DATES: Comments should be received on or before February 18, 2003.

ADDRESSES: To help us process and review your comments more efficiently, comments should be sent by hard copy or e-mail, but not by both methods. Comments sent by hard copy should be submitted in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments also may be submitted electronically at the following electronic mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. S7–02–03. This file number should be included in the subject line if electronic mail is used. Comment letters will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. Electronically submitted comment letters will be posted on the Commission's Internet Web site (*http://www.sec.gov*).[1]

FOR FURTHER INFORMATION CONTACT: Jeffrey J. Minton, Special Counsel, or Elizabeth M. Murphy, Chief, Office of Rulemaking, Division of Corporation Finance, at (202) 942–2910, or, with respect to investment companies, Christopher P. Kaiser, Senior Counsel, Office of Disclosure Regulation, Division of Investment Management, at (202) 942–0724, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: We are proposing to add new Rule 10A–3[2] under the Securities Exchange Act of 1934 (the ''Exchange Act''),[3] to amend Forms 10–K,[4] 10–KSB,[5] 20–F[6] and 40–F[7] and Items 7 and 22 of Schedule 14A[8] under the Exchange Act, to amend Item 401[9] of Regulation S–B[10] and Items 401[11] and 601[12] of Regulation S–K[13] under the Securities Act of 1933 (the ''Securities Act'')[14] and to amend proposed Form N–CSR[15] under the Exchange Act and the Investment CompanyAct of 1940 (the ''Investment Company Act'').[16]

Table of Contents

I. Background and Overview of the Proposals
II. Proposed Changes
A. Audit Committee Member Independence
B. Responsibilities Relating to Registered Public Accounting Firms
C. Procedures for Handling Complaints
D. Authority to Engage Advisors
E. Funding
F. Application and Implementation of the Proposed Standards
1. SROs Affected
2. Securities Affected
a. Multiple Listings
b. Security Futures Products and Standardized Options
3. Issuers Affected
a. Foreign Issuers
b. Small Businesses
c. Issuers of Asset-Backed Securities
d. Investment Companies
4. Determining Compliance with Proposed Standards
5. Opportunity to Cure Defects
G. Disclosure Changes Regarding Audit Committees
1. Disclosure Regarding Exemptions
2. Identification of the Audit Committee in Annual Reports
3. Updates to Existing Audit Committee Disclosure
H. General Request for Comment
III. Paperwork Reduction Act
IV. Cost-Benefit Analysis
V. Consideration of Impact on the Economy, Burden on Competition and Promotion of Efficiency, Competition and Capital Formation
VI. Initial Regulatory Flexibility Analysis
VII. Statutory Authority and Text of Rule Amendments

I. Background and Overview of the Proposals

Accurate and reliable financial reporting lies at the heart of our disclosure-based system for securities regulation, and is critical to the integrity of the U.S. securities markets. Investors need accurate and reliable financial information to make informed investment decisions. Investor confidence in the reliability of corporate financial information is fundamental to the liquidity and vibrancy of our markets.

Effective oversight of the financial reporting process is fundamental to preserving the integrity of our markets. The board of directors, elected by and accountable to shareholders, is the focal point of the corporate governance system. The audit committee, composed of members of the board of directors, plays a critical role in serving as a check and balance on a company's financial reporting system. The audit committee provides independent review and oversight of a company's financial reporting processes, internal controls and independent auditors. It provides a forum separate from management in which auditors and other interested parties can candidly discuss concerns. By effectively carrying out its functions and responsibilities, the audit committee helps to ensure that management properly develops and adheres to a sound system of internal controls, that procedures are in place to objectively assess management's practices and internal controls, and that the outside auditors, through their own review, objectively assess the company's financial reporting practices.

Since the early 1940s, the Commission, along with the auditing

---

[1] We do not edit personal identifying information, such as names or electronic mail addresses, from electronic submissions. You should submit only information that you wish to make available publicly.

[2] 17 CFR 240.10A–3.

[3] 15 U.S.C. 78a *et seq.*

[4] 17 CFR 249.310.

[5] 17 CFR 249.310b.

[6] 17 CFR 249.220f.

[7] 17 CFR 249.240f.

[8] 17 CFR 240.14a–101.

[9] 17 CFR 228.401.

[10] 17 CFR 228.10 *et seq.*

[11] 17 CFR 229.401.

[12] 17 CFR 229.601.

[13] 17 CFR 229.10 *et seq.*

[14] 15 U.S.C. 77a *et seq.*

[15] 17 CFR 249.331 and 17 CFR 274.128.

[16] 15 U.S.C. 80a–1 *et seq.*

and corporate communities, has had a continuing interest in promoting effective and independent audit committees.[17] It was largely with the Commission's encouragement, for instance, that the self-regulatory organizations, or SROs, first adopted audit committee requirements in the 1970s.[18] Over the years, others have expressed support for strong, independent audit committees,[19] including the National Commission on Fraudulent Financial Reporting, also known as the Treadway Commission,[20] and the General Accounting Office.[21]

In 1998, the New York Stock Exchange (the ''NYSE'') and the National Association of Securities Dealers, Inc. (the ''NASD'') sponsored a committee to study the effectiveness of audit committees. This committee became known as the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (the ''Blue Ribbon Committee''). In its 1999 report, the Blue Ribbon Committee recognized the importance of audit committees and issued ten recommendations to improve their effectiveness.[22] In response to these recommendations, the NYSE and the NASD, among others, revised their listing standards relating to audit committees,[23] and we adopted new rules requiring disclosure relating to the functioning, governance and independence of corporate audit committees.[24] Earlier this year, at the Commission's request,[25] the NYSE and the NASD again reviewed their corporate governance standards, including their audit committee rules, in light of several high-profile corporate failures, and have proposed changes to their rules to provide more demanding standards for audit committees.[26]

Recent events involving alleged misdeeds by corporate executives and independent auditors have damaged investor confidence in the financial markets.[27] They have highlighted the need for strong, competent and vigilant audit committees with real authority.[28] In response to the threat to the U.S. financial markets posed by these events, Congress passed, and the President signed into law on July 30, 2002, the Sarbanes-Oxley Act of 2002 (the ''Sarbanes-Oxley Act'').[29] The Sarbanes-Oxley Act mandates sweeping corporate disclosure and financial reporting reform to improve the responsibility of public companies for their financial disclosures. This release is one of several that we are issuing to implement provisions of the Sarbanes-Oxley Act.[30]

In this release, we propose to implement Section 10A(m)(1) of the Exchange Act,[31] as added by Section 301 of the Sarbanes-Oxley Act, which requires us to direct, by rule, the national securities exchanges[32] and national securities associations[33] to prohibit the listing of any security of an issuer that is not in compliance with several enumerated standards regarding issuer audit committees. The new rule must become effective by April 26, 2003, which is 270 days after the date of enactment of the Sarbanes-Oxley Act and Section 10A(m) of the Exchange Act.[34] Under our proposals, the new requirements would need to be operative by the SROs no later than the first anniversary of the publication of our final rule in the **Federal Register**. In addition, our proposals would make

[17] In 1940, the Commission investigated the auditing practices of McKesson & Robbins, Inc., and the Commission's ensuing report prompted action on auditing procedures by the auditing community. *In the Matter of McKesson & Robbins,* Accounting Series Release (ASR) No. 19, Exchange Act Release No. 2707 (Dec. 5, 1940).

[18] For example, in 1972, the Commission recommended that companies establish audit committees composed of outside directors. See ASR 123 (Mar. 23, 1972). In 1974 and 1978, the Commission adopted rules requiring disclosures about audit committees. See Release No. 34–11147 (Dec. 20, 1974) and Release No. 34–15384 (Dec. 6, 1978).

[19] See, *e.g.*, Preliminary Report of the American Bar Association Task Force on Corporate Responsibility (July 16, 2002). The report is available on the American Bar Association's website at www.abanet.org/buslaw/.

[20] The Treadway Commission was sponsored by the American Institute of Certified Public Accountants, the American Accounting Association, the Financial Executives Institute (now Financial Executives International), the Institute of Internal Auditors and the National Association of Accountants. Collectively, these groups were known as the Committee of Sponsoring Organizations, or COSO. The Treadway Commission's report, the Report of the National Commission on Fraudulent Financial Reporting (October 1987), is available at www.coso.org.

[21] GAO, ''CPA Audit Quality: Status of Actions Taken to Improve Auditing and Financial Reporting of Public Companies,'' at 5 (GAO/AFMD–89–38, March 1989).

[22] *See* Report and Recommendations of the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees (February 1999). The Blue Ribbon Committee Report is available at www.nyse.com.

[23] *See,* for example, Exchange Act Release No. 42231 (Dec. 14, 1999) [64 FR 71523] (Nasdaq rules) and Exchange Act Release No. 42233 (Dec. 14, 1999) (NYSE rules) [64 FR 71529]. See also Exchange Act Release No. 42232 (Dec. 14, 1999) [64 FR 71518] (American Stock Exchange rules) and Release No. 34–43941 (Feb. 7, 2001) [66 FR 10545] (Pacific Exchange rules).

[24] *See* Exchange Act Release No. 42266 (Dec. 22, 1999) [64 FR 73389].

[25] *See* Press Release No. 2002–23 (Feb. 13, 2002).

[26] See File Nos. SR–NASD–2002–141 and SR–NYSE–2002–33 (pending before the Commission).

[27] See, for example, John Waggoner and Thomas A. Fogarty, ''Scandals Shred Investors' Faith: Because of Enron, Andersen and Rising Gas Prices, the Public is More Wary Than Ever of Corporate America,'' USA Today, May 5, 2002; and Louis Aguilar, ''Scandals Jolting Faith of Investors,'' Denver Post, June 27, 2002.

[28] See, for example, John Good, ''After Enron, Beef Up Those Audit Committees,'' The Commercial Appeal, Apr. 26, 2002; and ''FT Comment After Enron: Giving Meaning to the Codes of Best Practice: Corporate Governance: Companies Need Truly Independent Directors, Strong Audit Committees, an Outlet for Whistleblowers and Tight Controls on Share Options,'' The Financial Times, Feb. 19, 2002.

[29] Pub. L. 107–204, 116 Stat. 745 (2002).

[30] For example, see Release No. 34–46421 (Aug. 27, 2002) [67 FR 56462] (Ownership reports and trading by officers, directors and principal security holders); Release No. 33–8124 (Aug. 28, 2002) [67 FR 57276] (Certification of disclosure in companies' quarterly and annual reports); Release No. 33–46685 (Oct. 18, 2002) [67 FR 65325] (Improper influence on conduct of audits); Release No. 33–8138 (Oct. 22, 2002) [67 FR 66208] (Disclosure regarding internal control reports, audit committee financial experts and company codes of ethics); Release No. 33–8144 (Nov. 4, 2002) [67 FR 68054] (Disclosure about off-balance sheet arrangements, contractual obligations and contingent liabilities and commitments); Release No. 33–8145 (Nov. 4, 2002) [67 FR 68790] (Conditions for use of non-GAAP financial information); Release No. 34–46778 (Nov. 6, 2002) [67 FR 69430] (Insider trades during pension plan blackout periods); Release No. 33–8150 (Nov. 21, 2002) [67 FR 71670] (Implementation of standards of conduct for attorneys); Release No. 33–8151 (Nov. 21, 2002) [67 FR 71018] (Retention of records relevant to audits and reviews); Release No. 33–8154 (Dec. 2, 2002) [67 FR 76780] (Strengthening the Commission's requirements regarding auditor independence); and Release No. 33–8170 (Dec. 20, 2002) [67 FR 79466] (Mandated electronic filing and website posting for Forms 3, 4 and 5).

[31] 15 U.S.C. 78j–1(m)(1).

[32] A ''national securities exchange'' is an exchange registered as such under Section 6 of the Exchange Act (15 U.S.C. 78f). There are currently nine national securities exchanges registered under Section 6(a) of the Exchange Act: American Stock Exchange (AMEX), Boston Stock Exchange, Chicago Board Options Exchange (CBOE), Chicago Stock Exchange, Cincinnati Stock Exchange, International Securities Exchange, New York Stock Exchange (NYSE), Philadelphia Stock Exchange and Pacific Exchange. In addition, an exchange that lists or trades security futures products (as defined in Exchange Act Section 3(a)(56) (15 U.S.C. 78c(56))) may register as a national securities exchange under Section 6(g) of the Exchange Act solely for the purpose of trading security futures products. Regarding security futures products, see Section II.F.2.b.

[33] A ''national securities association'' is an association of brokers and dealers registered as such under Section 15A of the Exchange Act (15 U.S.C. 78o–3). The National Association of Securities Dealers (NASD) is the only national securities association registered with the Commission under Section 15A(a) of the Exchange Act. The NASD partially owns and operates The Nasdaq Stock Market (Nasdaq). Nasdaq has filed an application with the Commission to register as a national securities exchange. In addition, Section 15A(k) of the Exchange Act (15 U.S.C. 78o–3(k)) provides that a futures association registered under Section 17 of the Commodity Exchange Act (7 U.S.C. 21) shall be registered as a national securities association for the limited purpose of regulating the activities of members who are registered as broker-dealers in security futures products pursuant to Section 15(b)(11) of the Exchange Act (15 U.S.C. 78o(b)(11)). Regarding security futures products, see Section II.F.2.b.

[34] See Exchange Act Section 10A(m)(1)(A).

several changes to our current disclosure requirements regarding audit committees.

Under proposed Exchange Act Rule 10A–3,[35] SROs would be prohibited from listing any security of an issuer that is not in compliance with the following standards, as discussed in more detail below:

- Each member of the audit committee of the issuer must be independent according to specified criteria;
- The audit committee of each issuer must be directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm [36] engaged for the purpose of preparing or issuing an audit report or related work or performing other audit, review or attest services for the issuer, and each such registered public accounting firm must report directly to the audit committee;
- Each audit committee must establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls or auditing matters, including procedures for the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters;
- Each audit committee must have the authority to engage independent counsel and other advisors, as it determines necessary to carry out its duties; and
- Each issuer must provide appropriate funding for the audit committee.

The standards articulated in Section 10A(m) of the Exchange Act will provide a framework in which audit committees can be more effective in protecting shareholder interests and in addressing the risk that management self-interest may diverge from shareholder interest. The audit committee is more likely to be effective in performing its oversight role when it has adequate resources and is empowered to accomplish its responsibilities independently of management, especially when potential conflicts of interests with management may be apparent. Independent audit committee members also are more likely to be objective when evaluating financial disclosure and internal controls. There must also be frank, open and clear channels of communication so that information can reach the audit committee.

II. Proposed Changes

Under Section 3(a)(58) of the Exchange Act,[37] as added by Section 205 of the Sarbanes-Oxley Act, the term audit committee is defined as:

- A committee (or equivalent body) established by and amongst the board of directors of an issuer for the purpose of overseeing the accounting and financial reporting processes of the issuer and audits of the financial statements of the issuer; and
- If no such committee exists with respect to an issuer, the entire board of directors of the issuer.

Accordingly, an issuer either may have a separately designated audit committee composed of members of its board or, if it chooses to do so or if it fails to form a separate committee, the entire board of directors would constitute the audit committee. If the entire board constituted the audit committee, our proposals for the new SRO rules, including the independence requirements, would apply to the issuer's board as a whole.

In addition, because proposed Exchange Act Rule 10A–3 would impose requirements that only would apply to issuers listed on a national securities exchange or listed in an automated inter-dealer quotation system of a national securities association,[38] the requirements of proposed Exchange Act Rule 10A–3 only would apply to issuers that are so listed. None of the requirements of Section 10A(m) of the Exchange Act or proposed Exchange Act Rule 10A–3 apply to other reporting companies under Section 13(a) [39] or 15(d) [40] of the Exchange Act.

A. Audit Committee Member Independence

As early as 1940, the Commission encouraged the use of audit committees composed of independent directors.[41] An audit committee comprised of independent directors is better situated to assess objectively the quality of the issuer's financial disclosure and the adequacy of internal controls than a committee that is affiliated with management. Management may face market pressures for short-term performance and corresponding pressures to satisfy market expectations. These pressures could be exacerbated by the use of compensation or other incentives focused on short-term stock appreciation, which can promote self-interest rather than the promotion of long-term shareholder interest. An independent audit committee with adequate resources helps to overcome this problem and to align corporate interests with those of shareholders. An independent audit committee also would likely be better equipped to satisfy several other new requirements mandated by the Sarbanes-Oxley Act and the Exchange Act, such as overseeing a sound system of internal controls, approving any non-audit services by the outside auditor and enhancing the independence of the audit function.

The proposed requirements would enhance audit committee independence by implementing the two basic criteria for determining independence enumerated in Section 10A(m) of the Exchange Act. First, audit committee members would be barred from accepting any consulting, advisory or other compensatory fee from the issuer or an affiliate of the issuer, other than in the member's capacity as a member of the board of directors and any board committee.[42] This prohibition would preclude payments to a member as an officer or employee, as well as other compensatory payments. To prevent evasion of this requirement, disallowed payments to an audit committee member would include payments made either directly or indirectly. We believe that barring indirect as well as direct compensatory payments is necessary to implement the intended purposes of Section 10A(m) of the Exchange Act. For example, payments to spouses of members raise questions regarding independence comparable to those raised by payments to members themselves. In addition, we believe that payments for services to law firms, accounting firms, consulting firms, investment banks or similar entities in which audit committee members are partners or hold similar positions are the kinds of compensatory payments that were intended to be precluded by Exchange Act Section 10A(m). We therefore propose that indirect

[35] Exchange Act Rule 10A–2 (17 CFR 240.10A–2) was proposed in Release No. 33–8154 (Dec. 2, 2002).

[36] The term ''registered public accounting firm'' is defined in Section 2(a)(12) of the Sarbanes-Oxley Act. See 15 U.S.C. 78c(b)(59). Until the Public Company Accounting Oversight Board that is contemplated under the Sarbanes-Oxley Act has established the registration of public accounting firms, the proposed requirement relating to the audit committee's oversight would refer to the public accounting firm employed by the issuer for the purposes indicated.

[37] 15 U.S.C. 78c(a)(58).

[38] In this release, we refer to issuers that are listed on one or more of these markets as ''listed issuers.''

[39] 15 U.S.C. 78m(a).

[40] 15 U.S.C. 78o(d).

[41] See note 17 above.

[42] See Section 10A(m)(3)(B)(i) of the Exchange Act and proposed Exchange Act Rule 10A–3(b)(1)(ii)(A) and (iii)(A). If the committee member is also a shareholder of the issuer, payments made to all shareholders generally, such as dividends, would not be prohibited by this provision.

acceptance of compensatory payments includes payments to spouses, minor children or stepchildren or children or stepchildren sharing a home with the member, as well as payments accepted by an entity in which an audit committee member is a partner, member or principal or occupies a similar position and which provides accounting, consulting, legal, investment banking, financial or other advisory services or any similar services to the issuer.[43]

In seeking to ensure appropriate levels of independence, we recognize that some SROs currently restrict additional business or personal relationships,[44] and that some SROs are seeking to add to these requirements, in particular in the additional listing standards that are currently under consideration.[45] We support the goals the SROs are trying to achieve through these ongoing efforts, and we are committed to working with the SROs to ensure the success of these proposals. We believe that our mandate under Section 10A(m) of the Exchange Act, where independence is evaluated by reference to payments of compensatory fees, is best fulfilled by our current proposal. Our proposal would not, for example, preclude independence on the basis of ordinary course commercial business relationships between an issuer and an entity with which a director had a relationship. Our proposal also would not extend to the broad categories of family members that may be reached by SRO listing standards. Instead, our proposals build and rely on the SROs standards of independence that cover additional relationships not specified in Exchange Act Section 10A(m). Our proposal would allow the SROs to adopt further requirements of these sorts, but they would do so within the more flexible environment of listing standards. We encourage SROs that do not currently have separate independence requirements to adopt appropriate requirements in connection with their implementation of the standards in Exchange Act Section 10A(m).

As the second basic criterion for determining independence, a member of the audit committee of an issuer that is not an investment company may not be an affiliated person of the issuer or any subsidiary of the issuer apart from his or her capacity as a member of the board and any board committee. We would clarify that a director, executive officer, partner, member, principal or designee of an affiliate would be deemed to be an affiliate. For purposes of the proposed rule, we propose to define the terms ''affiliate'' and ''affiliated person'' consistent with our other definitions of these terms under the securities laws, such as in Exchange Act Rule 12b–2 [46] and Securities Act Rule 144,[47] with an additional safe harbor.[48] We propose to define ''affiliate'' of, or a person ''affiliated'' with, a specified person, to mean ''a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.'' [49] We propose to define the term ''control'' consistent with our other definitions of this term under the Exchange Act [50] as ''the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.'' [51]

Similarly, a member of the audit committee of an issuer that is an investment company could not be an ''interested person'' of the investment company as defined in Section 2(a)(19) [52] of the Investment Company Act.[53] We have substituted the Section 2(a)(19) test for the affiliation test applied to operating companies because the Section 2(a)(19) test is tailored to capture the broad range of affiliations with investment advisers, principal underwriters, and others that are relevant to ''independence'' in the case of investment companies.

Our proposed definition of ''affiliated person'' for non-investment companies, like our existing definitions of this term for these issuers, would require a factual determination based on a consideration of all relevant facts and circumstances. However, because we recognize that it can be difficult to determine whether someone controls an issuer, we are proposing to create a safe harbor from this aspect of the proposed definition of ''affiliated person.'' [54] Under the proposed safe harbor, a person who is not an executive officer, director or 10% shareholder of the issuer would be deemed not to control the issuer. This test is similar to the test used for determining insider status under Section 16 of the Exchange Act.[55]

This safe harbor should cover most non-affiliates without including people who control an issuer. Moreover, our proposal would create only a safe harbor position. Therefore, an audit committee member that would not be eligible to rely on the safe harbor would not be deemed an affiliated person by virtue of those facts. Those who would be ineligible to rely on the safe harbor, but believe that they do not control an issuer, still could rely on a facts and circumstances analysis.

Under Exchange Act Section 10A(m)(3)(C), we have the authority to exempt from the independence requirements particular relationships with respect to audit committee members, if appropriate in light of the circumstances. Companies coming to market for the first time may face particular difficulty in recruiting members that meet the proposed independence requirements. Before a company's initial public offering, the board of directors often will consist primarily, if not exclusively, of representatives of venture capital investors and insiders. Such representation is entirely consistent with the desire of these parties to have representation in their private venture. The difficulty of recruiting independent directors before an initial public offering, coupled with the uncertainty of whether the initial public offering will be completed, may discourage companies from accessing the public markets to grow their business and provide liquidity, as well as from achieving the other benefits of being a public company, if all of their audit committee members must be independent at the time of the initial public offering. Further, the audit committee of some new public companies may function more

[43] See proposed Exchange Act Rule 10A–3(e)(6).

[44] See note 23 above.

[45] See note 26 above.

[46] 17 CFR 240.12b–2.

[47] 17 CFR 230.144.

[48] Exchange Act Section 3(a)(19), in defining several terms in relation to investment companies, includes a definition of ''affiliated person'' by reference to the Investment Company Act. Because that definition is tailored to investment companies, our proposed definition would use a definition for non-investment companies consistent with our other definitions of ''affiliate'' for non-investment companies.

[49] See proposed Exchange Act Rule 10A–3(e)(1).

[50] See, *e.g.*, Exchange Act Rule 12b–2.

[51] See proposed Exchange Act Rule 10A–3(e)(3).

[52] 15 U.S.C. 80a–2(a)(19).

[53] See proposed Exchange Act Rule 10A–3(b)(1)(iii)(B). The ''interested person'' test would apply to business development companies, as well as registered investment companies. See note 95.

[54] See proposed Exchange Act Rule 10A–3(e)(1). Note that this safe harbor does not address the question of whether a person ''is controlled by, or is under common control with'' the issuer. We proposed a similar safe harbor from the definition of ''affiliate'' for Securities Act Rule 144 in 1997. See Release No. 33–7391 (Feb. 20, 1997) [62 FR 9246].

[55] 17 U.S.C. 78p. However, unlike our rules under Section 16, for purposes of determining who is an executive officer and calculating beneficial ownership, we propose to refer to Exchange Act Rule 3b–7 [17 CFR 240.3b–7] for the definition of ''executive officer'' and Exchange Act Rule 13d–3(d)(1) [17 CFR 240.13d–3(d)(1)] for calculating beneficial ownership.

effectively if one director has historical knowledge and experience with the company. Accordingly, we propose to exempt one member of a non-investment company issuer's audit committee from the independence requirements for 90 days from the effective date of an issuer's initial registration statement under Section 12 of the Exchange Act or a registration statement under the Securities Act covering an initial public offering of securities of the issuer.[56]

Further, many companies, particularly financial institutions and other entities with a holding company structure, operate through subsidiaries. For these companies, the composition of the boards of the parent company and the subsidiary are sometimes similar given the control structure between the parent and the subsidiary. If an audit committee member of the parent is otherwise independent, merely serving also on the board of a controlled subsidiary should not adversely affect the board member's independence, assuming that the board member also would be considered independent of the subsidiary except for the member's seat on the parent's board. Accordingly, we propose to exempt from the ''affiliated person'' requirement a committee member that sits on the board of directors of both a parent and a direct or indirect consolidated majority-owned subsidiary, if the committee member otherwise meets the independence requirements for both the parent and the subsidiary, including the receipt of only ordinary-course compensation for serving as a member of the board of directors, audit committee or any other board committee of the parent or subsidiary.[57]

As discussed in Section II.G.1 below, any issuer availing itself of any of these exceptions would have to disclose that fact. Apart from the two limited exemptions discussed above, and the exemptions for controlling shareholders, foreign governmental board representatives and non-management employee members of foreign private issuers discussed in Section II.F.3.a below, we do not propose to exempt any other particular relationships from the independence requirements at this time. In this regard, we note that Section 10A(m) of the Exchange Act does not, and therefore our proposed rule does not, contain any exemptions based on exceptional and limited circumstances similar to those that exist currently under several SRO rules.[58] Also, given the policy and purposes behind the Sarbanes-Oxley Act, as well as to maintain consistency and to ease administration of the requirements by the SROs, we do not currently propose to entertain exemptions or waivers for particular relationships on a case-by-case basis.[59]

Questions regarding the proposed independence requirements:

- Is additional clarification necessary regarding the consulting, advisory or other compensatory fee prohibition? For example, should we clarify whether ''compensatory fees'' would include compensation under a retirement or similar plan in which a former officer or employee of the issuer participates? Should there be an exception for a *de minimis* amount of payments? If so, what amount would be appropriate? How would such an exception be consistent with the purposes of the prohibition?
- Is the proposed extension of the compensatory prohibition to spouses, minor children or stepchildren or children or stepchildren sharing a home with the member appropriate? Should it be expanded or narrowed? For example, should there be an exception for non-executive family members employed by the issuer? Is the extension to payments accepted by an entity in which an audit committee member is a partner, member or principal or occupies a similar position and which provides accounting, consulting, legal, investment banking, financial or other advisory services or any similar services to the issuer appropriate? Should we extend the prohibition further, such as to ordinary course business relationships?
- Is the proposed definition of ''affiliated person'' for non-investment companies appropriate? Is the proposed safe harbor from the definition of affiliated person appropriate? Should it include fewer or more persons? In responding to these questions, please keep in mind that, by its very nature, it would be difficult to create a safe harbor covering all individuals who are non-affiliates without inadvertently covering affiliates as well. The safe harbor would not create a presumption that those outside the safe harbor are affiliates. Rather, the safe harbor is designed to cover only those individuals whom we reasonably believe would not be affiliates. Is this assumption accurate? Can we reliably assume that people who own less than 10% of a company and are not officers or directors are not in control of the company? Should this threshold be higher (*e.g.*, 20%) or lower (*e.g.*, 5%)? Should the exclusion from the definition of affiliate include an express presumption that those persons not so excluded are affiliates, unless rebutted by a majority of independent directors?
- Should we rely exclusively on retaining a subjective test for determining affiliate status, given the varied contractual arrangements with a control feature entered into by issuers, particularly smaller companies? A person might employ specified thresholds to conceal a control relationship. Should a facts and circumstances test be retained in order to reflect the different ways a control relationship can be established with an issuer?
- Should the board of directors be required to determine whether an audit committee member is independent?[60] Should the board be required to disclose this determination? If so, when? If the board should not make the determination, who should?
- The proposed independence requirements relate to current relationships with the audit committee member and related persons. Should the prohibition also extend to a ''look back'' period before the appointment of the member to the audit committee? If so, what period (*e.g.*, three years or five years) would be appropriate? Should there be different look-back periods for different relationships or different parties? If so, which ones?
- Should there be additional criteria for independence apart from the two proposed criteria? For example, in addition to the proposed prohibitions, should there be a prohibition on any transactions or relationships with the audit committee member or an affiliate of the audit committee member apart from the committee member's capacity as a member of the board and any board committee?
- Should additional relationships be exempted from the independence requirements at this time? If so, which relationships should be exempted, why should they be exempted, and how would such an exemption be consistent with maintaining the independence of the audit committee?
- Is the proposed exemption for new public companies appropriate? Should

[56] See proposed Exchange Act Rule 10A–3(b)(1)(iv)(A).

[57] See proposed Exchange Act Rule 10A–3(b)(1)(iv)(B).

[58] See, for example, Section 303.01 of the NYSE's listing standards; Rule 4350(d) of the NASD's listing standards and Section 121B of the AMEX's listing standards. The rules of the NYSE, NASD and AMEX are available on their Web sites at *www.nyse.com, www.nasd.com* and *www.amex.com*, respectively.

[59] Similarly, Commission staff would not entertain no-action letter or exemption requests in this area.

[60] See, *e.g.*, note 26 above.

more than one audit committee member be exempted from the requirements? Should a specific percentage of audit committee members be exempted? Should the exemption be conditioned on there being at least a majority of independent directors on the audit committee? Should the exemption period be longer (*e.g.*, 1 year) or shorter (*e.g.*, 30 days)? We are not proposing to apply this exemption to investment companies. Should this exemption apply to investment companies?

- Is the proposed exemption for independent board members that sit on both a parent's and consolidated majority-owned subsidiary's board of directors appropriate? Is the requirement that the board member also is otherwise independent of the subsidiary necessary? Should the exemption be limited only to wholly owned subsidiaries or other specified level of ownership? Should the exemption be denied if the subsidiary maintains a listing for its own securities? Is there any need for a similar exemption from the ''interested person'' test for investment companies?
- Should there be an exception to the independence requirements based upon exceptional and limited circumstances, if the board determines that membership on the committee by the individual is required by the best interests of the corporation and its shareholders? If so, should the board be required to disclose the nature of the relationship and the reasons for that determination? Should there be a time limit for these appointments?
- Should companies be allowed to request exemptive relief on a case-by-case basis? If so, what procedures should be used for submitting and evaluating applications for exemptive relief? What factors should the Commission consider in considering such requests? How would such a case-by-case process be consistent with the policy and purposes of Section 10A(m)? How would such a process be coordinated between the Commission and the SROs? Should companies be required to disclose publicly any exemption they receive? Should SROs be permitted to grant exemptions within defined parameters? What should those parameters be?
- Are any modifications required to the consulting, advisory or other compensatory fee prohibition for investment companies? Is it appropriate to use the definition of ''interested person'' as set forth in Section 2(a)(19) of the Investment Company Act to test the independence of members of investment company audit committees, as proposed? If not, should the rule apply the affiliation test, which we propose to apply to operating companies, or a different test?

B. Responsibilities Relating to Registered Public Accounting Firms

One of the audit committee's primary functions is to enhance the independence of the audit function, thereby furthering the objectivity of financial reporting. The Commission has long recognized the importance of an auditor's independence in the audit process.[61] The auditing process may be compromised when a company's outside auditors view their main responsibility as serving the company's management rather than its full board of directors or its audit committee. This may occur if the auditor views management as its employer with hiring, firing and compensatory powers. Under these conditions, the auditor may not have the appropriate incentive to raise concerns and conduct an objective review. Further, if the auditor does not appear independent to the public, then investor confidence is undermined and one purpose of the audit is frustrated. One way to help ensure that the auditor is truly independent, then, is for the auditor to be hired, evaluated and, if necessary, terminated by the audit committee. This would help to align the auditor's interests with those of shareholders.

Accordingly, under the proposed rule, an audit committee would have to be directly responsible for the appointment, compensation, retention and oversight of the work of the independent auditor engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work or performing other audit, review or attest services for the issuer,[62] and the independent auditor would have to report directly to the audit committee. We propose to clarify that these oversight responsibilities include the authority to retain the outside auditor, which would include the power not to retain (or to terminate) the outside auditor. In addition, in connection with these oversight responsibilities, the audit committee would need to have ultimate authority to approve all audit engagement fees and terms, as well as all significant non-audit engagements of the independent auditor. In this regard, the proposed requirement would reinforce the new requirement in section 10A(i) of the Exchange Act, as added by section 202 of the Sarbanes-Oxley Act, that auditing and non-auditing services be pre-approved by the audit committee. The proposed requirement, like the other proposed requirements, also would promote compliance with an issuer's internal control requirements.

The proposed requirement does not conflict with, and would not be affected by, any requirement under a company's governing law or documents or other home country requirements that requires shareholders to elect, approve or ratify the selection of the issuer's auditor. The proposed requirement instead relates to the assignment of responsibility to oversee the auditor's work as between the audit committee and management. We propose to add an instruction to the new rule to reflect this intention. In such an instance, however, if the issuer provides a recommendation or nomination of an auditor to its shareholders, the audit committee of the issuer would need to be responsible for making the recommendation or nomination.[63]

In addition, we are proposing to exempt investment companies from the requirement that the audit committee be responsible for the selection of the independent auditor. Section 32(a) of the Investment Company Act,[64] which requires that independent auditors of registered investment companies be selected by majority vote of the disinterested directors, already addresses the concerns behind this requirement. Investment companies

[61] The federal securities laws recognize the importance of independent auditors. See, *e.g.*, Items 25 and 26 of Schedule A of the Securities Act and Sections 12(b)(1)(J) and 13(a)(2) of the Exchange Act [15 U.S.C. 78*l*(b)(1)(J) and 78m(a)(2)]. *See also* Title II of the Sarbanes-Oxley Act.

[62] For a further discussion of the scope of audit, review and attest services, which are broader than those services required to perform an audit pursuant to generally accepted auditing standards, *see* Release No. 33–8154 (Dec. 2, 2002). For example, Section 10A(i)(1)(A) of the Exchange Act [15 U.S.C. 78j–1(i)(1)(A)] identifies services related to the issuance of comfort letters and services related to statutory audits required for insurance companies for purposes of state law as audit services.

[63] Similarly, the proposed requirement does not conflict with any requirement in a company's home jurisdiction that prohibits the full board of directors from delegating the responsibility to select the company's auditor. In that case, the audit committee would need to be granted advisory and other powers with respect to such matters to the extent permitted by law, including submitting nominations to the full board.

[64] 15 U.S.C. 80a–31(a). The exemption would apply to business development companies because they are subject to the requirements of Section 32(a) of the Investment Company Act pursuant to Section 59 of the Investment Company Act [15 U.S.C. 80a–58]. Business development companies are a category of closed-end investment company that are not registered under the Investment Company Act, but are subject to certain provisions of that Act. *See* Sections 2(a)(48) and 54–65 of the Investment Company Act [15 U.S.C. 80a–2(a)(48) and 80a–53–64].

generally would remain subject to the proposed requirements regarding audit committee responsibility in all other areas, including compensation and oversight of the auditors.[65]

Questions regarding the proposed auditor responsibility requirement:

- We request comment on implementation of this proposed requirement. Is additional specificity needed?
- Should the audit committee also be directly responsible for the appointment, compensation, retention and oversight of an issuer's internal auditor? Should other responsibilities be under the supervision of the audit committee?
- Does the proposed instruction that the requirement does not conflict with, and is not affected by, any requirement that requires shareholders to ultimately elect, approve or ratify the selection of the issuer's auditor adequately address the concerns of issuers whose governing law or documents requires shareholder selection of the auditor? Are additional accommodations necessary? Please explain how any accommodation would be consistent with the Sarbanes-Oxley Act.
- Should the requirements relating to independent auditor selection of Section 32(a) of the Investment Company Act be retained with respect to registered investment companies falling within the scope of the proposed rule? If so, why? Should the Commission instead exempt registered investment companies from the requirements relating to independent auditor selection in Section 32(a) of the Investment Company Act, when such investment companies fall within the scope of the proposed rule, and require that their independent auditors be selected by the audit committee? If so, why?
- Should the Commission require registered investment companies to comply with the requirements of both Section 32(a) of the Investment Company Act and the proposed rule with respect to the selection of independent auditors? If so, should we interpret these provisions to require that the audit committee nominate the independent auditor and the majority of disinterested directors approve the independent auditor?
- We note that our recent release regarding auditor independence proposes that the audit committee of a registered investment company separately approve the independent auditor.[66] How should the Commission reconcile proposed Rule 10A–3, the auditor independence proposal, and Section 32(a) of the Investment Company Act?

C. Procedures for Handling Complaints

The audit committee must place some reliance on management for information about the company's financial reporting process. Since the audit committee is dependent to a degree on the information provided to it by management and internal and outside auditors, it is imperative for the committee to cultivate open and effective channels of information. Management may not have the appropriate incentives to self-report all questionable practices. A company employee or other individual may be reticent to report concerns regarding questionable accounting or other matters for fear of management reprisal.[67] The establishment of formal procedures for receiving and handling complaints could serve to facilitate disclosures, encourage proper individual conduct and alert the audit committee to potential problems before they have serious consequences.

Accordingly, under the standards contemplated by the proposals, each audit committee would need to establish procedures for:[68]

- The receipt, retention and treatment of complaints received by the issuer regarding accounting, internal accounting controls or auditing matters, and
- The confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters.

We do not propose to mandate specific procedures that the audit committee must establish. Given the variety of listed issuers in the U.S. capital markets, we believe companies should be provided with flexibility to develop and utilize procedures appropriate for their circumstances. We expect each audit committee to develop procedures that work best consistent with its company's individual circumstances.

Questions regarding the proposed complaint procedures requirement:

- Do most listed issuers have procedures for the receipt, retention and treatment of complaints or for the confidential, anonymous submission by employees of concerns regarding questionable accounting or auditing matters? If so, how do these procedures work? Are they effective in their purpose?
- Should the proposed rule require a company to disclose the procedures that have been established or any changes to those procedures? If so, where and how often should the disclosure appear and what should it look like?
- Should specified procedures be prescribed or encouraged? For example, should we specify how long complaints must be retained? Should we specify who could or could not be designated by the audit committee for the receipt and treatment of complaints?

D. Authority To Engage Advisors

To be effective, an audit committee must have the necessary resources and authority to fulfill its function. The audit committee likely is not equipped to self-advise on all accounting, financial reporting or legal matters. To perform its role effectively, therefore, an audit committee may need the authority to engage its own outside advisors, including experts in particular areas of accounting, as it determines necessary apart from counsel or advisors hired by management, especially when potential conflicts of interest with management may be apparent.

The advice of outside advisors may be necessary to identify potential conflicts of interest and assess the company's disclosure and other compliance obligations with an independent and critical eye. Often, outside advisors can draw on their experience and knowledge to identify best practices of other companies that might be appropriate for the issuer. The assistance of outside advisors also may be needed to independently investigate

[65] Section 32(a) applies to management investment companies and face-amount certificate companies. It does not apply to unit investment trusts, which do not have boards of directors and which we propose to exclude entirely from the requirements that we are proposing. *See* Section II.F.3.d. concerning unit investment trusts. There are three types of investment companies: face-amount certificate companies, unit investment trusts and management companies. *See* Section 4 of the Investment Company Act [15 U.S.C. 80a–4]. The Investment Company Act divides management companies into two sub-categories, defining an open-end company as a management company that offers for sale or has outstanding any redeemable securities of which it is the issuer and a closed-end company as any management company other than an open-end company. *See* Section 5(a) of the Investment Company Act [15 U.S.C. 80a–5(a)]. A unit investment trust is an investment company that is organized under a trust indenture, contract of custodianship or agency, or similar instrument; does not have a board of directors; and issues only redeemable securities, each of which represents an undivided interest in a unit of specified securities, but does not include a voting trust. See Section 4(2) of the Investment Company Act of 1940 [15 U.S.C. 80a–4(2)].

[66] *See* Exchange Act Release No. 46934 (Dec. 2, 2002).

[67] The Sarbanes-Oxley Act provides additional protections for employees who provide evidence of fraud. *See,* for example, Section 806 of the Sarbanes-Oxley Act.

[68] The Commission's proposals are not intended to preempt or supersede any other Federal or State requirements relating to receipt and retention of records.

questions that may arise regarding financial reporting and compliance with the securities laws. Accordingly, the proposed rule would specifically require an issuer's audit committee to have the authority to engage outside advisors, including counsel, as it determines necessary to carry out its duties.[69]

Questions regarding the proposed authority to engage advisors requirement:

- Is any additional specificity needed for this requirement? For example, should we define what constitutes an ''independent advisor?'

E. Funding

An audit committee's effectiveness may be compromised if it is dependent on management's discretion to compensate the independent auditor or the advisors employed by the committee, especially when potential conflicts of interest with management may be apparent. Accordingly, the proposed rule would require the issuer to provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation:

- To any registered public accounting firm engaged for the purpose of rendering or issuing an audit report or related work or performing other audit, review or attest services for the listed issuer; and
- To any advisors employed by the audit committee.

This proposed requirement would further the proposed standard relating to the audit committee's responsibility to appoint, compensate, retain and oversee the outside auditor. It also would add meaning to the proposed standard relating to the audit committee's authority to engage independent advisors. Not only could an audit committee be hindered in its ability to perform objectively its duties by not having control over the ability to compensate these advisors, but the role of the advisors also could be compromised if they are required to rely on management for compensation. Thus, absent such a provision, both the audit committee and the advisors could be less willing to address disagreements or other issues with management.

Questions regarding the proposed funding requirement:

- Is any additional specificity needed for this requirement? For example, should a specific agreement or arrangement be required to provide for the appropriate funding?
- Should there be any limit on the amount of compensation that could be requested by the audit committee? If so, who should set these limits (*e.g.*, the full board)? Should the audit committee's request be limited to ''reasonable'' compensation? Who would determine what is ''reasonable''? How would such limits be consistent with the policy and purposes of the Sarbanes-Oxley Act? Is the fact that the audit committee members ultimately are elected by, and answerable to, shareholders sufficient to address any concern over compensation limits?

F. Application and Implementation of the Proposed Standards

1. SROs Affected

Section 10A(m) of the Exchange Act by its terms applies to all national securities exchanges and national securities associations. These entities, to the extent that their listing standards do not already comply with the proposals, will be required to issue or modify their rules, subject to Commission review, to conform their listing standards.[70] Under our proposals, the new requirements would need to be operative by the SROs no later than the first anniversary of the publication of our final rule in the **Federal Register**. The SROs are not precluded from adopting additional listing standards regarding audit committees, as long as they are consistent with the proposed rule.

To facilitate timely implementation of the proposals, we propose that each SRO must provide to the Commission, no later than 60 days after publication of our final rule in the **Federal Register**, proposed rules or rule amendments that comply with our final rule. Further, each SRO would need to have final rule or rule amendments that comply with our final rule approved by the Commission no later than 270 days after publication of our final rule in the **Federal Register**. We request comment below on the appropriateness of these periods.

The OTC Bulletin Board (OTCBB), the Pink Sheets and the Yellow Sheets would not be affected by the proposed requirements, and therefore issuers whose securities are quoted on these interdealer quotation systems similarly would not be affected, unless their securities also are listed on an exchange or Nasdaq.[71] Each of these quotation systems does not provide issuers with the ability to list their securities, but is a quotation medium for the over-the-counter securities market that collects and distributes market maker quotes to subscribers. These interdealer quotation systems do not maintain or impose listing standards, nor do they have a listing agreement or arrangement with the issuers whose securities are quoted through them. Although market makers may be required to review and maintain specified information about the issuer and to furnish that information to the interdealer quotation system,[72] the issuers whose securities are quoted on such systems do not have any filing or reporting requirements with the system.[73]

Questions regarding the proposed application to SROs

- Do the proposed implementation dates provide sufficient time for SROs to propose and obtain Commission approval for new or amended rules to meet the requirements of the proposals? Is the date by when the standards would need to be operative appropriate? If not, what other dates would be appropriate? What factors should the Commission consider in determining these dates?

2. Securities Affected

In enacting Section 10A(m) of the Exchange Act, Congress made no distinction regarding the type of securities to be covered. Section 10A(m)(1)(A) of the Exchange Act prohibits the listing of ''any security'' of an issuer that does not meet the new standards for audit committees. Accordingly, the proposed rule would apply not just to voting equity securities, but to any listed security, regardless of its type, including debt securities, derivative securities and other types of listed securities. We believe investors in all securities of an issuer, whether common equity or fixed income, would benefit from the increased financial oversight of an issuer that would result from a strong and effective audit committee.

[69] The proposed requirement would not preclude access to or advice from the company's internal counsel or regular outside counsel. It also would not require an audit committee to retain independent counsel.

[70] An SRO that wished to do so could satisfy the requirements of the rule by requiring that a listed issuer must comply with Exchange Act Rule 10A–3.

[71] The OTCBB is operated by The Nasdaq Stock Market, Inc., which is owned by the NASD. Information about the OTCBB can be found at *www.otcbb.com.* The Pink Sheets and the Yellow Sheets (as well as the corresponding Electronic Quotation Service) are operated by Pink Sheets LLC. Information about the Pink Sheets, the Yellow Sheets and the Electronic Quotation Service can be found at *www.pinksheets.com.*

[72] *See* 17 CFR 240.15c2–11.

[73] However, under OTCBB rules, issuers of securities quoted on the OTCBB must be subject to periodic filing requirements with the Commission or other regulatory authority. *See* NASD Rule 6530.

a. Multiple Listings

Many companies today issue multiple classes of securities through various ownership structures on various markets. For example, a company may have a class of common equity securities listed on one market, several classes of debt listed on one or more other markets, and derivative securities listed on yet another market. If a company already was subject to the proposed standards as a result of one listing, there would be little or no additional benefit from having the requirements imposed on the company due to an additional listing. Further, once one national securities exchange or national securities association is responsible for monitoring the compliance of a company with the standards, there would be little or no additional benefit, and much overlap and duplicative effort, from requiring more than one of these SROs to monitor compliance.

In addition, issuers often issue non-equity securities through a wholly owned or majority-owned subsidiary for various reasons. Requiring these subsidiaries, which often have no purpose other than to issue or guarantee the securities, to be subject to the proposed audit committee requirements would add little additional benefit if the subsidiary is closely controlled by a parent issuer that is subject to the proposed requirements. Instead, imposing the requirement on these subsidiaries could create an onerous burden on the parent to recruit and maintain an audit committee meeting the requirements for each specific subsidiary.

Accordingly, we propose an exemption from the proposed requirements for additional listings of securities by a company at any time the company is subject to the proposed requirements as a result of the listing of a class of common equity or similar securities. The additional listings could be on the same market or on different markets. We condition this exemption on the listing of a class of common equity or similar securities because these securities would most likely represent the primary public listing of the company. Companies that do not have a class of common equity or similar securities listed would be subject to the proposed requirements in each affected market where its securities were listed.

We also propose to extend this exemption to listings of non-equity securities by a direct or indirect consolidated majority-owned subsidiary of a parent company, if the parent company is subject to the proposed requirements as a result of the listing of a class of its equity securities. However, if the subsidiary were to list its own equity securities (other than non-convertible, non-participating preferred securities [74]) the subsidiary would be required to meet the proposed requirements to protect its own public shareholders.

b. Security Futures Products and Standardized Options

The enactment of the Commodity Futures Modernization Act of 2000, or CFMA,[75] addressed the regulation of security futures products.[76] It permits national securities exchanges registered under Section 6 of the Exchange Act [77] and national securities associations registered under Section 15A(a) of the Exchange Act [78] to trade futures on individual securities and on narrow-based security indices (''security futures'') without being subject to the issuer registration requirements of the Securities Act and Exchange Act as long as they are cleared by a clearing agency that is registered under Section 17A of the Exchange Act [79] or that is exempt from registration under Section 17A(b)(7)(A) of the Exchange Act. In December 2002, we adopted rules to provide comparable regulatory treatment for standardized options.[80]

The role of the clearing agency for security futures products and standardized options is fundamentally different from a conventional issuer of securities. For example, the purchaser of these products does not, except in the most formal sense, make an investment decision regarding the clearing agency. As a result, information about the clearing agency's business, its officers and directors and its financial statements is less relevant to investors in these products than to investors in the underlying security. Similarly, the investment risk in these products is determined by the market performance of the underlying security rather than the performance of the clearing agency. Moreover, the clearing agencies are self-regulatory organizations subject to regulatory oversight. Furthermore, unlike a conventional issuer, the clearing agency does not receive the proceeds from sales of security futures products or standardized options.[81]

Recognizing these fundamental differences, we propose to exempt from our proposed rule the listing of a security futures product cleared by a clearing agency that is registered under Section 17A of the Exchange Act or exempt from registration under Section 17A(b)(7) of the Exchange Act. We propose a similar exemption for the listing of standardized options issued by a clearing agency registered under Section 17A of the Exchange Act.

Questions regarding proposed application to listed securities:

- Is the proposed exemption for the listings of other classes of securities of an issuer appropriate? Would the benefit of having multiple SROs monitoring compliance outweigh the potential duplicative and administrative burdens that would be imposed on issuers and SROs if there was not such an exemption? Should the exemption be conditioned on having a class of common equity or similar securities listed, or should any class of securities be sufficient?
- Similarly, is the proposed exemption of listings of non-equity securities by consolidated majority-owned subsidiaries appropriate? Instead, should all issuers of securities be required to maintain an audit committee meeting the proposed standards? What would be the burden on companies from mandating such a requirement? Should the exemption be limited to wholly owned subsidiaries or some other specified level of ownership? Is limiting the exemption to non-equity securities (other than non-convertible, non-participating preferred securities) of the subsidiary appropriate?
- Is the exclusion for securities futures products and standardized options appropriate? If not, how should these securities be handled?
- Although we do not propose to exempt other types of securities from

[74] Trust-preferred and similar securities also would fall within this category.

[75] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

[76] Securities Act Section 2(a)(16) [15 U.S.C. 77b(a)(16)], Exchange Act Section 3(a)(56) [15 U.S.C. 78c(a)(56)], and Commodities Exchange Act Section 1a(32) [7 U.S.C. 1a(32)] define ''security futures product'' as a security future or an option on a security future.

[77] 15 U.S.C. 78f.

[78] 15 U.S.C. 78o–3(A).

[79] 15 U.S.C. 78q–1.

[80] *See* Release No. 33–8171 (Dec. 23, 2002) [68 FR 188]. In that release, we exempted standardized options issued by registered clearing agencies and traded on a registered national securities exchange or on a registered national securities association from all provisions of the Securities Act, other than the Section 17 antifraud provision of the Securities Act, as well as the Exchange Act registration requirements. Standardized options are defined in Exchange Act Rule 9b–1(a)(4) [17 CFR 240.9b–1(a)(4)] as option contracts trading on a national securities exchange, an automated quotation system of a registered securities association, or a foreign securities exchange which relate to option classes the terms of which are limited to specific expiration dates and exercise prices, or such other securities as the Commission may, by order, designate.

[81] However, the clearing agency may receive a clearing fee from its members.

coverage of the proposed rule, we request comment on the propriety of either a complete or partial exemption from the requirements for other types of securities? For example, should the rule apply only to classes of voting common equity of an issuer? What would be the basis for such an exclusion, and how would it be consistent with the purposes of the Sarbanes-Oxley Act? In responding to this request, commenters should specifically address how such an exemption would be consistent with investor protection.

3. Issuers Affected

a. Foreign Issuers

For many years, U.S. investors increasingly have been seeking opportunities to invest in a wide range of securities, including the securities of foreign issuers, and foreign issuers have been seeking opportunities to raise capital and effect equity-based acquisitions in the U.S. using securities as the ''acquisition currency.'' The Commission has responded to these trends by seeking to facilitate the ability of foreign issuers to access U.S. investors through listings and offerings in the U.S. capital markets. We have long recognized the importance of the globalization of the securities markets both for investors who desire increased diversification and international companies that seek capital in new markets.

Section 10A(m) of the Exchange Act makes no distinction between domestic and foreign issuers. With the growing globalization of the capital markets, the importance of maintaining effective oversight over the financial reporting process is relevant for listed securities of any issuer, regardless of its domicile. Many foreign private issuers [82] already maintain audit committees, and the global trend appears to be toward establishing audit committees.[83] The proposed rule, therefore, would apply to foreign private issuers as well as domestic issuers.

However, we are aware that the proposed requirements may conflict with legal requirements, corporate governance standards and the methods for providing auditor oversight in the home jurisdictions of some foreign issuers. Several foreign issuers and their representatives have expressed concerns about the possible application of Exchange Act Section 10A(m).[84] In our proposal, we attempt to address these concerns in specific areas in which foreign corporate governance arrangements differ significantly from general practices among U.S. corporations.

For example, we understand that some countries, such as Germany, require that non-management employees, who would not be viewed as ''independent'' under the proposed requirements, serve on the supervisory board or audit committee.[85] Having such employees serve on the board or audit committee can provide an independent check on management, which itself is one of the purposes of the independence requirements under the Sarbanes-Oxley Act. Accordingly, we are proposing a limited exemption from the independence requirements to address this concern. We would provide that non-management employees could sit on the audit committee of a foreign private issuer if the employee is elected or named to the board of directors or audit committee of the foreign private issuer pursuant to home country legal or listing requirements.

We also note that certain foreign private issuers have a two-tier board, with one tier designated as the management board and the other tier designated as the supervisory or non-management board. In this circumstance, we believe that the supervisory or non-management board would be the body within the company best equipped to comply with the proposed requirements. We propose to clarify that in the case of foreign private issuers with two-tier boards of directors, the term ''board of directors'' means the supervisory or non-management board. As such, the supervisory or non-management board could either form a separate audit committee or, if the entire supervisory or non-management board was independent within the provisions and exceptions of the proposed rule, the entire board could be designated as the audit committee.[86]

Controlling shareholders or shareholder groups are more prevalent among foreign issuers than in the United States, and those controlling shareholders have traditionally played a more prominent role in corporate governance. In jurisdictions providing for audit committees, representation of controlling shareholders on these committees is common. We believe that a limited exception from the independence requirements can accommodate this practice without undercutting the fundamental purposes of the proposed rule. In particular, we would propose that one member of the audit committee could be a shareholder, or representative of a shareholder or group, owning more than 50% of the voting securities of a foreign private issuer, if the ''no compensation'' prong of the independence requirements is satisfied, the member in question has only observer status on, and is not a voting member or the chair of, the audit committee, and the member in question is not an executive officer of the issuer.[87] This limited exception is designed to accommodate foreign practices, would assure independent membership and an independent chair of the audit committee and would still exclude management from the committee.

Similarly, foreign governments may have significant shareholdings in some foreign private issuers or may own special shares that entitle the government to exercise certain rights relating to these issuers. However, due to their shareholdings or other rights, these representatives may not be considered independent under our proposals. To accommodate foreign practices, we believe that foreign governmental representatives should be permitted to sit on audit committees of foreign private issuers. As a result, we propose a limited exception that one member of the audit committee could be a representative of a foreign government or foreign governmental entity, if the ''no compensation'' prong of the independence requirement is satisfied and the member in question is not an executive officer of the issuer. As with

[82] The term ''foreign private issuer'' is defined in Exchange Act Rule 3b–4(c) [17 CFR 240.3b–4(c)]. A foreign private issuer is a non-government foreign issuer, except for a company that (1) has more than 50% of its outstanding voting securities owned by U.S. investors and (2) has either a majority of its officers and directors residing in or being citizens of the U.S., a majority of its assets located in the U.S., or its business principally administered in the U.S.

[83] See, for example, ''Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence,'' Statement of the IOSCO Technical Committee (Oct., 2002) (available at www.iosco.org); Egon Zehnder International, Board of Directors Global Study (2000) (available at www.zehnder.com); and KPMG LLP, Corporate Governance in Europe: KPMG Survey 2001/2002 (2002) (available at www.kpmg.com).

[84] See, *e.g.*, Petition for Rulemaking submitted by the Organization for International Investment, File No. 4–462 (Aug. 19, 2002).

[85] See, *e.g.*, Co-Determination Act of 1976 (Mitbestimmungsgesetz).

[86] *See* note 37 above and the accompanying text.

[87] Exchange Act Rule 3b–7 defines the term ''executive officer'' as an issuer's president, any vice president of the registrant in charge of a principal business unit, division or function (such as sales, administration or finance), any other officer who performs a policy-making function or any other person who performs similar policy-making functions for the registrant. Executive officers of subsidiaries may be deemed executive officers of the issuer if they perform such policy-making functions for the issuer.

the proposed exemption for controlling shareholder representatives, this limited exception is designed to accommodate foreign practices and still exclude management from the committee.

Finally, while as noted above there is a trend toward having audit committees in foreign jurisdictions, several foreign jurisdictions require or provide for auditor oversight through a board of auditors or similar body, or groups of statutory auditors, that are separate from the board of directors.[88] We believe that these boards of auditors or statutory auditors are intended to be independent of management, although their members may not in all cases meet all of the independence requirements set forth in Section 10A(m) of the Exchange Act. In addition, while these bodies provide independent oversight of outside auditors, they may not have all of the responsibilities set forth in our proposals.

The establishment of an audit committee in addition to these bodies, with duplicative functions, might not only be costly and inefficient, but it also could generate possible conflicts of powers and duties. Accordingly, we propose an exemption from certain of the requirements for audit committees for boards of auditors or statutory auditors of foreign private issuers that fulfill the remaining requirements of the rule, if those boards operate under legal or listing provisions that are intended to provide oversight of outside auditors that is independent of management, membership on the board excludes executive officers of the issuer and certain other requirements are met. Specifically, foreign private issuers with boards of auditors or similar bodies or statutory auditors meeting these requirements would be exempt from the requirements regarding the independence of audit committee members and the audit committee's responsibility to oversee the work of the outside auditor. The remaining proposed requirements regarding procedures for handling complaints, access to advisors and funding for advisors would apply to these issuers, with the requirements being applicable to the board of auditors or statutory auditors instead of an audit committee. Also, such board or body would need to be, to the extent permitted by law, responsible for the appointment and retention of any registered public accounting firm engaged by the listed issuer.[89]

A foreign private issuer availing itself of any of these exemptions would be subject to specific disclosure requirements discussed in Section II.G.1 below. In proposing these exemptions, we recognize that some foreign jurisdictions continue to have historical structures that may conflict with maintaining audit committees meeting the requirements of Section 10A(m) of the Exchange Act. We encourage foreign issuers that access the U.S. capital markets to continue to move toward internationally accepted best practices in corporate governance.[90]

As mentioned below, we request comment on whether there are other areas, in either one country or in many countries, in which the rules we are proposing are inconsistent or inappropriate in a significant way with foreign corporate governance arrangements. If there are other areas, do those arrangements adequately address the problems to be addressed under Exchange Act Section 10A(m)? As proposed, there would be no other ability for an SRO to exempt or waive foreign issuers from the proposed requirements.

b. Small Businesses

Section 10A(m) of the Exchange Act makes no distinction based on an issuer's size. We think that improvements in the financial reporting process for companies of all sizes are important for promoting investor confidence in our markets. In this regard, because we have seen instances of financial fraud at small companies as well as at large companies, we think that improving the effectiveness of audit committees of small and large companies is important.[91] The proposed rule, therefore, would apply to listed issuers of all sizes.

We recognize that because the proposals apply only to listed issuers, quantitative listing standards applicable to listed securities, such as minimum revenue, market capitalization and shareholder equity requirements, will limit the size of issuers that will be affected by the requirements.[92] However, we are sensitive to the possible implication for smaller issuers and for SROs that would like to specialize in securities of these issuers. We request comment below on these topics.

c. Issuers of Asset-Backed Securities

In several of our releases implementing provisions of the Sarbanes-Oxley Act,[93] we have noted the special nature of asset-backed issuers.[94] Because of the nature of these entities, such issuers are subject to substantially different reporting requirements. Most significantly, asset-backed issuers are generally not required to file the financial statements that other companies must file. Also, such entities typically are passive pools of assets, without an audit committee or board of directors or persons acting in a similar capacity. Accordingly, we propose to exclude asset-backed issuers from the proposed requirements.

d. Investment Companies

There are essentially two categories of investment companies that have shares listed for trading on exchanges: closed-end investment companies and so-called ''exchange-traded funds'' (''ETFs''). Closed-end investment companies are actively managed investment companies, which do not issue redeemable securities. ETFs are investment companies that are registered under the Investment Company Act as open-end investment companies or unit investment trusts (''UITs''). Unlike typical open-end funds or UITs, ETFs do not sell or redeem their individual shares (''ETF shares'') at net asset value (''NAV''). Instead, ETFs sell and redeem ETF shares at NAV only in large blocks (such as 50,000 ETF shares). In addition, national securities exchanges list ETF shares for trading, which allows investors to purchase and sell individual ETF shares among themselves at market prices throughout the day. Unlike open-end ETFs or closed-end investment companies, UITs, including those that operate as ETFs, are

[88] For example, under current Japanese law, we understand that large Japanese corporations must maintain a board of corporate statutory auditors, a legally separate and independent body from the corporation's board of directors that is elected by shareholders. See, *e.g.*, Law for Special Exceptions to the Commercial Code Concerning Audits, etc. of Corporations (Law No. 22, 1974, as amended). Further, we understand that effective April 1, 2003, Japanese corporations will have the option to elect either a governance system with a separate board of directors and board of corporate auditors or a system based on nominating, audit and compensation committees under the board of directors.

[89] Such responsibility could be vested in such board or body, or statutory auditors, in any manner, including without limitation by law or listing requirement or delegation.

[90] *See, e.g.*, IOSCO Principles of Auditor Independence and the Role of Corporate Governance in Monitoring an Auditor's Independence (2002); OECD Principles of Corporate Governance (1999).

[91] See Beasley, Carcello and Hermanson, Fraudulent Financial Reporting: 1987–1997, An Analysis of U.S. Public Companies (Mar. 1999) (study commissioned by the Committee of Sponsoring Organizations of the Treadway Commission).

[92] Examples of the types of quantitative standards necessary for initial and continued listings on the NYSE, Nasdaq and AMEX are available on their respective websites.

[93] *See* note 30 above.

[94] The term ''Asset-Backed Issuer'' is defined in 17 CFR 240.13a–14(g) and 240.15d–14(g).

not actively managed and do not have boards of directors from which audit committee members could be drawn. Accordingly, our proposed rules would cover closed-end investment companies and exchange-traded open-end investment companies, but we are proposing to exclude exchange-traded UITs from the proposed requirements.[95]

Questions regarding the proposed application to issuers:

• Although we do not propose a complete exemption for foreign issuers from coverage of the proposed rule, and question whether such an exemption would be consistent with the policies underlying the Sarbanes-Oxley Act, we solicit comment on the propriety of either a complete or broader exemption from the requirements for foreign issuers. Given the exemptions that are proposed, would the proposals conflict with local law or local stock exchange requirements? If so, how? Are the problems that the proposals are intended to address dealt with in alternative ways in other jurisdictions? Would any foreign issuers not consider a listing solely because of these requirements? Would any foreign issuers that currently maintain a U.S. listing seek to delist their securities because of these requirements?

• Is the proposed special accommodation to the independence requirements adequate for issuers in countries with a dual board structure where employee representatives sit on the supervisory board or are required to be on the audit committee? If not, how should we accommodate these issuers, if at all?

• Are the proposed special accommodations for foreign issuers with controlling shareholder or shareholder groups or foreign government representation appropriate? Do the proposed exemptions provide appropriate accommodations for foreign private issuer practices, consistent with the purposes of Section 10A(m) of the Exchange Act and the protection of investors? Are there alternative approaches that would be preferable to address the issue? Should any of the conditions of the proposed exemption be changed? For example, for controlling shareholders, should the level of shareholder ownership proposed be higher (*e.g.*, 80%) or lower (*e.g.*, 10%)? Is the limitation for controlling shareholders to observer status and not being a voting member or chair of the audit committee appropriate?

• Is the proposed special accommodation for issuers from jurisdictions that operate with boards of auditors or similar bodies appropriate? Does the proposed exemption provide appropriate accommodation for these issuers, consistent with the purposes of Section 10A(m) of the Exchange Act and the protection of investors? Are there alternative approaches that would be preferable to address the issue? Should we provide a ''sunset'' date for this provision to allow the Commission to reconsider its effectiveness and to reexamine the trend towards audit committees in other jurisdictions? If so, what date should we use (*e.g.*, December 31, 2005)?

• Is the compliance burden for companies under a certain size disproportionate to the benefits to be obtained from the proposed requirements? Would any smaller issuers not consider a listing solely because of these requirements? Would any smaller issuers that currently maintain a listing seek to delist their securities because of these requirements? How can we minimize the burden consistent with the purposes of the Sarbanes-Oxley Act?

• Should the scope of one or more of the proposed requirements be narrowed to exclude or apply differently to companies under a certain size? If so, which requirements should be changed? How would such accommodations be consistent with the purposes of Section 10A(m) and the protection of investors? Should there be special accommodations for companies considered under our rules to be ''small business issuers'' (companies that have revenues and public float of less than $25 million)?[96] Should there be a higher cutoff, such as $100 million or $200 million public float and/or revenues? If there should be a different standard for determining the level of issuer affected, should it be based on additional or alternative criteria, such as total assets, shareholder equity or reporting history? What alternate means exist that would provide the same protections to shareholders?

• Is the exclusion of asset-backed issuers appropriate? If not, how should these issuers be handled? Are there other types of issuers that should be handled differently?

• Is the exclusion for ETFs that are structured as unit investment trusts appropriate? If not, how should these ETF UITs be handled? Exchange-traded UITs typically provide audited financial information in shareholder reports although these reports are not required by Commission rules. How should this affect whether exchange-traded UITs are covered by the proposed requirements? Should the sponsor, depositor, or trustee of the UIT be required to comply with the proposed rule? Are there other types of investment companies that should be excluded from the proposed rule? If so, why?

• We propose to make the general exemptions of Exchange Act Rule 10A–3(c) available for use by investment companies. Would investment companies ever fall within any of these exemptions? Should some exemptions be available to investment companies and others unavailable? If so, which ones should be available and why?

4. Determining Compliance With Proposed Standards

Apart from the general requirement to prohibit the listing of a security not in compliance with the enumerated standards, Section 10A(m) of the Exchange Act does not establish specific mechanisms for a national securities exchange or a national securities association to ensure that issuers comply with the proposed standards on an ongoing basis. SROs are required to comply with Commission rules pertaining to SROs and to enforce their own rules, including rules that govern listing requirements and affect their listed issuers. To further the purposes of Section 10A(m), we propose to direct the SROs to require a listed issuer to notify the applicable SRO promptly after an executive officer of an issuer becomes aware of any material noncompliance by the listed issuer with the proposed requirements.[97]

Questions regarding determining compliance with the proposed standards:

• Should a listed issuer be required to notify the SRO if it has failed to comply with our proposed requirements? Is it sufficient for the notification to be made ''promptly?'' Should the direction to the SROs on this point be more specific

[95] Business development companies would be covered by the proposed rules.

Investment companies may avail themselves of the general exemptions in proposed Exchange Act Rule 10A–3(c) [17 CFR 240.10A–3(c)], if applicable, and, except in the case of reliance on the exemption for UITs contained in paragraph (c)(5)(ii) or the exemption contained in paragraph (c)(1), would have to disclose such use of a general exemption on proposed Form N–CSR and in proxy statements. The independence exemptions of proposed Exchange Act Rule 10A–3(b)(1)(iv)(A)–(E) [17 CFR 240.10A–3(b)(1)(iv)(A)–(E)] would not apply to investment companies.

[96] The term ''small business issuer'' is defined in Exchange Act Rule 12b–2.

[97] We encourage the SROs to impose a similar requirement for noncompliance with other SRO listing standards that pertain to corporate governance standards apart from the audit committee requirements in proposed Exchange Act Rule 10A–3, to the extent SROs do not already provide for such a notice requirement.

(*e.g.*, notification must occur no later than two business days after an executive officer of the issuer becomes aware of any material noncompliance)?

• Is the proposed triggering event for notification (*i.e.*, that an executive officer of the issuer has become aware of any material noncompliance) appropriate? For example, should the standard also include any audit committee member becoming aware of any material noncompliance?

• In addition to, or in lieu of, notification in the event of noncompliance, should a listed issuer be required to disclose periodically to the SROs whether they have been in compliance with the standards? If so, how often?

• Should a listed issuer be required to notify the SRO if it has failed to comply with listing standards apart from our proposed requirements for audit committees? Should this requirement apply only to particular listing standards?

5. Opportunity To Cure Defects

Section 10A(m)(1)(B) of the Exchange Act specifies that our rules must provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition of the issuer's securities as a result of its failure to meet the proposed audit committee standards, before imposition of such a prohibition. To effectuate this mandate, our proposals would require the SROs to establish such procedures before they prohibit the listing of or delist any security of an issuer.[98] Preliminarily, we believe that existing continued listing or maintenance standards and delisting procedures of the SROs would suffice as procedures for an issuer to have an opportunity to cure any defects on an ongoing basis. These procedures already provide issuers with notice and opportunity for a hearing, an opportunity for an appeal and an opportunity to cure any defects before their securities are delisted.[99] However, we do expect that the rules of each SRO will provide for definite procedures and time periods for compliance with the proposed requirements to the extent they do not already do so.

We also expect that our final rule will have a delayed implementation date before companies would initially be subject to the standards to provide affected companies with time to conform to the new standards. We recognize that companies may need to conduct shareholder elections to elect independent directors for their audit committees. We envision that the standards contemplated by our proposals would need to be operative by the SROs no later than the first anniversary of the publication of our final rule in the **Federal Register**. This should give listed issuers enough time to go through an annual meeting election cycle to elect any new directors that would be necessary to meet the new requirements.

Questions regarding the opportunity to cure defects:

• Should the SROs be required to establish specific procedures for curing defects apart from those proposed? If so, what would these procedures look like? Should there be a specific course for redress other than the delisting process?

• Should our final rule include specific provisions that set maximum time limits for an opportunity to cure defects? If so, what time limits would be appropriate?

• Beyond the limited exemption we propose for the independence requirements, should companies that have just completed their initial public offering be given additional time to comply with the requirements?

• Is the proposed date for when the SROs rules must be operative appropriate for companies that must comply with the new standards? If not, what date would be appropriate and what factors should we consider in setting any such date? Would a period beyond the proposed date be necessary or appropriate for compliance by smaller companies? Are there special considerations that we should take into account for foreign private issuers?

G. Disclosure Changes Regarding Audit Committees

1. Disclosure Regarding Exemptions

Our proposals provide for certain exemptions. Because these exemptions would distinguish certain issuers from most other listed issuers, we believe that it is important for investors to know if an issuer is availing itself of one of these exemptions. Accordingly, we propose that these issuers would need to disclose their reliance on the exemption and their assessment of whether, and if so, how, such reliance would materially adversely affect the ability of their audit committee to act independently and to satisfy the other requirements of proposed Exchange Act Rule 10A–3. Such disclosure would need to appear in, or be incorporated by reference into, annual reports filed with the Commission.[100] The disclosure also would need to appear in proxy statements or information statements for shareholders' meetings at which elections for directors are held.

Because of the nature of the exemption for boards of auditors or similar structures of foreign private issuers discussed in Section II.F.3.a., we also are proposing that foreign private issuers availing themselves of that exemption be required to file an exhibit to their annual reports stating that they are doing so.[101] Because the presence of exhibits can be easily identified in electronic filings, we believe this requirement will facilitate monitoring of the use of this exemption by investors.

As discussed in Section II.F.3.d., we are proposing a general exemption for unit investment trusts from the requirements of the proposed rule. In addition, we are proposing that UITs be excluded from the disclosure requirements relating to their use of the exemption.[102] As a passive investment vehicle, a UIT has no board of directors, and there is little reason why investors would expect a UIT to have an audit committee. In addition, there is no appropriate disclosure document required by Commission rules where a UIT could include this disclosure.[103]

---

[98] These procedures, of course, could not include an extended exemption or waiver of the requirements apart from those proposed.

[99] *See, e.g.*, NASD Rule 4800 Series and NYSE Listed Company Manual Section 804.

[100] This disclosure is proposed to be included in Part III of annual reports on Form 10–K and 10–KSB (through an addition to Item 401 of Regulations S–K and S–B). Consequently, companies subject to the proxy rules would be able to incorporate the required disclosure from a proxy or information statement that involves the election of directors into the annual report, if the issuer filed such proxy or information statement within 120 days after the end of the fiscal year covered by the report. *See* General Instruction G.(3) of Form 10–K and General Instruction E.3. of Form 10–KSB.

For foreign private issuers that file their annual reports on Form 20–F, the disclosure requirement would appear in new paragraph (f) to Item 15. The additions of paragraphs (c)–(e) to Item 15 of Form 20–F were proposed in Release No. 33–8138 (Oct. 22, 2002), Release No. 33–8154 (Dec. 2, 2002), and Release No. 33–8160 (Dec. 10, 2002) [67 FR 77594] (Rule 10b–18 and purchases of certain equity securities by the issuer and others), respectively.

For foreign private issuers that file their annual reports on Form 40–F, the disclosure requirement would appear in paragraph (11) to General Instruction B. The additions of paragraphs (9) and (10) to General Instruction B. of Form 40–F were proposed in Release No. 33–8138 (Oct. 22, 2002) and Release No. 33–8154 (Dec. 2, 2002), respectively.

For registered investment companies, the disclosure would appear in Item 8 of proposed Form N–CSR and Item 22(b)(14) of Schedule 14A.

[101] The exhibit requirement would appear in new paragraph 11 to the Instructions as to Exhibits of Form 20–F. The addition of paragraph 10 to the Instructions as to Exhibits of Form 20–F was proposed in Release No. 33–8138 (Oct. 22, 2002).

[102] See proposed Exchange Act Rule 10A–3(d).

[103] UITs file annual reports with the Commission on Form N–SAR [17 CFR 249.330 and 274.101] under Investment Company Act Rule 30a–1 [17 CFR 270.30a–1]. However, these N–SAR reports are

We also are proposing to exclude issuers availing themselves of the multiple listing exemption from the disclosure requirements relating to their use of that exemption. These issuers, or their controlling parents, would be required to comply with the proposed audit committee requirements as a result of a separate listing. Accordingly, disclosure of the use of that exemption would not serve the purpose of highlighting for investors those issuers that are different from most other listed issuers. However, if such an issuer also was availing itself of another exemption from the proposed requirements (*i.e.*, the temporary exemption from the independence requirements for new listed issuers), disclosure of the use of that exemption would be required.

2. Identification of the Audit Committee in Annual Reports

An issuer subject to the proxy rules of Section 14 of the Exchange Act [104] is currently required to disclose in its proxy statement or information statement, if action is to be taken with respect to the election of directors, whether the issuer has a standing audit committee, the names of each committee member, the number of committee meetings held by the audit committee during the last fiscal year and the functions performed by the committee.[105] We believe it is important for investors to be able to readily determine basic information about the composition of a listed issuer's audit committee. To foster greater availability of this basic information, we are proposing to require disclosure of the members of the audit committee to be included or incorporated by reference in the listed issuer's annual report.[106] Also, because the Exchange Act now provides that in the absence of an audit committee the entire board of directors will be considered to be the audit committee, we propose to require a listed issuer that has not separately designated or has chosen not to separately designate an audit committee to disclose that the entire board of directors is acting as the issuer's audit committee.

We propose similar changes for foreign private issuers that file their annual reports on Form 40–F. Foreign private issuers that file their annual reports on Form 20–F already are required to identify the members of their audit committee in their annual reports. For these listed issuers, however, we do propose that they disclose if the entire board of directors is acting as the audit committee. We also propose similar changes for registered management investment companies.[107]

3. Updates to Existing Audit Committee Disclosure

An issuer subject to the proxy rules is currently required to disclose additional information about its audit committee in its proxy statement or information statement, if action is to be taken with respect to the election of directors.[108] First, the audit committee must provide a report disclosing whether the audit committee has reviewed and discussed the audited financial statements with management and discussed certain matters with the independent auditors.[109] Second, issuers must disclose whether the audit committee is governed by a charter, and if so, include a copy of the charter as an appendix to the proxy statement at least once every three years.[110] Finally, the issuer must disclose whether the members of the audit committee are independent. Under the existing requirements, issuers whose securities are listed on the NYSE or AMEX or quoted on Nasdaq must disclose whether the audit committee members are independent, as defined in the applicable listing standards.[111] These issuers also must disclose if its board of directors has determined to appoint one director to its audit committee due to an exceptional and limited circumstances exception in the applicable listing standards.[112] Issuers whose securities are not listed on the NYSE or AMEX or quoted on Nasdaq also are required to disclose whether its audit committee members are independent. These issuers may choose which definition of independence to use from any of the NYSE, AMEX or Nasdaq listing standards.[113]

Regarding the independence disclosure, all national securities exchanges and national securities associations under our proposals would need to have independence standards for audit committee members, not just the NYSE, AMEX and Nasdaq. The specification in the existing requirements to listings on these three markets would therefore no longer be necessary. Further, our proposals would not allow for an exception to the independence requirements due to exceptional and limited circumstances. As a result, disclosure regarding use of this exception would be unnecessary.

Accordingly, we propose to update the disclosure requirements regarding the independence of audit committee members to reflect the new SROs rules to be adopted under Exchange Act Rule 10A–3. If the registrant was a listed issuer, it would still be required to disclose whether the members of its audit committee were independent. The listed issuer would need to use the definition of independence for audit committee members included in the listing standards applicable to the listed issuer. Further, because the Exchange Act now provides that in the absence of an audit committee the entire board of directors will be considered to be the audit committee, we propose to clarify that if the registrant does not have a separately designated audit committee, or committee performing similar functions, the registrant must provide the disclosure with respect to all members of its board of directors.

Non-listed issuers that have separately designated audit committees would still be required to disclose whether their audit committee members were independent. In determining whether a member was independent,

regulatory reports to the Commission and are not intended primarily as disclosure documents for investors.

[104] 15 U.S.C. 78n.

[105] See Item 7(d)(1) of Schedule 14A. Identical information is required with respect to nominating and compensation committees of the board of directors.

[106] Because this information is proposed to be included in Part III of annual reports on Forms 10–K and 10–KSB, companies subject to the proxy rules would be able to incorporate the required disclosure from a proxy or information statement that involves the election of directors, where it is already required to appear, into their annual reports. Information regarding the number of meetings of the audit committee and the basic functions performed by the audit committee, as well as the information regarding nominating and compensation committees, would continue to be required only in proxy or information statements that involve the election of directors.

[107] Item 22(b)(14) of Schedule 14A and proposed Item 8 of proposed Form N–CSR. Proposed Form N–CSR would be used by registered management investment companies to file certified shareholder reports with the Commission under the Sarbanes-Oxley Act. See Investment Company Act Release No. 25723 (Aug. 30, 2002) [67 FR 57298]. The Commission proposed amendments to Form N–CSR in Investment Company Act Release No. 25739 (Sep. 20, 2002) [67 FR 60828]; Investment Company Act Release No. 25775 (Oct. 22, 2002) [67 FR 66208]; Investment Company Act Release No. 25838 (Dec. 2, 2002); Investment Company Act Release No. 25845 (Dec. 10, 2002); and Investment Company Act Release No. 25870 (Dec. 18, 2002).

[108] See Item 7(d)(3) of Schedule 14A. These disclosure requirements were adopted in Release No. 34–42266 (Dec. 22, 1999).

[109] See Item 7(d)(3)(i) of Schedule 14A. The requirements for the audit committee report are specified in Items 306 of Regulations S–B [17 CFR 228.306] and S–K [17 CFR 229.306]. Under the existing requirements, if the company does not have an audit committee, the board committee tasked with similar responsibilities, or the full board of directors, is responsible for the disclosure.

[110] See Items 7(d)(3)(ii) and (iii) of Schedule 14A.

[111] See Item 7(d)(3)(iv)(A)(*1*) of Schedule 14A.

[112] See Item 7(d)(3)(iv)(A)(*2*) of Schedule 14A.

[113] See Item 7(d)(3)(iv)(B) of Schedule 14A. Whichever definition is chosen must be applied consistently to all members of the audit committee.

these registrants would be allowed to choose any definition for audit committee member independence of a national securities exchange or national securities association that has been approved by the Commission.[114]

Questions regarding the proposed disclosure changes:

- Should companies be required to disclose publicly if they are taking advantage of an exemption to the proposed SRO requirements? If so, are the proposed locations of this disclosure appropriate? Should we permit incorporation by reference into the company's annual report? Should the disclosure be required as an exhibit to the company's filing? Is the disclosure of the company's assessment of whether and if so, how, such reliance would materially adversely affect the ability of the audit committee to act independently and to satisfy the other proposed requirements appropriate?
- Should foreign private issuers that avail themselves of the exemption for boards of auditors or similar structures be required to file an exhibit to their annual reports stating that they are doing so?
- Should a UIT be required to disclose that it is availing itself of the exemption from the audit committee requirements? If so, where should such disclosure be made? Exchange-traded UITs typically provide audited financial information in shareholder reports although these reports are not required by Commission rules.[115] Should disclosure of the exemption from audit committee requirements be required in these reports?
- Should an issuer relying on the multiple listing exemption be required to disclose that it is availing itself of that exemption? Should the disclosure only be required for subsidiaries relying on the exemption for their own listed securities?
- Should we require disclosure of basic information about an issuer's audit committee in its annual report, or is the current location of this disclosure for issuers subject to the proxy rules sufficient? Would disclosure of whether the entire board is acting as the audit committee be helpful?
- Given the new definition of audit committee in the Exchange Act, is it appropriate to clarify in the current disclosure requirements for audit committees that if the issuer does not have a separately designated audit committee, or committee performing similar functions, the issuer must provide the disclosure with respect to all members of its board of directors? How many issuers will this change affect?
- Are our proposed changes to the disclosure requirements regarding the independence of audit committee members appropriate? Is there a reason to continue to require non-listed issuers to choose from one of the NYSE's, AMEX's or Nasdaq's definitions for audit committee members?
- Listed issuers that are foreign private issuers are generally not subject to the proxy rules. Should we require disclosure regarding the independence of audit committee members for these issuers? If so, where should this disclosure appear?
- Is there any additional disclosure concerning audit committees that would be beneficial to investors? With the new requirements we propose for audit committees, is any existing disclosure we require regarding audit committees no longer needed?

H. General Request for Comment

We request and encourage any interested person to submit comments on the proposals, on any additional or different changes, and on any other matters that might have an impact on the proposals. We request comment from the point of view of national securities exchanges and national securities associations that would be required to comply with the proposals. We also request comment from the point of view of companies that would be subject to the listing requirements that would result from the proposals. We also request comment from the point of view of investors in the securities of these companies on their views of the proposals and any possible changes to the proposals. With regard to any comments, we note that such comments are of greatest assistance to our rulemaking initiative if accompanied by supporting data and analysis of the issues addressed in those comments.

III. Paperwork Reduction Act

A. Background

Our proposals contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (''PRA'').[116] We are submitting our proposals to the Office of Management and Budget (''OMB'') for review in accordance with the PRA.[117] The titles for the collection of information are:

(1) ''Proxy Statements—Regulation 14A (Commission Rules 14a–1 through 14a–15 and Schedule 14A)'' (OMB Control No. 3235–0059);

(2) ''Information Statements—Regulation 14C (Commission Rules 14c–1 through 14c–7 and Schedule 14C)'' (OMB Control No. 3235–0057);

(3) ''Form 10–K'' (OMB Control No. 3235–0063);

(4) ''Form 10–KSB'' (OMB Control No. 3235–0420);

(5) ''Form 20–F'' (OMB Control No. 3235–0288);

(6) ''Form 40–F'' (OMB Control No. 3235–0381);

(7) ''Regulation S–K'' (OMB Control No. 3235–0071);

(8) ''Regulation S–B'' (OMB Control No. 3235–0417); and

(9) ''Form N–CSR'' (OMB Control No. 3235–0570).

These regulations and forms were adopted pursuant to the Securities Act, the Exchange Act and the Investment Company Act and set forth the disclosure requirements for periodic reports, registration statements and proxy and information statements filed by companies to ensure that investors are informed. The hours and costs associated with preparing, filing and sending these forms constitute reporting and cost burdens imposed by each collection of information. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Under our proposals, we would direct SROs to prohibit the listing of any security of an issuer that is not in compliance with several enumerated standards relating to the issuer's audit committee. We are making these proposals pursuant to the legislative mandate in Section 10A(m) of the Exchange Act, as added by Section 301 of the Sarbanes-Oxley Act. As part of our proposals, we are proposing several limited exemptions from the requirements to address the special circumstances of particular issuers. If an issuer was to avail itself of one of these exemptions, we propose that it would need to disclose this fact and its assessment of whether, and if so, how, such reliance would materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of

[114] Such definition would include the requirements of proposed Exchange Act Section 10A–3. These issuers would still be required to state which definition was used. Further, the requirement that the same definition must be applied consistently to all members of the audit committee would be retained.

[115] See, *e.g.*, SPDR Trust, Series 1, Investment Company Act Release Nos. 18959 (Sept. 17, 1992) (notice) and 19055 (Oct. 26, 1992) (order) and Fourth Amended and Restated Application, filed Aug. 7, 1992, File No. 812–7545, at 35.

[116] 44 U.S.C. 3501 *et seq.*

[117] 44 U.S.C. 3507(d) and 5 CFR 1320.11.

proposed requirements. Such disclosure would need to appear in its proxy or information statement for shareholders' meetings at which elections for directors are held. The disclosure also would need to appear in, or be incorporated by reference into, the annual reports of these companies filed with the Commission. In addition, a foreign private issuer that availed itself of the board of auditors exception would need to file a brief exhibit. We have proposed an exemption from these proposed disclosure requirements for exchange-traded UITs and issuers relying on the multiple listing exemption. We call these proposed changes the ''Exemption Disclosure.''

Under our proposals, listed issuers also would be required to disclose the members of their audit committee, or that their entire board of directors is acting as their audit committee, in their annual reports. We call these proposed changes the ''Identification Disclosure.''

Finally, we are proposing several updates to existing disclosure requirements regarding audit committees to reflect our proposals and changes made by the Sarbanes-Oxley Act. We call these proposed changes the ''Disclosure Updates.''

These disclosure changes are designed to alert investors of basic information about an issuer's audit committee, including the identity of the issuer's audit committee, whether the issuer is availing itself of an exemption and whether the members of the audit committee are independent. Compliance with the revised disclosure requirements would be mandatory. There would be no mandatory retention period for the information disclosed, and responses to the disclosure requirements would not be kept confidential. We do not believe that the imposition of these proposed disclosure changes would alter significantly the number of respondents that file on the affected forms.

In addition to the above, we propose to direct the SROs to require a listed issuer to notify the applicable SRO promptly after an executive officer of an issuer becomes aware of any material noncompliance by the listed issuer with the proposed requirements. We believe that any burden imposed by this collection of information would be minimal. For the most part, we believe that listed issuers are already required to make the type of disclosure contemplated by the proposal, either pursuant to existing SRO rules or as a requirement of existing listing agreements. We therefore believe that any reporting and recordkeeping requirements imposed by this aspect of the proposals are ''usual and customary'' activities for listed issuers.[118]

B. Revisions to PRA Reporting and Cost Burden Estimates

For purposes of the PRA, we estimate that the annual incremental paperwork burden for all companies to prepare the disclosure that would be required under our proposals would be approximately 685 hours of personnel time and a cost of approximately $99,600 for the services of outside professionals. We derived these estimates first by estimating the total amount of time it would take for a company to prepare the proposed disclosure. The Disclosure Updates simply update the disclosure requirements to reflect our proposals and changes to terminology made by the Sarbanes-Oxley Act. We do not believe these changes would change the burden required by this disclosure. The Exemption Disclosure would require only a minimal additional statement by issuers that avail themselves of one of our proposed exemptions. In addition, foreign private issuers availing themselves of the board of auditors exception would need to file a brief exhibit. We estimate that the Exemption Disclosure would add 0.25 hours per affected filing. The Identification Disclosure would require a company to disclose either the members of its audit committee, or a brief statement that the board of directors of the issuer is acting as the audit committee. We estimate that the Identification Disclosure would add 0.25 hours per affected filing.

The Exemption Disclosure and Identification Disclosure apply only to listed issuers. Accordingly, not all issuers would be required to make the proposed disclosure. We estimate that there are approximately 7,250 issuers that are listed on a national securities exchange or traded on the Nasdaq National Market or the Nasdaq Smallcap Market.[119] Each of these listed companies, except exchange-traded UITs, would be required to at least provide the basic Identification Disclosure in their annual report. Some of these listed issuers also would need to make the Exemption Disclosure.[120]

Further, since the disclosure in the annual report may be incorporated by reference from an issuer's proxy or information statement, we assume that the disclosure would appear in a maximum of one report per affected issuer. As the information would appear in Part III of an issuer's Form 10–K or 10–KSB (which can be incorporated by reference from the issuer's proxy statement if where directors are to be elected), or in Item 8 of Form N–CSR, which may also be incorporated by reference, we assume that affected issuers will follow the general practice of most issuers of including the disclosure in their proxy or information statement where directors are elected and incorporating by reference the disclosure into their annual report. Accordingly, we are reducing the number of affected reports on Forms 10–K, 10–KSB and N–CSR to account for this assumption.[121] Further, we assume that the Identification Disclosure is already required in these proxy or information statements,[122] and the burden hours for this disclosure by these filers therefore has already been assigned to Schedules 14A and 14C. Accordingly, we estimate that the Identification Disclosure will not affect the burden for Schedules 14A and 14C.

The tables below illustrate the incremental annual compliance burdens of the collections of information in hours and in cost for annual reports and proxy and information statements under the Exchange Act. The burden was calculated by multiplying the estimated number of affected responses by the estimated average number of hours each entity spends preparing the proposed disclosure. We have based our estimates on the number of affected responses on the actual number of filers during the 2002 fiscal year and our estimates of the number of listed issuers that may be affected by the disclosure changes.[123] For Exchange Act annual reports and proxy and information statements, we estimate that 75% of the burden of preparation is carried by the company internally and that 25% of the burden of preparation is carried by outside professionals retained by the company

---

[118] See 5 CFR 1320.3(b)(2).

[119] We derived this estimate from the Standard & Poors Research Insight Compustat Database and the Commission's annual report.

[120] With respect to investment companies, the independence exemptions would not be available. A general exemption would be applicable to UITs, but UITs would be excluded from Exemption Disclosure requirements. We anticipate that only a negligible number of investment companies would fall under the other general exemptions. Accordingly, we anticipate that the reporting burden imposed by the Exemption Disclosure requirements on listed investment companies would be negligible.

[121] Foreign private issuers are exempt from the requirements to provide proxy materials, so we assume no adjustment to the number of affected annual reports on Forms 20–F and 40–F.

[122] See Item 7(d)(1) of Schedule 14A.

[123] We estimate that 5% of listed issuers would be required to provide disclosure regarding the new issuer exemption in proposed Exchange Act Rule 10A–3(b)(iv)(A) and 20% of listed issuers would be required to provide disclosure regarding use of the holding company exemption in proposed Exchange Act Rule 10A–3(b)(iv)(B).

at an average cost of $300 per hour.[124] The portion of the burden carried by outside professionals is reflected as a cost, while the portion of the burden carried by the company internally is reflected in hours.

CALCULATION OF THE INCREMENTAL BURDEN OF THE EXEMPTION DISCLOSURE [125]

	Affected responses	Incremental hours/form	Total incremental burden	75% Company	25% Professional	$300 professional cost ($)
	(A)	(B)	(C)=(A)*(B)	(D)=(C)*0.75	(E)=(C)*0.25	(F)=(E)*300
20–F	[126] 438	0.25	110	28	83	24,900.00
40–F	[127] 35	0.25	9	2	7	2,100.00
10–K	[128] 269	0.25	67	50	17	5,100.00
10–KSB	[129] 108	0.25	27	20	7	2,100.00
14A	[130] 1,356	0.25	339	254	85	25,000.00
14C	[131] 86	0.25	22	17	6	1,800.00
Total	.....	.....	574	371	205	61,500.00

CALCULATION OF THE INCREMENTAL BURDEN OF THE IDENTIFICATION DISCLOSURE

	Affected responses	Incremental hours/form	Total incremental burden	75% Company	25% Professional	$300 Professional cost ($)
	(A)	(B)	(C)=(A)*(B)	(D)=(C)*0.75	(E)=(C)*0.25	(F)=(E)*300
20–F	[132] 0	0.25	0	0	0	0.00
40–F	[133] 134	0.25	34	9	26	7,800.00
10–K	[134] 1,073	0.25	268	201	67	20,100.00
10–KSB	[135] 430	0.25	108	81	27	8,100.00
N–CSR	[136] 113	0.25	28	21	7	2,100.00
14A	[137] 0	0.25	0	0	0	0.00
14C	[138] 0	0.25	0	0	0	0.00
Total	.....	.....	438	312	127	38,100.00

Regulation S–K includes the requirements that a registrant must provide in filings under both the Securities Act and the Exchange Act. Regulation S–B includes the requirements that a small business issuer must provide in the Securities Act and the Exchange Act. The proposed disclosure changes would include changes to items under Regulation S–K and Regulation S–B. However, the filing requirements themselves are included in Form 10–K, Form 10–KSB, Form 20–F, Form 40–F, Schedule 14A and Schedule 14C. We have reflected the burden for the new requirements in the burden estimates for those firms. The items in Regulation S–K and Regulation S–B do not impose any separate burden. We previously have assigned one burden hour each to Regulations S–B and S–K for administrative convenience to reflect the fact that these regulations do not impose any direct burden on companies.

C. Request for Comment

We request comment in order to (a) evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) evaluate the accuracy of our estimates of the burden

[124] This allocation of the burden is consistent with our recent PRA submissions for Exchange Act periodic reports and proxy and information statements. See, *e.g.*, Release No. 33–8144 (Nov. 4, 2002). Traditionally, we have estimated that the company carried 25% of the burden internally and 75% of the burden of preparation was carried by outside professionals retained by the company. We believe that the new allocation more accurately reflects current practice for annual reports and proxy and information statements. We estimate, however, that the traditional 25% company and 75% outside professional allocation remains applicable for Forms 20–F and 40–F because those forms are prepared by foreign private issuers who rely more heavily on outside counsel for their preparation.

[125] For convenience, the estimated PRA hour burdens have been rounded to the nearest whole number, and the estimated PRA cost burdens have been rounded to the nearest $100. As a result of rounding, the sum of the entries in columns (D) and (E) of the tables may not exactly equal the corresponding entry in column (C).

[126] This figure is based on our estimate of the total number of affected responses by listed issuers.

[127] This figure is based on our estimate of the total number of affected responses by listed issuers.

[128] This figure is based on our estimate of the total number of affected responses by listed issuers, as adjusted for the number of responses where Part III information would be incorporated by reference from a proxy or information statement.

[129] This figure is based on our estimate of the total number of affected responses by listed issuers, as adjusted for the number of responses where Part III information would be incorporated by reference from a proxy or information statement.

[130] This figure is based on our estimate of the total number of affected responses by listed issuers.

[131] This figure is based on our estimate of the total number of affected responses by listed issuers.

[132] Issuers that file their annual report on Form 20-F are already required to identify the members of their audit committee.

[133] This figure is based on our estimate of the total number of affected responses by listed issuers.

[134] This figure is based on our estimate of the total number of affected responses by listed issuers, as adjusted for the number of responses where Part III information would be incorporated by reference from a proxy or information statement.

[135] This figure is based on our estimate of the total number of affected responses by listed issuers, as adjusted for the number of responses where Part III information would be incorporated by reference from a proxy or information statement.

[136] This figure is based on our estimate of the total number of affected responses by listed issuers, as adjusted for the number of responses where Item 8 information would be incorporated by reference from a proxy or information statement.

[137] We estimate that proxy statements on Schedule 14A are already required to identify the members of their audit committee.

[138] We estimate that information statements on Schedule 14C are already required to identify the members of their audit committee.

of the proposed collections of information; (c) determine whether there are ways to enhance the quality, utility, and clarity of the information to be collected; (d) evaluate whether there are ways to minimize the burden of the collections of information on those who respond, including through the use of automated collection techniques or other forms of information technology; and (e) evaluate whether the proposals will have any effects on any other collections of information not previously identified in this section.

Any member of the public may direct to us any comments concerning the accuracy of these burden estimates and any suggestions for reducing the burdens. Persons who desire to submit comments on the collection of information requirements should direct their comments to the OMB, Attention: Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Washington, DC 20503, and send a copy of the comments to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609, with reference to File No. S7–02–03. Requests for materials submitted to the OMB by us with regard to these collections of information should be in writing, refer to File No. S7–02–03, and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 450 Fifth Street, NW., Washington, DC 20549. Because the OMB is required to make a decision concerning the collections of information between 30 and 60 days after publication, your comments are best assured of having their full effect if the OMB receives them within 30 days of publication.

IV. Cost-Benefit Analysis

The proposals represent the implementation of a Congressional mandate. We recognize that implementation of the Sarbanes-Oxley Act will likely create costs and benefits to the economy. We are sensitive to the costs and benefits imposed by our rules, and we have identified certain costs and benefits of these proposals.

A. Background

Section 10A(m)(1) of the Exchange Act, as added by Section 301 of the Sarbanes-Oxley Act, requires us to direct, by rule, the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with several enumerated standards regarding issuer audit committees. The new rule must become effective by April 26, 2003, which is 270 days after the date of enactment of the Sarbanes-Oxley Act and Section 10A(m) of the Exchange Act.

In general, according to the standards listed in Section 10A(m) of the Exchange Act, SROs would be prohibited from listing any security of an issuer that is not in compliance with the following standards:

- Each member of the audit committee of the issuer must be independent according to specified criteria;
- The audit committee of each issuer must be directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged for the purpose of preparing or issuing an audit report or related work or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm must report directly to the audit committee;
- Each audit committee must establish procedures for the receipt, retention and treatment of complaints regarding accounting, internal accounting controls or auditing matters, including procedures for the confidential, anonymous submission by employees of the issuer of concerns regarding questionable accounting or auditing matters;
- Each audit committee must have the authority to engage independent counsel and other advisors, as it determines necessary to carry out its duties; and
- Each issuer must provide appropriate funding for the audit committee.

Our proposals would respond directly to the requirements in Section 10A(m) of the Exchange Act. In addition, our proposals would include several additional provisions, such as:

- Our proposals would revise existing disclosure requirements regarding the composition of audit committees by also requiring this disclosure in annual reports of listed issuers filed with the Commission;
- Our proposals would require a company availing itself of one of our proposed exemptions from the requirements to disclose publicly that it is doing so; and
- Our proposals would update existing disclosure requirements regarding audit committees to reflect changes made by the proposals and the Sarbanes-Oxley Act.

B. Potential Benefits

One of the main goals of the Sarbanes-Oxley Act is to improve investor confidence in the financial markets. The proposals in this release are among many required by the Sarbanes-Oxley Act.[139] They seek to help achieve the Act's goals by promoting strong, effective audit committees to perform their oversight role. By increasing the competence of audit committees, the proposals are designed to further greater accountability and quality of financial disclosure and oversight of the process by qualified and independent audit committees. Vigilant and informed oversight by a strong, effective and independent audit committee could help to counterbalance pressures to misreport results and impose increased discipline on the process of preparing financial information. Improved oversight may help detect fraudulent financial reporting earlier and perhaps thus deter it or minimize its effects. All of these benefits imply increased market efficiency due to improved information and investor confidence in the reliability of a company's financial disclosure and system of internal controls. These benefits are not readily quantifiable. However, as the Blue Ribbon Committee on Improving the Effectiveness of Corporate Audit Committees summarized regarding its own recommendations for audit committees:

> Improving oversight of the financial reporting process necessarily involves the imposition of certain burdens and costs on public companies. Despite these costs, the Committee believes that a more transparent and reliable financial reporting process ultimately results in a more efficient allocation of and lower cost of capital. To the extent that instances of outright fraud, as well as other practices that result in lower quality financial reporting, are reduced with improved oversight, the benefits clearly justify these expenditures of resources.[140]

In addition, we are proposing to require basic information about the composition of an issuer's audit committee in a listed issuer's annual report. The disclosure is currently only required in proxy or information statements where directors are being elected, and not all listed issuers are subject to the proxy rules or elect directors each year. Also, because the Exchange Act now provides that in the absence of an audit committee the entire board of directors will be considered to be the audit committee, we propose to require a listed issuer that has not or has chosen not to separately designate an

[139] See note 30 above.

[140] See note 22 above.

audit committee to disclose that the entire board of directors is acting as the issuer's audit committee. Also, if a company relied on one of the exemptions we propose to the requirements, some minimal additional disclosure would be required in its proxy or information statements where directors are elected and in their annual report (unless incorporated by reference). We also propose several updates to existing disclosure requirements regarding audit committees to reflect the proposals and changes made by the Sarbanes-Oxley Act.

As a result of these disclosure changes, investors would receive more detailed information on a consistent basis about the basic composition of an issuer's audit committee. These disclosures will afford investors greater visibility about the issuer's audit committee. Providing this information on a more widespread basis also may allow investors to ask more direct and useful questions of management and directors regarding the composition and role of the audit committee.

C. Potential Costs

SROs not in compliance with the standards would need to spend additional time and incur additional costs in modifying their rules to comply. There also may be ongoing costs in monitoring compliance with the standards and taking appropriate remedial steps. We request comment on the type, amount and duration of these costs. If the proposed standards had the effect of causing companies to delist or forego listing of their securities, SROs would lose trading volume. The proposed standards could have the effect of discouraging the formation of trading markets that specialize in particular types of issuers (*i.e.*, small issuers or foreign issuers), if those issuers found the proposed requirements too burdensome to seek a listing on those markets. The possibility of these effects and their magnitude if they were to occur are difficult to quantify.

Issuers would need to comply with the proposed audit committee standards if they wished to have their securities listed on a national securities exchange or national securities association. This may require companies to spend additional time and incur additional costs in establishing and modifying their audit committees (or full boards if they do not have a separate audit committee) to comply with the standards. There may be search costs involved in locating independent directors willing to serve on a company's audit committee, including the costs of preparing proxy statements and holding shareholder meetings to elect those directors. If the requirements reduce the pool of candidates that would be willing to serve on an issuer's audit committee, these search costs may increase. Convincing directors to serve on an audit committee may require additional compensation or increased liability insurance coverage due to the new requirements imposed on audit committees. Companies may decide to increase the size of their boards to accommodate new directors meeting the proposed requirements. If additional independent directors are added to the board, or if existing non-independent directors are replaced, this may increase the percentage of the board that is independent from management. If a company had previously received services from an audit committee member of the type that would be prohibited under the proposals, the company may incur costs in locating an alternative provider for these services.

There also may be ongoing costs in monitoring compliance with the standards or maintaining any additional procedures established by the standards, such as the procedures for handling complaints. To the extent the audit committee engages independent counsel or other advisors where it could not do so previously, there would be additional costs for the payment of compensation to these advisors. Companies also may incur additional ongoing expenses if they decide to increase the size of their boards in response to the requirements.

We believe that as a result of many current SRO listing standards,[141] the Commission's audit committee disclosure requirements adopted in 1999,[142] the prior disclosures related to the involvement of the audit committee in recommending or approving changes in auditors and the resolution of disagreements between management and the auditors,[143] and professional standards that require communications between the auditor and audit committees on auditor independence issues,[144] many companies currently have audit committees. However, these audit committees may not meet all of our proposed requirements. Smaller companies may constitute a larger representative share of issuers that do not meet the proposed requirements, particularly the independence requirements. However, we recognize that because the proposals apply only to listed issuers, the quantitative listing standards applicable to listed securities, such as minimum revenue, market capitalization and shareholder equity requirements, will limit the size of issuers that will be affected by the requirements. Companies that do not currently meet our proposed requirements would face all of the costs described above. However, these entities, because they currently lack the protections provided by the standards, may bear a disproportionately greater risk of fraudulent financial reporting, and thus may reap proportionately greater benefits.

We also have proposed limited exemptions to the requirements, such as an exemption for multiple listings, a limited exemption for new public companies and exemptions for certain foreign issuers, to alleviate some of the burdens companies may face where consistent with investor protection. Companies that perceived the proposals as too onerous could be dissuaded from seeking or maintaining a listing for their securities, which could impact capital formation and negatively impact the liquidity for its securities. We have no reliable basis for estimating the number of companies that would face increased costs as a result of the proposals or the amount of such costs.

Regarding the disclosure changes we propose regarding audit committees, issuers subject to the proxy rules are already required to compile most of this information for proxy or information statements where directors are being elected. Foreign private issuers that file their annual reports on Form 20–F also are already required to identify the members of their audit committee. The disclosure regarding if a listed issuer is availing itself of an exemption to the requirements should result in minimal additional disclosure. Using estimates derived from our Paperwork Reduction Act analysis, we estimate that the incremental impact of our proposed disclosure changes will result in a total cost of $185,225 for all affected companies.[145]

[141] See note 23 above.

[142] See note 24 above.

[143] See, *e.g.*, Item 4 of Form 8–K [17 CFR 249.308] and Item 304 of Regulation S–K [17 CFR 229.304].

[144] See, *e.g.*, American Institute of Certified Public Accountants (''AICPA'') ''Communications with Audit Committees,'' Statements of Auditing Standards (''SAS'') 61, as amended by SAS 89 and 90; AICPA, Codification of Statements on Auditing Standards (''AU'') § 380; Independence Standards Board, ''Independence Discussion with Audit Committees,'' Independence Standard No. 1 (Jan. 1999).

[145] The estimate is based on the burden hour estimates calculated under the Paperwork Reduction Act. For purposes of the Paperwork Reduction Act, we estimate that the additional disclosure will result in 685 internal burden hours and $99,600 in external costs. Assuming a cost of $125/hour for in-house professional staff, the total cost for the internal burden hours would be

In formulating our proposals, we considered several regulatory alternatives that would be consistent with the specific mandate required by Section 10A(m) of the Exchange Act. We considered the propriety of excluding all foreign issuers or issuers of a particular size, but such an exclusion may not be appropriate or consistent with the policies underlying the Sarbanes-Oxley Act. We think that improvements in the financial reporting process for all listed issuers are important for promoting investor confidence in our markets. We also considered whether we should provide objective guidance for determining who is an ''affiliated person'' for purposes of the proposed independence requirement. In considering the uncertainty that may arise in determining whether a person is an ''affiliated person,'' we have proposed a safe harbor from the definition of affiliate for non-investment companies. We have also proposed other limited exemptions to alleviate some of the burdens companies may face where consistent with investor protection.

D. Request for Comments

We request that commenters provide views and supporting information as to the benefits and costs associated with the proposals. We seek estimates of these costs and benefits, as well as any costs and benefits not already identified. We also request comment regarding the relative costs and benefits of pursuing alternative regulatory approaches that are consistent with the Sarbanes-Oxley Act's statutory mandate.

V. Consideration of Impact on the Economy, Burden on Competition and Promotion of Efficiency, Competition and Capital Formation

For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996, or ''SBREFA,'' [146] we solicit data to determine whether the proposals constitute a ''major'' rule. Under SBREFA, a rule is considered ''major'' where, if adopted, it results or is likely to result in:

- An annual effect on the economy of $100 million or more (either in the form of an increase or a decrease);
- A major increase in costs or prices for consumers or individual industries; or
- Significant adverse effects on competition, investment or innovation. We request comment on the potential impact of the proposals on the economy on an annual basis. Commenters are requested to provide empirical data and other factual support for their views if possible.

Section 23(a)(2) of the Exchange Act [147] requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

The proposals represent the implementation of a Congressional mandate. They are intended to increase the independence and effectiveness of listed company audit committees. We anticipate these proposals would enhance the proper functioning of the capital markets by increasing the quality and accountability of financial reporting and restoring investor confidence. This increases the competitiveness of companies participating in the U.S. capital markets. However, our specific proposals relate only to companies listed on a national securities exchange or national securities association. Competitors not subject to the standards specified in Section 10A(m) of the Exchange Act may be subject to less corporate governance burdens. Similarly, to the extent foreign exchanges or other markets do not impose these standards, competitors could, all things being equal, migrate to those markets to avoid compliance. This could cause U.S. exchanges and securities associations to lose trading volume. Competitors and markets not subject to the standard, however, also may suffer from decreased investor confidence compared to those that do comply with the new standards.

We request comment on whether the proposed amendments, if adopted, would impose a burden on competition. Commenters are requested to provide empirical data and other factual support for their views if possible.

Section 2(b) of the Securities Act,[148] Section 3(f) of the Exchange Act [149] and Section 2(c) of the Investment Company Act [150] require us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. The proposals would enhance the quality and accountability of the financial reporting process and may help increase investor confidence, which implies increased efficiency and competitiveness of the U.S. capital markets. Increased market efficiency and investor confidence also may encourage more efficient capital formation. As noted above, however, the proposals could have certain indirect negative effects, such as inconsistent application across all competitors. In addition, the proposed standards, while providing great flexibility for implementation, do remove a certain amount of individual control over the corporate governance process, which could have the possible effect of stifling more efficient approaches from being implemented if they were to develop.

If a company found the proposed requirements too onerous, it could be dissuaded from accessing the public capital markets, which could impact capital formation. The possibility of these effects and their magnitude if they were to occur are difficult to quantify. We have proposed several limited exemptions from the requirements to alleviate some of the burdens companies may face where consistent with investor protection. For example, the proposed limited exemption for new public companies is intended to counteract any disincentive the proposed requirements may have on a company's willingness to access the public capital markets.

We request comment on whether the proposed amendments, if adopted, would promote efficiency, competition, and capital formation. Commenters are requested to provide empirical data and other factual support for their views if possible.

VI. Initial Regulatory Flexibility Analysis

This Initial Regulatory Flexibility Analysis, or IRFA, has been prepared in accordance with the Regulatory Flexibility Act.[151] This IRFA involves proposals to direct the national securities exchanges and national securities associations to prohibit the listing of any security of an issuer that is not in compliance with several enumerated standards relating to the issuer's audit committee.

A. Reasons for, and Objectives of, Proposed Amendments

We are proposing new Exchange Act Rule 10A–3 to comply with the mandate

$85,625. Hence the aggregate cost estimate is $185,225 ($99,600 + 85,625). The $125/hour cost estimate is based on data obtained from *The SIA Report on Management and Professional Earnings in the Securities Industry* (Oct. 2001).

[146] Pub. L. No. 104–121, Title II, 110 Stat. 857 (1996) (codified in various sections of 5 U.S.C., 15 U.S.C. and as a note to 5 U.S.C. 601).

[147] 15 U.S.C. 78w(a)(2).

[148] 17 U.S.C. 77b(b).

[149] 15 U.S.C. 78c(f).

[150] 15 U.S.C. 80a–2(c).

[151] 5 U.S.C. 603.

of the Sarbanes-Oxley Act and new Section 10A(m)(1) of the Exchange Act. The proposals are intended to enhance investor confidence in the fairness and integrity of the securities markets by increasing the competence and independence, and hence effectiveness, of listed company audit committees. In addition, our proposals would make several changes to our current disclosure requirements regarding audit committees to increase the transparency of these committees. We believe that these proposals will help to improve the quality and accountability of financial disclosure and oversight of the process by qualified and independent audit committees.

B. Legal Basis

We are proposing the new rule and amendments under the authority set forth in Sections 2,[152] 6,[153] 7,[154] 8,[155] 10,[156]17 [157] and 19 [158] of the Securities Act, Sections 3(b), 10A, 12, 13, 14, 15, 23 and 36 [159] of the Exchange Act, Sections 8,[160] 20,[161] 24(a),[162] 30 [163] and 38[164] of the Investment Company Act of 1940 and Sections 3 and 301 of the Sarbanes-Oxley Act.

C. Small Entities Subject to the Proposed Amendments

The proposals will directly affect the national securities exchanges that trade listed securities, none of which is a small entity as defined by Commission rules. Exchange Act Rule 0–10(e) [165] states that the term ''small business,'' when referring to an exchange, means any exchange that has been exempted from the reporting requirements of Exchange Act Rule 11Aa3–1.[166] The proposals also will directly affect national securities associations. No national securities association is a small entity, as defined by 13 CFR 121.201.

The proposals may have an indirect effect on some small entities. We also have defined the term ''small business'' in Exchange Act Rule 0–10(a) to be an issuer, other than an investment company, that, on the last day of its most recent fiscal year, had total assets of $5 million or less and when used with reference to an investment company, an investment company together with other investment companies in the same group of related investment companies with net assets of $50 million or less as of the end of its most recent fiscal year.[167] Under these limits, depending on other restrictions imposed by the various SROs, such as quantitative listing standards, a small entity may be listed on a national securities exchange or a national securities association. We estimate that 7,250 issuers are listed on a national securities exchange or traded on Nasdaq, and we estimate that 6,640 of these issuers are not investment companies.[168] We estimate that less than 225, or approximately 3%, of the issuers that are not investment companies,[169] and less than 25, or approximately 4% of the issuers that are investment companies,[170] are ''small entities'' for purposes of the Regulatory Flexibility Act that possibly could be restricted by the proposals.

We request comment on the number of small entities that would be impacted by our proposals, including any available empirical data.

D. Reporting, Recordkeeping, and Other Compliance Requirements

Under the proposals, national securities exchanges and national securities associations are directed to prohibit the listing of any security of an issuer, both large and small, that is not in compliance with certain enumerated standards regarding the issuer's audit committee. These standards relate to: the independence of audit committee members; the audit committee's responsibility to select and oversee the issuer's independent accountant; procedures for handling complaints regarding the issuer's accounting practices; the authority of the audit committee to engage advisors; and funding for the independent auditor and any outside advisors engaged by the audit committee.

Small entities would need to comply with these standards if they wished to have their securities listed on a national securities exchange or a national securities association. The rules would not require an entity to maintain an audit committee. However, the Exchange Act now provides that in the absence of an audit committee the entire board of directors will be considered to be the audit committee. There are reasons to believe that many small entities currently have separately-designated audit committees.[171] However, not all of the audit committees of these small entities may comply with the requirements of the proposed rule. A small entity whose board or audit committee did not comply with the proposed rules would need to spend additional time and incur additional costs in modifying their audit committees or board to comply with the standards. Small entities may face particular difficulties in recruiting directors that meet the independence requirements of the proposed rules.

There also may be ongoing costs in monitoring compliance with the standards or maintaining any additional procedures established by the standards, such as the procedures for handling complaints. To the extent the audit committee engages independent counsel or other advisors where it could not do so previously, there would be additional costs for the payment of compensation to these advisors. Due to the small size of these small entities, these additional costs may have a larger proportional impact on these entities than larger listed issuers.

In addition, the small entity may need to make additional disclosure about its audit committee in its annual report as well as its proxy or information statement if directors are being elected. This may require additional costs in order to collect, record and report the information to be disclosed under the proposed rules. Small entities subject to the proxy rules are already required to disclose most of the information affected by our proposals in proxy or information statements where directors are being elected. This information should be readily available to small entities. Further, the disclosure regarding any exemption from the listing standards should entail only a minimal additional statement.

We have little data to determine how many small entities do not already comply with the proposals or how much it would cost to comply. We recognize that because the proposals apply only to listed issuers, the quantitative listing standards applicable to listed securities, such as minimum revenue, market capitalization and shareholder equity requirements, will limit the size of issuers that will be affected by the requirements. We request comment on the ability of affected small entities to meet the proposals. How many small entities already comply with the

[152] 15 U.S.C. 77b.
[153] 15 U.S.C. 77f.
[154] 15 U.S.C. 77g.
[155] 15 U.S.C. 77h.
[156] 15 U.S.C. 77j.
[157] 15 U.S.C. 77q.
[158] 15 U.S.C. 77s.
[159] 17 U.S.C. 78mm.
[160] 15 U.S.C. 80a–8.
[161] 15 U.S.C. 80a–20.
[162] 15 U.S.C. 80a–24(a).
[163] 15 U.S.C. 80a–29.
[164] 15 U.S.C. 80a–37.
[165] 17 CFR 240.0–10(e).
[166] 17 CFR 240.11Aa3–1.
[167] *See* Exchange Act Rule 0–10(a).
[168] *See* note 119 above.
[169] We derived this estimate from the Standard & Poors Research Insight Compustat Database.
[170] We derived this estimate from information compiled by Commission staff.
[171] See, *e.g.*, NACD, *2001–2002 Public Company Governance Survey* (Nov. 2001).

proposals? What are the burdens and costs that small entities would face? Would the proposal disproportionately impact small entities? Would the proposals have any effect on the willingness or ability of small entities to seek or maintain a listing for their securities?

E. Duplicative, Overlapping or Conflicting Federal Rules

The rules of several existing SROs contain minimum standards relating to audit committees.[172] To the extent any of these standards are in conflict with our proposals, our proposals would supercede these requirements. SROs would not be precluded from adopting additional listing standards regarding audit committees, as long as they were consistent with the proposed rule. We believe that there are no other rules that duplicate, overlap or conflict with the proposals, except for the inconsistency between proposed Rule 10A–3 and Section 32(a) of the Investment Company Act regarding the selection of auditors. That inconsistency would be resolved if the rule is adopted as proposed.

F. Significant Alternatives

The Regulatory Flexibility Act directs us to consider significant alternatives that would accomplish our stated objectives, while minimizing any significant adverse impact on small entities. In connection with our proposals, we considered the following alternatives:

- Establishing different compliance or reporting requirements or timetables that take into account the resources available to small entities;
- Clarifying, consolidating or simplifying compliance and reporting requirements under the rules for small entities;
- Using performance rather than design standards; and
- Exempting small entities from all or part of the requirements.

The coverage of Section 10A(m) of the Exchange Act, as added by Congress in Section 301 of the Sarbanes-Oxley Act, makes no distinction based on an issuer's size. We think that improvements in the financial reporting process for listed issuers of all sizes are important for promoting investor confidence in our markets. For example, a 1999 report commissioned by the organizations that sponsored the Treadway Commission found that the incidence of financial fraud was greater in small companies.[173] However, we are sensitive to the costs and burdens that would be faced by small entities.

Although we preliminarily believe that an exemption for small entities from coverage of the proposals is not appropriate and inconsistent with the policies underlying the Sarbanes-Oxley Act, we solicit comment on the propriety of a complete or partial exemption from the requirements for small entities. We preliminarily believe that different compliance requirements or timetables for small entities also would interfere with achieving the primary goal of the proposals of increasing the competency and effectiveness of audit committees for all companies with listed securities. In addition, we are not aware of how to further clarify, consolidate or simplify these proposals for small entities. We recognize that because the proposals apply only to listed issuers, the quantitative listing standards applicable to listed securities, such as minimum revenue, market capitalization and shareholder equity requirements, already serve somewhat as a limit on the size of issuers that will be affected by the requirements. We do, however, solicit comment on these views and whether different compliance requirements or timetables for small entities would be appropriate, consistent with the mandate and purposes of Section 10A(m) of the Exchange Act.

The proposals use performance standards in a number of respects. We do not propose to specify the procedures or arrangements an issuer or audit committee must develop to comply with the standards. For example, we do not propose to specify the procedures that an audit committee must establish for handling complaints, as we believe companies should have the flexibility to develop procedures most efficient for their individual circumstances. We do provide design standards regarding audit committee member independence, as these are the standards we are directed to implement by Congress. Accordingly, we believe that design standards are necessary to achieve the objectives of the proposals. We do have the authority under Section 10A(m)(3)(C) to exempt particular relationships with respect to audit committee members, although, for the reasons discussed above, we do not propose to use that authority at this time for small entities. We request comment on these views.

G. Request for Comments

We encourage the submission of comments with respect to any aspect of this IRFA. In particular, we request comment on the number of small entities that would be affected by the proposals, the nature of the impact, how to quantify the number of small entities that would be affected, and how to quantify the impact of, the proposals. Commenters are requested to describe the nature of any effect and provide empirical data and other factual support for their views if possible. These comments will be considered in preparing the Final Regulatory Flexibility Analysis, if the proposals are adopted, and will be placed in the same public file as comments on the proposals.

VII. Statutory Authority and Text of Rule Amendments

The proposals contained in this document are being proposed under the authority set forth in Sections 2, 6, 7, 8, 10, 17 and 19 of the Securities Act, Sections 3(b), 10A, 12, 13, 14, 15, 23 and 36 of the Exchange Act, Sections 8, 20, 24(a), 30 and 38 of the Investment Company Act of 1940 and Sections 3 and 301 of the Sarbanes-Oxley Act.

Text of Proposed Amendments

List of Subjects in 17 CFR Parts 228, 229, 240, 249 and 274

Investment companies, Reporting and recordkeeping requirements, Securities.

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

1. The authority citation for Part 228 is amended by adding the following citation in numerical order to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78l, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–29, 80a–30, 80a–37 and 80b–11.

* * * * *

Section 228.401 is also issued under secs. 3(a) and 301, Pub. L. No. 107–204, 116 Stat. 745.

2. Amend § 228.401 by adding paragraph (e) to read as follows:

§ 228.401 (Item 401) Directors, Executive Officers, Promoters and Control Persons.

* * * * *

(e) *Identification of the audit committee.* If you are a listed issuer, as defined in § 240.10A–3 of this chapter, filing an annual report on Form 10–KSB (17 CFR 249.310b) or a proxy statement or information statement pursuant to the

[172] *See* note 23 above.

[173] See note 91 above.

Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) if action is to be taken with respect to the election of directors:

(1) State whether or not the small business issuer has a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78c(a)(58)(A)), or a committee performing similar functions. If the small business issuer has such a committee, however designated, identify each committee member. If the entire board of directors is acting as the small business issuer's audit committee as specified in section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

(2) If applicable, provide the disclosure required by § 240.10A–3(d) of this chapter regarding an exemption from the listing standards for audit committees.

3. Amend § 228.601 by removing the last sentence of paragraph (a)(1).

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

4. The authority citation for Part 229 is amended by adding the following citations in numerical order to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z–2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78l, 78m, 78n, 78o, 78u–5, 78w, 78*ll*(d), 78mm, 79e, 79n, 79t, 80a–8, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), and 80b–11, unless otherwise noted.

* * * * *

Section 229.401 is also issued under secs. 3(a) and 301, Pub. L. No. 107–204, 116 Stat. 745.

Section 229.601 is also issued under secs. 3(a) and 301, Pub. L. No. 107–204, 116 Stat. 745.

5. Amend § 229.401 by adding paragraph (h) to read as follows:

§ 229.401 (Item 401) Directors, executive officers, promoters and control persons.

* * * * *

(h) *Identification of the audit committee.* If you are a listed issuer, as defined in § 240.10A–3 of this chapter, filing an annual report on Form 10–K or 10–KSB (17 CFR 249.310 or 17 CFR 249.310b) or a proxy statement or information statement pursuant to the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) if action is to be taken with respect to the election of directors:

(1) State whether or not the registrant has a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78c(a)(58)(A)), or a committee performing similar functions. If the registrant has such a committee, however designated, identify each committee member. If the entire board of directors is acting as the registrant's audit committee as specified in section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

(2) If applicable, provide the disclosure required by § 240.10A–3(d) of this chapter regarding an exemption from the listing standards for audit committees.

6. Amend § 229.601 by:

a. Removing the second sentence of paragraph (a);

b. Revising the phrase ''Notwithstanding the provisions of paragraphs (b)(27) and (c) of this Item, registered investment companies'' at the beginning of the third sentence of paragraph (a) to read ''Registered investment companies'';

c. In the Exhibit Table, adding a designation for exhibit (27) entitled ''Statement re audit committees for registrants with boards of auditors or similar bodies'';

d. In the Exhibit Table, adding an ''X'' corresponding to exhibit (27) under the caption ''Exchange Act Forms'', ''10–K'';

e. In the Exhibit Table, reserving exhibits (28) through (98);

f. Adding the text of paragraph (b)(27); and

g. Reserving paragraphs (b)(28) through (b)(98).

The addition of paragraph (b)(27) reads as follows:

§ 229.601 (Item 601) Exhibits.

* * * * *

(b) *Description of exhibits.* * * *

(27) *Statement re audit committees for registrants with boards of auditors or similar bodies.* If you are availing yourself of the exemption in § 240.10A–3(c)(2) of this chapter from the listing standards for audit committees because you have a board of auditors or similar body, a statement that you are availing yourself of that exemption and a reference to the section of the report to which the exhibit relates disclosing information regarding your use of that exemption.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

7. The authority citation for Part 240 is amended by adding the following citations in numerical order to read as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78l, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78ll, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4 and 80b–11, unless otherwise noted.

* * * * *

Section 240.10A–3 is also issued under secs. 3(a) and 301, Pub. L. No. 107–204, 116 Stat. 745.

Section 240.14a–101 is also issued under secs. 3(a) and 301, Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

8. Add § 240.10A–3 to read as follows:

§ 240.10A–3 Listing standards relating to audit committees.

(a) Pursuant to section 10A(m) of the Act (15 U.S.C. 78j–1(m)) and section 3 of the Sarbanes-Oxley Act of 2002 (Pub. L. No. 107–204, sec. 3, 116 Stat. 745):

(1) *National securities exchanges.* The rules of each national securities exchange registered pursuant to section 6 of the Act (15 U.S.C. 78f) must prohibit the initial or continued listing of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (b) or (c) of this section.

(2) *National securities associations.* The rules of each national securities association registered pursuant to section 15A of the Act (15 U.S.C. 78o–3) must prohibit the initial or continued listing in an automated inter-dealer quotation system of any security of an issuer that is not in compliance with the requirements of any portion of paragraph (b) or (c) of this section.

(3) *Opportunity to cure defects.* The rules required by paragraphs (a)(1) and (a)(2) of this section must provide for appropriate procedures for an issuer to have an opportunity to cure any defects that would be the basis for a prohibition under paragraph (a) of this section, before the imposition of such prohibition.

(4) *Notification of noncompliance.* The rules required by paragraphs (a)(1) and (a)(2) of this section must include a requirement that a listed issuer must notify the applicable national securities exchange or national securities association promptly after an executive officer of the listed issuer becomes aware of any material noncompliance by the listed issuer with the requirements of this section.

(5) *Implementation.* (i) The rules of each national securities exchange or national securities association meeting the requirements of this section must be operative no later than the first

anniversary of the publication of this section in the **Federal Register**.

(ii) Each national securities exchange and national securities association must provide to the Commission, no later than 60 days after publication of this section in the **Federal Register**, proposed rules or rule amendments that comply with this section.

(iii) Each national securities exchange and national securities association must have final rule or rule amendments that comply with this section approved by the Commission no later than 270 days after publication of this section in the **Federal Register**.

(b) *Required standards.*

(1) *Independence.* (i) Each member of the audit committee must be a member of the board of directors of the listed issuer, and must otherwise be independent.

(ii) *Independence requirements for non-investment company issuers.* In order to be considered to be independent for purposes of this paragraph (b)(1), a member of an audit committee of a listed issuer that is not an investment company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee:

(A) Accept directly or indirectly any consulting, advisory, or other compensatory fee from the issuer; or

(B) Be an affiliated person of the issuer or any subsidiary thereof.

(iii) *Independence requirements for investment company issuers.* In order to be considered to be independent for purposes of this paragraph (b)(1), a member of an audit committee of a listed issuer that is an investment company may not, other than in his or her capacity as a member of the audit committee, the board of directors, or any other board committee:

(A) Accept directly or indirectly any consulting, advisory, or other compensatory fee from the issuer; or

(B) Be an ''interested person'' of the investment company as defined in section 2(a)(19) of the Investment Company Act of 1940 (15 U.S.C. 80a–2(a)(19)).

(iv) *Exemptions from the independence requirements.*

(A) One member of a listed issuer's audit committee may be exempt from the independence requirements of paragraph (b)(1)(ii) of this section for 90 days from the date of effectiveness of a registration statement under section 12 of the Act (15 U.S.C. 78*l*), or a registration statement under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*) covering an initial public offering of securities of the issuer, if the issuer was not immediately prior to such effective date required to file reports with the Commission pursuant to section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)).

(B) An audit committee member that sits on the board of directors of both a listed issuer and its direct or indirect consolidated majority-owned subsidiary (or that sits on the board of both a listed issuer and its parent, if the listed issuer is a direct or indirect consolidated majority-owned subsidiary of the parent) is exempt from the requirements of paragraph (b)(1)(ii)(B) of this section if the member, except for sitting on both boards, otherwise meets the independence requirements of paragraph (b)(1)(ii) of this section for both the parent and the subsidiary, including the receipt of only ordinary-course compensation for serving as a member of the board of directors, audit committee or any other board committee of the parent or subsidiary.

(C) An employee of a foreign private issuer who is not an executive officer of the foreign private issuer is exempt from the requirements of paragraph (b)(1)(ii) of this section if the employee is elected or named to the board of directors or audit committee of the foreign private issuer pursuant to home country legal or listing requirements.

(D) One member of the audit committee of a foreign private issuer may be exempt from the requirements of paragraph (b)(1)(ii)(B) of this section if that member meets the following requirements:

(*1*) The member is a beneficial owner of more than 50% of the voting common equity of the foreign private issuer or is a representative or designee of such an owner or a group of owners that collectively are the beneficial owner of more than 50% of the voting common equity of the foreign private issuer;

(*2*) The member has only observer status on, and is not a voting member or the chair of, the audit committee; and

(*3*) The member is not an executive officer of the foreign private issuer.

(E) One member of the audit committee of a foreign private issuer may be exempt from the requirements of paragraph (b)(1)(ii)(B) of this section if that member meets the following requirements:

(*1*) The member is a representative or designee of a foreign government or foreign governmental entity that is an affiliate of the foreign private issuer; and

(*2*) The member is not an executive officer of the foreign private issuer.

(F) In addition to paragraphs (b)(1)(iv)(A) through (E) of this section, the Commission may exempt from the requirements of paragraphs (b)(1)(ii) or (b)(1)(iii) of this section a particular relationship with respect to audit committee members, as the Commission determines appropriate in light of the circumstances.

(2) *Responsibilities relating to registered public accounting firms.*

(i) Except as provided in paragraph (b)(2)(ii) of this section, the audit committee of each listed issuer, in its capacity as a committee of the board of directors, must be directly responsible for the appointment, compensation, retention and oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work or performing other audit, review or attest services for the listed issuer, and each such registered public accounting firm must report directly to the audit committee.

(ii) Paragraph (b)(2)(i) of this section does not apply in the case of the selection of a registered public accounting firm engaged by a listed issuer that is an investment company.

(3) *Complaints.* Each audit committee must establish procedures for:

(i) The receipt, retention, and treatment of complaints received by the listed issuer regarding accounting, internal accounting controls, or auditing matters; and

(ii) The confidential, anonymous submission by employees of the listed issuer of concerns regarding questionable accounting or auditing matters.

(4) *Authority to engage advisers.* Each audit committee must have the authority to engage independent counsel and other advisers, as it determines necessary to carry out its duties.

(5) *Funding.* Each listed issuer must provide for appropriate funding, as determined by the audit committee, in its capacity as a committee of the board of directors, for payment of compensation:

(i) To any registered public accounting firm engaged for the purpose of rendering or issuing an audit report or related work or performing other audit, review or attest services for the listed issuer; and

(ii) To any advisers employed by the audit committee under paragraph (b)(4) of this section.

(c) *General exemptions.*

(1) At any time when an issuer has a class of common equity securities (or similar securities) that is listed on a national securities exchange or national securities association subject to the requirements of this section, listing of

other classes of securities of the issuer, and other classes of securities of a direct or indirect consolidated majority-owned subsidiary of the issuer (except classes of equity securities, other than non-convertible, non-participating preferred securities, of the majority-owned subsidiary), is not subject to the requirements of this section.

(2)(i)The listing of securities of a foreign private issuer will not be subject to the requirements of paragraphs (b)(1) or (b)(2) of this section if the foreign private issuer meets the following requirements:

(A) The securities of the foreign private issuer are also listed or quoted on a securities exchange or inter-dealer quotation system outside the United States;

(B) The foreign private issuer has a board of auditors (or similar body), or has statutory auditors, separate from the board of directors that are established and selected pursuant to home country legal or listing provisions requiring or permitting such a board or similar body;

(C) The board or body, or statutory auditors, are not elected by management of such issuer and no executive officer of the foreign private issuer is a member of such board or body, or statutory auditors;

(D) Home country legal or listing provisions set forth standards for the independence of such board or body, or statutory auditors, from the foreign private issuer or the management of such issuer;

(E) Such board or body, or statutory auditors, are directly responsible, in accordance with standards prescribed by home country legal or listing provisions, for the oversight of the work of any registered public accounting firm engaged (including resolution of disagreements between management and the auditor regarding financial reporting) for the purpose of preparing or issuing an audit report or related work or performing other audit, review or attest services for the issuer; and

(F) Such board or body, or statutory auditors, are responsible, to the extent permitted by law, for the appointment and retention of any registered public accounting firm engaged by the issuer. Such responsibility may be vested in such board or body, or statutory auditors, in any manner, including without limitation by law or listing provision or delegation.

(ii) For purposes of foreign private issuers relying on the exemption in this paragraph (c)(2), the term *audit committee* in paragraphs (b)(3), (b)(4) and (b)(5) of this section refers to the foreign private issuer's board of auditors or similar body, or its statutory auditors.

(3) The listing of a security futures product cleared by a clearing agency that is registered pursuant to section 17A of the Act (15 U.S.C. 78q–1) or that is exempt from the registration requirements of section 17A pursuant to paragraph (b)(7)(A) of such section is not subject to the requirements of this section.

(4) The listing of a standardized option, as defined in § 240.9b–1(a)(4), issued by a clearing agency that is registered pursuant to section 17A of the Act (15 U.S.C. 78q–1) is not subject to the requirements of this section.

(5) The securities of the following listed issuers are exempt from the requirements of this section:

(i) Asset-Backed Issuers (as defined in § 240.13a–14(g) and § 240.15d–14(g)); and

(ii) Unit investment trusts (as defined in 15 U.S.C. 80a–4(2)).

(d) *Disclosure.* Any listed issuer availing itself of any exemption from the independence standards contained in paragraph (b)(1)(iv) of this section, or any general exemption contained in paragraph (c) of this section, other than the exemptions contained in paragraphs (c)(1) and (c)(5)(ii) of this section, must:

(1) Disclose its reliance on the exemption and its assessment of whether, and if so, how, such reliance would materially adversely affect the ability of the audit committee to act independently and to satisfy the other requirements of this section in any proxy or information statement for a meeting of shareholders at which directors are elected that is filed with the Commission pursuant to the requirements of section 14 of the Act (15 U.S.C. 78n); and

(2) Disclose the information specified in paragraph (d)(1) of this section in, or incorporate such information by reference from such proxy or information statement filed with the Commission into, its annual report filed with the Commission pursuant to the requirements of section 13(a) or 15(d) of the Act (15 U.S.C. 78m(a) or 78o(d)).

(e) *Definitions.* Unless the context otherwise requires, all terms used in this section have the same meaning as in the Act. In addition, unless the context otherwise requires, the following definitions apply:

(1)(i) The term *affiliate* of, or a person *affiliated* with, a specified person, means a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such issuer. A person will be deemed not to be in control of the issuer for purposes of this section if the person:

(A) Is not the beneficial owner, directly or indirectly, of more than 10% of any class of equity securities of the issuer;

(B) Is not an executive officer of the issuer; and

(C) Is not a director of the issuer.

(ii) A director, executive officer, partner, member, principal or designee of an affiliate will be deemed to be an affiliate.

(2) In the case of foreign private issuers with two-tier boards of directors, the term *board of directors* means the supervisory or non-management board.

(3) The term *control* (including the terms *controlling*, *controlled by* and under *common control with*) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract, or otherwise.

(4) The term *executive officer* has the meaning set forth in § 240.3b–7.

(5) The term *foreign private issuer* has the meaning set forth in § 240.3b–4(c).

(6) The term *indirect* acceptance by a member of an audit committee of any consulting, advisory or other compensatory fee includes acceptance of such a fee by a spouse, a minor child or stepchild or a child or stepchild sharing a home with the member or by an entity in which such member is a partner, member or principal or occupies a similar position and which provides accounting, consulting, legal, investment banking, financial or other advisory services or any similar services to the issuer.

(7) The terms *listed* and *listing* refer to securities listed on a national securities exchange or listed in an automated inter-dealer quotation system of a national securities association or to issuers of such securities.

(8) Until the Public Company Accounting Oversight Board has established the registration of independent public accountants, the term *registered public accounting firm* means an independent public accountant engaged for the purposes indicated in this section.

Instructions to § 240.10A–3

1. The requirement in paragraph (b)(2) or (c)(2)(i)(F) of this section does not conflict with, and does not affect the application of, any requirement under an issuer's governing law or documents or other home country requirements that requires shareholders to ultimately elect, approve or ratify the selection of the issuer's auditor. The requirement instead relates to the assignment of responsibility to oversee the auditor's

work as between the audit committee and management. In such an instance, however, if the issuer provides a recommendation or nomination of an auditor to its shareholders, the audit committee of the issuer, or body performing similar functions, must be responsible for making the recommendation or nomination. Also, the requirement in paragraph (b)(2) or (c)(2)(i)(F) of this section does not conflict with any requirement in a company's home jurisdiction that prohibits the full board of directors from delegating the responsibility to select the company's auditor. In that case, the audit committee, or body performing similar functions, must be granted advisory and other powers with respect to such matters to the extent permitted by law, including submitting nominations or recommendations to the full board.

2. For the purposes of paragraph (e)(1) of this section, the determination of a person's beneficial ownership must be made in accordance with § 240.13d–3(d)(1).

9. Amend § 240.14a–101 by:

a. Adding a sentence to the end of paragraph (d)(1) of Item 7;

b. Revising paragraph (d)(3)(iv) of Item 7; and

c. Revising the introductory text of paragraph (b)(14) of Item 22.

The additions and revisions read as follows:

§ 240.14a–101 Schedule 14A. Information required in proxy statement.

Schedule 14A Information

* * * * *

Item 7. Directors and executive officers. * * *

(d)(1) * * * Such disclosure need not be provided to the extent it is duplicative of disclosure provided in accordance with Item 401(h) of Regulation S–K (§ 229.401(h) of this chapter).

* * * * *

(3) * * *

(iv)(A) If the registrant is a listed issuer, as defined in § 240.10A–3, disclose whether the members of the audit committee are independent, as independence for audit committee members is defined in the listing standards applicable to the listed issuer. If the registrant does not have a separately designated audit committee, or committee performing similar functions, the registrant must provide the disclosure with respect to all members of its board of directors.

(B) If the registrant, including a small business issuer, is not a listed issuer, disclose whether the registrant has an audit committee established in accordance with section 3(a)(58)(A) of the Act (15 U.S.C. 78c(a)(58)(A)) and, if so, whether the members of the committee are independent. In determining whether a member is independent, the registrant must use a definition for audit committee member independence of a national securities exchange or national securities association that has been approved by the Commission (as such definition may be modified or supplemented), and state which definition was used. Whichever definition is chosen must be applied consistently to all members of the audit committee.

* * * * *

Item 22. Information required in investment company proxy statement.

* * *

(b)(14) State whether or not the Fund has a separately designated audit committee established in accordance with section 3(a)(58)(A) of the Act (15 U.S.C. 78c(a)(58)(A)). If the entire board of directors is acting as the Fund's audit committee as specified in section 3(a)(58)(B) of the Act (15 U.S.C. 78c(a)(58)(B)), so state. If applicable, provide the disclosure required by § 240.10A–3(d) regarding an exemption from the listing standards for audit committees. Identify the other standing committees of the Fund's board of directors, and provide the following information about each committee, including any separately designated audit committee:

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

10. The authority citation for Part 249 is amended by revising the following citations in to read as follows:

Authority: 15 U.S.C. 78a, *et seq.*, unless otherwise noted.

* * * * *

Section 249.220f is also issued under secs. 3(a), 301, and 302, Pub. L. No. 107–204, 116 Stat. 745.

Section 249.240f is also issued under secs. 3(a), 301, and 302, Pub. L. No. 107–204, 116 Stat. 745.

Section 249.331 is also issued under secs. 3(a) and 301, Pub. L. No. 107–204, 116 Stat. 745.

* * * * *

11. Amend Form 20–F (referenced in § 249.220f) by:

a. Revising the Instruction to Item 6.C;

b. Adding paragraph (f) to Item 15;

c. Redesignating paragraph 11 of ''Instructions as to Exhibits'' as paragraph 12; and

d. Adding new paragraph 11 to ''Instructions as to Exhibits''.

The additions and revisions read as follows:

Note: The text of Form 20–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 20–F

* * * * *

Item 6. Directors, Senior Management and Employees

* * * * *

Instructions to Item 6.C:

1. The term ''plan'' is used very broadly and includes any type of arrangement for compensation, even if the terms of the plan are not contained in a formal document.

2. If the company is a listed issuer as defined in Exchange Act Rule 10A–3 (17 CFR 240.10A–3) and its entire board of directors is acting as the company's audit committee as specified in section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

* * * * *

Item 15. Certain Disclosures

* * * * *

(f) Exemptions from the Listing Standards for Audit Committees.

If applicable, provide the disclosure required by Exchange Act Rule 10A–3(d) (17 CFR 240.10A–3(d)) regarding an exemption from the listing standards for audit committees. You do not need to provide the information called for by this Item 15(f) unless you are using this form as an annual report.

* * * * *

Instructions as to Exhibits

* * * * *

11. If you are availing yourself of the exemption in Exchange Act Rule 10A–3(c)(2) (17 CFR 240.10A–3(c)(2)) from the listing standards for audit committees because you have a board of auditors or similar body, a statement that you are availing yourself of that exemption and a reference to the section of the report to which the exhibit relates disclosing information regarding your use of that exemption. You do not need to provide the information called for by this paragraph 11 unless you are using this form as an annual report.

* * * * *

12. Amend Form 40–F (referenced in § 249.240f) by adding paragraph (11) to General Instruction B to read as follows:

Note: The text of Form 40–F does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 40–F

* * * * *

General Instructions

* * * * *

B. Information To Be Filed on This Form.

* * * * *

(11) Identification of the Audit Committee. If you are a listed issuer subject to Exchange Act Rule 10A–3 (17 CFR 240.10A–3) that is using this form as an annual report:

(a) State whether or not the registrant has a separately-designated standing audit committee established in accordance with section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78c(a)(58)(A)), or a committee performing similar functions. If the registrant has such a committee, however designated, identify each committee member. If the entire board of directors is acting as the registrant's audit committee as specified in section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

(b) If applicable, provide the disclosure required by Exchange Act Rule 10A–3(d) (17 CFR 240.10A–3d)) regarding an exemption from the listing standards for audit committees.

* * * * *

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

13. The authority citation for Part 274 continues to read, in part, as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l,* 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

14. Form N–CSR (referenced in §§ 249.331 and 274.128) is amended by:

a. Redesignating Items 8 and 9 as Items 9 and 10;

b. Removing the phrase ''and 7(b)'' from General Instruction D and in its place adding ''8, and 10(b)'';

c. Removing the phrase ''The information required by Item 5'' from General Instruction D and in its place adding ''The information required by Items 5 and 8''; and

d. Adding new Item 8 to read as follows.

Note: The text of Form N–CSR does not, and this amendment will not, appear in the Code of Federal Regulations.

Form N–CSR

* * * * *

Item 8. Audit Committee of Listed Registrants

(1) If the registrant is a listed issuer subject to Rule 10A–3 under the Exchange Act (17 CFR 240.10A–3), state whether or not the registrant has a separately-designated standing audit committee established in accordance with Section 3(a)(58)(A) of the Exchange Act (15 U.S.C. 78c(a)(58)(A)). If the registrant has such a committee, however designated, identify each committee member. If the entire board of directors is acting as the registrant's audit committee as specified in Section 3(a)(58)(B) of the Exchange Act (15 U.S.C. 78c(a)(58)(B)), so state.

(2) If applicable, provide the disclosure required by Rule 10A–3(d) under the Exchange Act (17 CFR 240.10A–3(d)) regarding an exemption from the listing standards for audit committees.

Instruction. The information required by this Item 8 is only required in a report on this Form N–CSR that is required by Item 10(a) to include a copy of an annual report transmitted to stockholders.

Dated: January 8, 2003.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 03–690 Filed 1–16–03; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Friday,

January 17, 2003

Part III

Department of the Treasury

Fiscal Service

31 CFR Part 321 et al.

United States Savings Bonds; Extension of Holding Period; Final Rule

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Parts 321, 351, 352, 353, 359, and 360

United States Savings Bonds; Extension of Holding Period

AGENCY: Bureau of the Public Debt, Fiscal Service, Treasury.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend regulations offering and governing United States Savings Bonds to require that owners hold their bonds 12 months before they are eligible for redemption instead of 6 months. This change affects Series EE and I United States Savings Bonds issued January 2003 or later. This change is being made to discourage investing in savings bonds for short terms, and to better align the effective return on savings bonds with short-term marketable Treasury security yields.

EFFECTIVE DATE: Effective February 1, 2003.

ADDRESSES: You can download this final rule and correction at the following Internet address: *http://www.publicdebt.treas.gov.*

FOR FURTHER INFORMATION CONTACT:

Elisha Whipkey, Director, Division of Program Administration, Office of Securities Operations, Bureau of the Public Debt, at (304) 480–6319 or *elisha.whipkey@bpd.treas.gov.*

Susan Klimas, Attorney-Adviser, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–8692 or *susan.klimas@bpd.treas.gov.*

Dean Adams, Assistant Chief Counsel, Office of the Chief Counsel, Bureau of the Public Debt, at (304) 480–8692 or *dean.adams@bpd.treas.gov.*

Edward Gronseth, Deputy Chief Counsel, Bureau of the Public Debt, at (304) 480–8692 or *edward.gronseth@bpd.treas.gov.*

SUPPLEMENTARY INFORMATION: Currently, investors must hold their Series EE and I United States Savings Bonds for 6 months before they can be redeemed. This Final Rule increases the holding period for U.S. Savings Bonds from 6 months to 12 months. This change affects Series EE and I United States Savings Bonds issued January 2003 or later. When EE and I bonds were introduced and first offered in January 1980 and September 1998, respectively, offering and governing regulations prohibited owners from redeeming these bonds before they were 6 months old. While owners have always been able to cash their savings bonds prior to original maturity at the option of the owner or other person entitled to redemption, regulations have always prohibited redemption during an initial holding period to encourage retention and discourage the use of savings bonds as a short-term investment. The change will also address the anomaly that has resulted in yields for EE and I bonds redeemed six months after issue being greater than prevailing six-month Treasury security yields.

Procedural Requirements

This final rule does not meet the criteria for a ''significant regulatory action'' as defined in Executive Order 12866. Therefore, the regulatory review procedures contained therein do not apply.

This final rule relates to matters of public contract and procedures for United States securities. The notice and public procedures requirements and delayed effective date requirements of the Administrative Procedure Act are inapplicable, pursuant to 5 U.S.C. 553(a)(2).

As no notice of proposed rulemaking is required, the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*) does not apply.

We ask for no new collections of information in this final rule. Therefore, the Paperwork Reduction Act (44 U.S.C. 3507) does not apply.

List of Subjects

31 CFR Part 321

Banks, Banking, Bonds.

31 CFR Part 351

Bonds, Government securities.

31 CFR Part 352

Bonds, Government securities.

31 CFR Part 353

Bonds, Electronic funds transfers, Government securities.

31 CFR Part 359

Bonds, Federal Reserve system, Government securities, Securities.

31 CFR Part 360

Bonds, Federal Reserve system, Government securities, Securities.

Accordingly, for the reasons set out in the preamble, 31 CFR Chapter II, Subchapter B, is amended as follows:

PART 321—PAYMENTS BY BANKS AND OTHER FINANCIAL INSTITUTIONS OF UNITED STATES SAVINGS BONDS AND UNITED STATES SAVINGS NOTES (FREEDOM SHARES)

1. The authority citation for part 321 continues to read as follows:

Authority: 2 U.S.C. 901; 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3126.

2. Section 321.8 is amended by redesignating paragraphs (a)(2) as paragraph (a)(3), revising paragraph (a)(1) and adding paragraph (a)(2) to read as follows:

§ 321.8 Redemption-exchange of Series E and EE savings bonds and savings notes.

(a) * * *

(1) Series EE bonds bearing issue dates of December 1, 2002, or earlier, presented no earlier than six months from their issue dates;

(2) Series EE bonds bearing issue dates of February 1, 2003, or thereafter, presented no earlier than 12 months from their issue dates; and

* * * * *

3. Revise § 321.9(a) to read as follows:

§ 321.9 Specific limitations on payment authority.

* * * * *

(a)(1) If it is a Series EE bond or a Series I bond issued on December 1, 2002, or earlier, presented for payment prior to six months from its issue date; or

(2) If it is a Series EE bond or a Series I bond issued on February 1, 2003, or thereafter, presented for payment prior to 12 months from its issue date.

* * * * *

Appendix to Part 321 [Amended]

4. Amend the Appendix to part 321 section (8)(a), by revising the second sentence to read as follows:

* * * * *

8. Redemption-exchange of Series E and EE savings bonds and savings notes.

(a) *General.* * * * Securities eligible for exchange are: (1) Series EE bonds issued December 1, 2002, or earlier, presented no earlier than six months from their issue dates; (2) Series EE bonds issued February 1, 2003, or thereafter, presented no earlier than 12 months from their issue dates; and (3) Series E bonds and savings notes presented no later than one year from the month in which they reached final maturity. * * *

* * * * *

PART 351—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES EE

5. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

6. Amend § 351.2(d) by revising the first sentence and adding a new sentence after the first sentence to read as follows:

§ 351.2 Description of bonds.

* * * * *

(d) *Redemption.* A Series EE bond issued on December 1, 2002, or earlier, may be redeemed after 6 months from its issue date. A Series EE bond issued on February 1, 2003, or thereafter, may be redeemed after 12 months from its issue date. * * *

PART 352—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES HH

7. The authority citation for part 353 continues to read as follows:

Authority: 31 U.S.C. 3105; 5 U.S.C. 301.

8. Amend § 352.7(a) by revising the last sentence and adding a new sentence to read as follows:

§ 352.7 Issues on exchange.

(a) * * * Series EE bonds issued on December 1, 2002, or earlier, become eligible for exchange six months after their issue dates. Series EE bonds issued on February 1, 2003, or thereafter, become eligible for exchange 12 months after their issue dates.

* * * * *

PART 353—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS, SERIES EE AND HH

9. The authority citation for part 353 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105, 3125.

10. Revise § 353.35(b) to read as follows:

§ 353.35 Payment (redemption).

* * * * *

(b) A Series EE bond issued on December 1, 2002, or earlier, will be paid at any time after 6 months from its issue date. A Series EE bond issued on February 1, 2003, or thereafter, will be paid at any time after 12 months from its issue date. Bonds will be paid at the current redemption value shown in Department of the Treasury Circular, Public Debt Series No. 1–80 (31 CFR part 351).

* * * * *

PART 359—OFFERING OF UNITED STATES SAVINGS BONDS, SERIES I

11. The authority citation for part 359 continues to read as follows:

Authority: 5 U.S.C. 301; 12 U.S.C. 391; 31 U.S.C. 3105.

12. Revise § 359.6 to read as follows:

§ 359.6 When may I redeem my Series I bond?

(a) *Bonds issued on December 1, 2002, or earlier.* You may redeem your Series I savings bond issued on December 1, 2002, or earlier, at any time after six months from its issue date.

(b) Bonds issued on February 1, 2003, or thereafter. You may redeem your Series I savings bond issued on February 1, 2003, or thereafter, at any time after 12 months from its issue date.

PART 360—REGULATIONS GOVERNING UNITED STATES SAVINGS BONDS, SERIES I

13. The authority citation for part 360 continues to read as follows:

Authority: 5 U.S.C. 301; 31 U.S.C. 3105 and 3125.

14. Revise § 360.35(b) to read as follows:

§ 360.35 Payment (redemption).

* * * * *

(b) *Mandatory initial holding period.* A Series I bond issued on December 1, 2002, or earlier, will be paid at any time after six months from issue date. A Series I bond issued on February 1, 2003, or thereafter, will be paid at any time after 12 months from issue date. Bonds will be paid at the current redemption value determined in the manner described in Department of the Treasury Circular, Public Debt Series No. 1–98 (31 CFR part 359).

Dated: December 19, 2003.

Donald V. Hammond,

Fiscal Assistant Secretary.

[FR Doc. 03–1114 Filed 1–15–03; 8:45 am]

BILLING CODE 4810–39–P

Federal Register

Friday,

January 17, 2003

Part IV

Department of Veterans Affairs

38 CFR Part 17

Enrollment—Provision of Hospital and Outpatient Care to Veterans Subpriorities of Priority Categories 7 and 8 and Annual Enrollment Level Decision; Final Rule

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AL51

Enrollment—Provision of Hospital and Outpatient Care to Veterans Subpriorities of Priority Categories 7 and 8 and Annual Enrollment Level Decision

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: As required by Pub. L. 104–262, the Veterans' Health Care Eligibility Reform Act of 1996, the Secretary of Veterans Affairs must make an annual decision concerning enrollment in VA's health-care system in order to ensure that medical services provided are both timely and acceptable in quality. An enrollment system is necessary because the provision of VA health care is discretionary and can be provided only to the extent that appropriated resources are available for that purpose. In recognition of that fact, Congress has prioritized eligibility to enroll in the VA system by creating eight priority categories, with priority category 8 veterans (those who do not have compensable service-connected disabilities, and whose incomes exceed geographic-means tests) having the lowest priority for enrollment. The law recognizes the higher obligation owed to veterans requiring care for their service-connected disabilities, and to lower-income veterans. Since the implementation of the enrollment requirement in 1998, all veterans seeking VA care have been permitted to enroll. However, due to a tremendous growth in the number of veterans seeking VA health-care benefits in recent months, VA has been unable to provide all enrolled veterans with appointments within a reasonable time. Many VA facilities have either placed new enrollees on waiting lists or have scheduled appointments so far in the future that the services cannot be considered timely. This document announces the enrollment decision required by law. VA will continue to treat all veterans currently enrolled in any category, and will treat new enrollees in categories 1 through 7. However, to protect the quality and improve the timeliness of care provided to veterans in higher enrollment-priority categories, VA will suspend the enrollment of additional veterans who are in the lowest statutory enrollment category (priority category 8). It is emphasized that this decision will not affect veterans already enrolled in the VA system, nor affect eligibility for treatment of service-connected disabilities which exists independently of enrollment requirements. This enrollment decision is effective January 17, 2003. To facilitate this decision, this document also amends existing regulations to establish additional subpriorities within priority category 8. Although the document takes no action that will affect the enrollment of veterans in priority category 7, the document will nevertheless also amend the existing regulations to establish the same additional subpriorities within priority category 7.

DATES: *Effective Date:* This interim final rule is effective January 17, 2003. Comments must be received by VA on or before March 18, 2003.

ADDRESSES: Mail or hand-deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW., Room 1154, Washington, DC 20420; or fax comments to (202) 273–9289; or e-mail comments to *OGCRegulations@mail.va.gov.* Comments should indicate that they are submitted in response to ''RIN 2900–AL51.'' All comments received will be available for public inspection in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Amy Hertz, Office of Policy and Planning (105D), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 273–8934.

SUPPLEMENTARY INFORMATION: Public Law 104–262, the Veterans' Health Care Eligibility Reform Act of 1996, required VA to establish a national enrollment system to manage the delivery of inpatient hospital care and outpatient medical care, within available appropriated resources. It directed that the enrollment system be managed in such a way as ''to ensure that the provision of care to enrollees is timely and acceptable in quality,'' and authorized such subprioritization of the seven statutory enrollment categories ''as the Secretary determines necessary.'' The law also provided that starting October 1, 1998, most veterans had to enroll in the VA health-care system as a condition for receiving VA hospital and outpatient care. Since that time, VA has enrolled all eligible veterans who sought enrollment in the VA system.

Subsequently on January 23, 2002, Congress enacted the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001, further amending the law governing enrollment. It altered the enrollment system by establishing, effective October 1, 2002, an additional priority category 8.

This document amends 38 CFR 17.36 to add two new subpriorities to both enrollment priority categories 7 and 8, for a total of four subpriorities in each category. It also announces that VA will suspend enrollments of additional veterans in priority category 8. Veterans who VA would not enroll would be those who have no compensable service-connected disability or other status making them eligible for placement in a higher priority category. All of these veterans have annual incomes above a statutory income threshold (geographic means test threshold) applicable to the location in which they reside. The suspension of new enrollments is necessary to prevent further erosion of VA's capacity to provide needed health-care services of high quality to veterans in a timely and medically appropriate manner.

Projections for Increased Placement of Veterans on Wait Lists

An existing regulation (38 CFR 17.36(c)) requires that the Secretary determine which categories of veterans are eligible to be enrolled and that the Secretary notify eligible enrollees of the determination by announcing it in the **Federal Register**. In making that determination, the Secretary must consider an array of factors including economic information such as available resources, projections of demand for enrollment, and the length of waiting times for appointments for care.

There has been an unprecedented surge in enrollments in the VA health-care system. Between October 1, 2001 and September 2002, VA enrolled an additional 830,237 veterans. Of these new enrollees, 425,000 had annual income and net worth above the statutory ''means test'' income threshold that required VA to place them in enrollment priority category 7. The majority of those enrollees now fall within the new priority category 8. As a result of this growth in enrollment, many VA facilities have been unable to provide timely access to needed care. Many VA facilities have informed enrolled veterans that they are being placed on a wait list for care and that they will be notified when an appointment for care is possible. Other facilities have scheduled appointments for enrollees far into the future.

As of December 2002, VA estimates that there were almost 236,000 veterans who have been unable to schedule an

appointment or have an appointment scheduled more than 6 months from the desired date. Moreover, VA estimates that the number of veterans waiting for appointments more than 6 months from the desired date would increase in FY 2003. VA also estimates that between January and September 2003, as many as 164,367 priority category 8 veterans would seek to enroll for VA health care services. Without action to suspend new enrollment, this would adversely affect quality, patient safety, and access.

VHA's total FY 2003 medical care appropriation is estimated to be $23.892 billion. This is supplemented by an additional $1.881 billion from collections for copayments, third-party reimbursements for services, other revenue, and carry-over funds. The sum of these resources is $25.773 billion. These resources include $4.224 billion for services provided that are not included in the medical benefits package, including long-term care, domiciliary care, dental care, emergency care, CHAMPVA, readjustment counseling, certain prosthetic services, and counseling treatment for sexual trauma. This leaves $21.549 billion available for the medical benefits package.

The following table shows the projected average enrollment for FY 2003 together with the projected expenditures that would be needed to provide the medical benefits package to all enrollees.

TABLE—FISCAL YEAR 2003 PROJECTIONS

Priority category	Average enrollment	Medical benefits package expenditures	Cumulative medical benefits package expenditures
1	564,556	$4,170,231,000	$4,170,231,000
2	419,580	1,341,312,000	5,511,543,000
3	876,839	2,225,614,000	7,737,157,000
4	174,887	2,815,995,000	10,553,152,000
5	2,509,805	9,595,156,000	20,148,308,000
6	142,835	159,128,000	20,307,436,000
7	785,243	1,113,375,000	21,420,811,000
8	1,517,660	2,034,405,000	23,455,216,000
Total	6,991,405	23,455,216,000	

As can be seen from the expected appropriation and the table above, VA projects that available resources will be considerably less than needed to meet the strains that new enrollees would place on the system. Without VA's actually limiting enrollment, demand will overwhelm the system's ability to provide timely care of the quality veterans expect and deserve.

Past enrollment growth has exhausted VA's marginal capacity, and the projected growth for FY 2003 and beyond exceeds both VA's primary and specialty care capacity. By suspending enrollment of additional priority category 8 veterans, VA would avoid very significant additional medical benefits costs and begin to bring demand in line with capacity, which will reduce the number of veterans on wait lists. In FY 2003, 164,367 veterans who were expected to enroll in priority category 8 would not be enrolled. Further, this number is expected to grow to over 520,000 by FY 2005.

CUMULATIVE APPLICANTS FOR ENROLLMENT FROM JANUARY 17, 2003

Priority category 8	FY 2003 applicants from 1/17/03 to 9/30/03	FY 2004 cumulative applicants from 1/17/03	FY 2005 cumulative applicants from 1/17/03
0% SC	5,192	11,500	16,500
NSC	159,175	348,500	505,500
Total	164,367	360,000	522,000

Moreover, VA projects that enrollment in priority categories 1 through 7, which totaled 5,089,542 in FY 2002, will continue to grow significantly, as shown by the following table.

PROJECTED PRIORITY CATEGORY 1–7 ENROLLMENT

Fiscal year:	
2003	5,473,745
2004	5,754,701
2005	5,966,957

Immediate action is needed to limit enrollment to ensure VA's ability to provide already-enrolled veterans and new higher-priority veterans timely, medically appropriate access to high-quality health-care services. By suspending additional enrollments of priority category 8 veterans, VA will be better able to provide care to veterans in higher priority groups. Accordingly, effective January 17, 2003 additional priority category 8 veterans will not be enrolled. For this purpose, veterans who have completed the enrollment forms and submitted them to VA (or had them postmarked) prior to January 17, 2003 will be considered to have enrolled before the cutoff date.

Subpriorities

Existing regulations currently provide for two subpriorities within both priority categories 7 and 8. The first subpriority includes those veterans with noncompensable zero percent service-connected disabilities. The second subpriority includes all other veterans in priority category 7 or 8.

This document amends the existing regulation, 38 CFR 17.36, to establish a

total of four subpriorities within both categories 7 and 8. They would be the following:

(i) Noncompensable zero percent service-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document and who subsequently do not request disenrollment;

(ii) Nonservice-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document and who subsequently do not request disenrollment;

(iii) Noncompensable zero percent service-connected veterans not included in paragraph (i); and

(iv) Nonservice-connected veterans not included in paragraph (ii).

This rule change reflects VA's view that veterans who are enrolled in the VA system should have a higher priority than those who have not sought enrollment and that those veterans with a service-connected disability should have a higher priority than those without a service-connected disability. This change also is necessary in order to carry out the announcement in this document that VA will cease enrolling additional veterans that VA would be required to place in the third and fourth subpriority in priority category 8.

Administrative Procedure Act and Congressional Review Act

We have found good cause to dispense with the notice-and-comment and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) and the notice and public procedure provisions of the Congressional Review Act (5 U.S.C. 801–808) because compliance with such provisions would be impracticable and contrary to the public interest.

Changes made by this rule reflect a VA enrollment decision based on available funding. Delaying implementation would exacerbate problems with providing enrolled veterans with timely access to needed care.

Unfunded Mandates

The Unfunded Mandates Reform Act requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before developing any rule that may result in an expenditure by State, local, or tribal governments, in the aggregate, or by the private sector of $100 million or more in any given year. This rule would have no consequential effect on State, local, or tribal governments.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act (44 U.S.C. 3501–3521).

Executive Order 12866

This rule is economically significant under Executive Order 12866 and major under the Congressional Review Act. The Office of Management and Budget have reviewed this rule.

Regulatory Flexibility Act

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This amendment would not directly affect any small entities. Only individuals could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Catalog of Federal Domestic Assistance Numbers

The Catalog of Federal Domestic Assistance numbers for the programs affected by this document are 64.005, 64.007, 64.008, 64,009, 64.010, 64.011, 64.012, 64.013, 64.014, 64.015, 64.016, 64.018, 64.019, 64.022, and 64.025.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Foreign relations, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Reporting and recordkeeping requirements, Scholarships and fellowships, Travel and transportation expenses, Veterans.

Approved: January 8, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

2. In § 17.36 paragraphs (b)(7), (b)(8) and (c)(2) are revised to read as follows:

§ 17.36 Enrollment—provision of hospital and outpatient care to veterans.

* * * * *

(b) * * *

(7) Veterans who agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g) if their income for the previous year constitutes ''low income'' under the geographical income limits established by the U.S. Department of Housing and Urban Development for the fiscal year that ended on September 30 of the previous calendar year. For purposes of this paragraph, VA will determine the income of veterans (to include the income of their spouses and dependents) using the rules in §§ 3.271, 3.272, 3.273, and 3.276. After determining the veterans' income and the number of persons in the veterans' family (including only the spouse and dependent children), VA will compare their income with the current applicable ''low-income'' income limit for the public housing and section 8 programs in their area that the U.S. Department of Housing and Urban Development publishes pursuant to 42 U.S.C. 1437a(b)(2). If the veteran's income is below the applicable ''low-income'' income limits for the area in which the veteran resides, the veteran will be considered to have ''low income'' for purposes of this paragraph. To avoid a hardship to a veteran, VA may use the projected income for the current year of the veteran, spouse, and dependent children if the projected income is below the ''low income'' income limit referenced above. This category is further prioritized into the following subcategories:

(i) Noncompensable zero percent service-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(ii) Nonservice-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(iii) Noncompensable zero percent service-connected veterans not included in paragraph (b)(7)(i) of this section; and

(iv) Nonservice-connected veterans not included in paragraph (b)(7)(ii) of this section.

(8) Veterans not included in priority category 4 or 7, who are eligible for care only if they agree to pay to the United States the applicable copayment determined under 38 U.S.C. 1710(f) and 1710(g). This category is further

prioritized into the following subcategories:

(i) Noncompensable zero percent service-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(ii) Nonservice-connected veterans who are in an enrolled status on a specified date announced in a **Federal Register** document promulgated under paragraph (c) of this section and who subsequently do not request disenrollment;

(iii) Noncompensable zero percent service-connected veterans not included in paragraph (b)(8)(i) of this section; and

(iv) Nonservice-connected veterans not included in paragraph (b)(8)(ii) of this section.

(c) * * *

(2) Unless changed by a rulemaking document in accordance with paragraph (c)(1) of this section, VA will enroll all priority categories of veterans set forth in § 17.36(b) beginning January 17, 2003 except that those veterans in priority category 8 who were not in an enrolled status on January 17, 2003 or who requested disenrollment after that date, are not eligible to be enrolled.

* * * * *

[FR Doc. 03–1201 Filed 1–16–03; 8:45 am]

BILLING CODE 8320–01–U

Federal Register

Friday,
January 17, 2003

Part V

The President

Notice of January 16, 2003—Continuation of the National Emergency With Respect to Sierra Leone and Liberia

Federal Register
Vol. 68, No. 12
Friday, January 17, 2003

Presidential Documents

Title 3—

The President

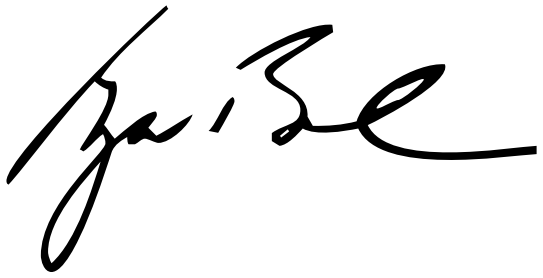
Notice of January 16, 2003

Continuation of the National Emergency With Respect To Sierra Leone and Liberia

On January 18, 2001, by Executive Order 13194, the President declared a national emergency with respect to Sierra Leone pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of the insurgent Revolutionary United Front (RUF) in Sierra Leone and pursuant to which the United States imposed a general ban on the direct and indirect importation of all rough diamonds from Sierra Leone into the United States, except those imports controlled through the Certificate of Origin regime of the Government of Sierra Leone. On May 22, 2001, I issued Executive Order 13213, which expanded the scope of the national emergency to include actions of the Government of Liberia in support of the RUF and prohibited the importation of all rough diamonds from Liberia.

Because the actions and policies of the RUF continue to pose an unusual and extraordinary threat to the foreign policy of the United States, the national emergency declared on January 18, 2001, as expanded on May 22, 2001, and the measures adopted on those dates to deal with that emergency must continue in effect beyond January 18, 2003. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to Sierra Leone and Liberia.

This Notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
January 16, 2003.

[FR Doc. 03–1324
Filed 1–16–03; 11:37 am]
Billing code 3195–01–P

Reader Aids

Federal Register

Vol. 68, No. 12

Friday, January 17, 2003

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **http://www.access.gpo.gov/nara**

Federal Register information and research tools, including Public Inspection List, indexes, and links to GPO Access are located at: **http://www.archives.gov/federal_register/**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://hydra.gsa.gov/archives/publaws-l.html** and select *Join or leave the list* (or change settings); then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **info@fedreg.nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

FEDERAL REGISTER PAGES AND DATE, JANUARY

1–254 2
255–458 3
459–662 6
663–994 7
995–1142 8
1143–1358 9
1359–1512 10
1513–1792 13
1793–1954 14
1955–2174 15
2175–2408 16
2409–2678 17

CFR PARTS AFFECTED DURING JANUARY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
7636 995
7637 1951
7638 2173
7639 2409
Executive orders:
12543 (See Notice of January 2, 2003) 661
12544 (See Notice of January 2, 2003) 661
13249 (Superseded by 13282) 1133
13282 1133
Administrative orders:
Notices:
Notice of January 2, 2003 661
Presidential Determinations:
No. 2003-09 of January 7, 2003 1513
No. 2003-10 of January 10, 2003 2411
No. 2003-11 of January 10, 2003 2419

5 CFR

532 ..... 459, 460, 1515
831 2175
837 2175
842 2175
843 2175
844 2175
847 2175
Proposed Rules:
735 1987

7 CFR

97 1359
301 1360
906 1362
989 1143
996 1145
997 1145
998 1145
999 1145
1208 ..... 1364, 2108
Proposed Rules:
56 1169
300 69
723 1556
1464 1556
1794 1988
1951 1170
1962 1170
1965 1170

8 CFR

Proposed Rules:
217 292
231 292
251 292

9 CFR

82 1515
317 460
381 460

10 CFR

72 463

11 CFR

100 ..... 404, 421
102 421
104 ..... 404, 611
105 404
108 404
109 ..... 404, 421
110 ..... 421, 1793
114 421

12 CFR

201 1793
211 1158
550 2108
563 1218
Proposed Rules:
19 1116
24 1394
263 1116
308 1116
513 1116

14 CFR

1 1955
21 ..... 1512, 2183
23 ..... 1, 3
25 ..... 255, 1955
29 2183
36 ..... 1512, 2402
39 ..... 5, 10, 14, 16, 18, 23, 25, 27, 28, 31, 35, 257, 471, 473, 476, 479, 481, 483, 485, 486, 488, 997, 999, 1001, 1517, 1519, 1521, 1523, 1525, 1528, 1955, 1961
61 39
71 ..... 43, 44, 259, 260, 261, 262, 263, 490, 1657, 2185, 2186, 2187, 2421, 2422, 2423, 2424
91 1512
97 ..... 264, 491, 1794, 1955, 1962
Proposed Rules:
25 1932
39 ..... 71, 302, 305, 308, 311, 315, 317, 320, 322, 324, 516, 518, 1016, 1017, 1566, 1802, 1805
71 ..... 328, 2460, 2461, 2462, 2463
121 1942
158 1807

255....1172
399....1172

15 CFR

744....1796
774....1796
806....1531
902....204, 2188, 2636

16 CFR

801....2425
803....2425

Proposed Rules:

Ch. 1....2465

17 CFR

230....188
240....188
420....402

Proposed Rules:

4....2254
210....160
228....2638
229....2638
239....160
240....2638
249....160, 2638
270....160
274....160, 2638

18 CFR

Ch. 1....45
260....266
357....266
385....266
390....1964

19 CFR

4....1801

Proposed Rules:

101....1172
103....1173

21 CFR

510....1161
1308....1964

Proposed Rules:

1....1568

23 CFR

Proposed Rules:

970....1080
971....1088
972....1096
973....1105

24 CFR

Proposed Rules:

25....1766
92....648
203....1766
570....648
572....648
574....648
576....648
582....648
583....648
585....648

25 CFR

170....1003

Proposed Rules:

Ch. 1....2465

26 CFR

1....1534
602....1534

Proposed Rules:

1....1020, 2466

27 CFR

Proposed Rules:

9....1020, 2262

29 CFR

4022....1965
4044....1965

Proposed Rules:

1910....1023, 1399
1915....1023, 1808
1926....1023
2550....992

30 CFR

250....45
917....2196, 2199
936....2447

Proposed Rules:

250....1808
901....2263
916....2265
920....2268
938....721
944....521

31 CFR

103....493
321....2666
351....2666
352....2666
353....2666
359....2666
360....2666

33 CFR

117....1366, 2201
165....1005, 1162, 1967, 2201, 2451

Proposed Rules:

151....523
328....1991
334....1790, 1791

34 CFR

200....1008

36 CFR

Proposed Rules:

7....2466

38 CFR

17....1009, 2670

Proposed Rules:

3....2476

39 CFR

3001....46

Proposed Rules:

111....530
3001....2272

40 CFR

9....848
22....2203
50....614
52....663, 1366, 1370, 1970, 1972, 2204, 2206, 2208, 2211, 2217, 2454
62....48, 50, 52, 53
63....2227
70....1974
81....1370, 1657, 2217
82....238
69....1162
112....1348
180....269, 274, 283, 2242
300....1537, 2247
710....848
723....848

Proposed Rules:

52....723, 1414, 1998, 2275, 2276, 2476
55....1570
62....76, 77
63....77, 78, 329, 1276, 1660, 1888, 2110, 2276
81....1414
69....1175
110....1991
112....1352, 1991
116....1991
117....1991
122....1991
180....1575
230....1991
232....1991
258....2276
260....2276
261....531, 2276
264....2276
265....2276
266....2276
270....2276
271....2276
279....2276
281....329
300....1580, 1991, 2277
401....1991

41 CFR

Ch. 301....196
102-75....1167
301-10....493, 2402

42 CFR

403....1374
416....1374
418....1374
460....1374
482....1374
483....1374
485....1374

43 CFR

1860....494

44 CFR

65....1540, 1543
67....1547, 1549, 1550, 2477, 2479

Proposed Rules:

67....1581, 1585

47 CFR

20....2252
73....503, 504, 670, 1554, 1555, 1985, 1986
76....670

Proposed Rules:

Ch. 1....723, 730
2....1999
73....532, 533, 1586, 1587, 1657, 2278
76....1657, 2278
90....1999

48 CFR

904....55
952....55
970....55

Proposed Rules:

505....1358

49 CFR

107....1342
171....1013
192....56
195....56
219....57
571....504

Proposed Rules:

10....2002
571....2003, 2480

50 CFR

17....1220
20....1388
300....1392
622....2188
635....711
648....57, 60, 533
660....908
679....715, 1392, 2636

Proposed Rules:

17....331, 2283
18....1175
229....1414
635....1024, 1430
648....1587, 2303
660....936

REMINDERS

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.

RULES GOING INTO EFFECT JANUARY 17, 2003

COMMERCE DEPARTMENT

International Trade Administration

Watches, watch movements, and jewelry:

Duty-exemption allocations—

Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; published 12-18-02

FEDERAL TRADE COMMISSION

Practice and procedure:

Premerger notification requirements; reporting and waiting period; published 1-17-03

INTERIOR DEPARTMENT

Watches, watch movements, and jewelry:

Duty-exemption allocations—

Virgin Islands, Guam, American Samoa, and Northern Mariana Islands; published 12-18-02

INTERIOR DEPARTMENT

Surface Mining Reclamation and Enforcement Office

Permanent program and abandoned mine land reclamation plan submissions:

Oklahoma; published 1-17-03

TRANSPORTATION DEPARTMENT

Coast Guard

Ports and waterways safety:

Diablo Canyon Nuclear Power Plant, Avila Beach, CA; adjacent waters; security zone; published 12-18-02

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aerostar; published 12-4-02

Bombardier; published 1-2-03

Dornier; published 1-2-03

McDonnell Douglas; published 12-13-02

Rolls-Royce Ltd.; published 1-2-03

TREASURY DEPARTMENT

Government Securities Act regulations:

Large position rules; reporting requirements; published 12-18-02

VETERANS AFFAIRS DEPARTMENT

Medical benefits:

Enrollment; hospital and outpatient care provided to veterans subpriorities of priority categories 7 and 8 and annual enrollment decision; published 1-17-03

COMMENTS DUE NEXT WEEK

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Milk marketing orders:

Central; comments due by 1-21-03; published 11-19-02 [FR 02-29030]

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Walnuts grown in—

California; comments due by 1-21-03; published 11-21-02 [FR 02-29601]

AGRICULTURE DEPARTMENT

Food and Nutrition Service

Food Stamp Program:

Food retailers and wholesalers; administrative review requirements; comments due by 1-24-03; published 11-25-02 [FR 02-29889]

AGRICULTURE DEPARTMENT

Forest Service

National Forest System timber sale and disposal:

Timber sale contracts extension to facilitate urgent timber removal from other lands; comments due by 1-21-03; published 11-21-02 [FR 02-29542]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Endangered and threatened species:

Findings on petitions, etc.—

Northern right whales; comments due by 1-21-03; published 11-19-02 [FR 02-29360]

Fishery conservation and management:

Northeastern United States fisheries—

Atlantic bluefish; comments due by 1-21-03; published 1-6-03 [FR 03-00179]

Summer flounder, scup, and black sea bass; comments due by 1-21-03; published 12-4-02 [FR 02-30756]

COMMODITY FUTURES TRADING COMMISSION

Commodity pool operators and commodity trading advisors:

Requirement to register for CPOs of certain pools and CTAs advising such pools; exemption; comments due by 1-23-03; published 1-16-03 [FR 03-00894]

DEFENSE DEPARTMENT

Acquisition regulations:

Indian organizations and Indian-owned economic enterprises; utilization; comments due by 1-21-03; published 11-22-02 [FR 02-29465]

Provisional award fee payments; comments due by 1-21-03; published 11-22-02 [FR 02-29466]

ENVIRONMENTAL PROTECTION AGENCY

Air pollutants, hazardous; national emission standards:

Case-by-case determinations under Clean Air Act, etc.; comments due by 1-20-03; published 12-9-02 [FR 02-31012]

Chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks; comments due by 1-21-03; published 11-19-02 [FR 02-29334]

Air programs:

Commercial and industrial solid waste incinerators constructed on or before November 30, 1999; Federal plan requirements; comments due by 1-24-03; published 11-25-02 [FR 02-28923]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Mississippi; comments due by 1-21-03; published 12-20-02 [FR 02-31977]

ENVIRONMENTAL PROTECTION AGENCY

Air quality implementation plans; approval and promulgation; various States:

Mississippi; comments due by 1-21-03; published 12-20-02 [FR 02-31978]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Minimal risk active and inert ingredients; tolerance exemptions; comments due by 1-21-03; published 11-20-02 [FR 02-29172]

Water supply:

National primary drinking water regulations—

Arsenic standard; clarification; comments due by 1-22-03; published 12-23-02 [FR 02-32376]

FEDERAL COMMUNICATIONS COMMISSION

Common carrier services:

Commercial mobile radio services—

Wireless handsets; enhanced 911 Phase II requirements applicability to in-vehicle, embedded telematics units; comments due by 1-24-03; published 1-16-03 [FR 03-00947]

FEDERAL MEDIATION AND CONCILIATION SERVICE

Arbitration services:

Fee schedule; comments due by 1-24-03; published 11-25-02 [FR 02-29481]

HEALTH AND HUMAN SERVICES DEPARTMENT

Centers for Medicare & Medicaid Services

Medicare:

Home health agencies and other entities; posthospital referral; nondiscrimination; comments due by 1-21-03; published 11-22-02 [FR 02-29563]

Hospice care amendments; comments due by 1-21-03; published 11-22-02 [FR 02-29798]

Photocopying reimbursement methodology; comments due by 1-21-03; published 11-22-02 [FR 02-29076]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Medical devices:

Neurological devices—

Human dura mater; classification; comments due by 1-20-03;

published 10-22-02 [FR 02-26816]

INTERIOR DEPARTMENT
Indian Affairs Bureau
No Child Left Behind Act; implementation:
Negotiated rulemaking committee, intent to form; tribal representatives; comments due by 1-24-03; published 1-17-03 [FR 03-01061]

INTERIOR DEPARTMENT
Fish and Wildlife Service
Endangered and threatened species:
Critical habitat designations—
Preble's meadow jumping mouse; comments due by 1-21-03; published 11-21-02 [FR 02-29618]
Findings on petitions, etc.—
Cerulean warbler; comments due by 1-21-03; published 10-23-02 [FR 02-27004]

JUSTICE DEPARTMENT
Parole Commission
Federal prisoners; paroling and releasing, etc.:
United States and District of Columbia Codes; prisoners serving sentences
Military prisoners; mandatory release; comments due by 1-21-03; published 11-7-02 [FR 02-28318]

PERSONNEL MANAGEMENT OFFICE
OPM employee responsibilities and conduct; comments due by 1-21-03; published 11-20-02 [FR 02-29439]
Organization, functions, and authority delegations:
Federal Executive Boards; comments due by 1-24-03; published 11-25-02 [FR 02-29848]

POSTAL SERVICE
Domestic Mail Manual:
Division 6.2 infectious substances and other related changes; revisions; comments due by 1-21-03; published 12-19-02 [FR 02-31990]

SMALL BUSINESS ADMINISTRATION
Small business size standards:
Hearings and Appeals Office; procedural rules governing cases; comments due by 1-21-03; published 11-22-02 [FR 02-29272]

TRANSPORTATION DEPARTMENT
Coast Guard
Drawbridge operations:
Florida; comments due by 1-21-03; published 12-20-02 [FR 02-32140]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Boeing; comments due by 1-24-03; published 12-10-02 [FR 02-31134]
de Havilland; comments due by 1-22-03; published 11-15-02 [FR 02-28999]
Hartzell Propeller, Inc.; comments due by 1-21-03; published 11-21-02 [FR 02-29676]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Piaggio Aero Industries S.p.A.; comments due by 1-22-03; published 11-20-02 [FR 02-29133]

TRANSPORTATION DEPARTMENT
Federal Aviation Administration
Airworthiness directives:
Pilatus Aircraft Ltd.; comments due by 1-23-03; published 12-18-02 [FR 02-31753]
Airworthiness standards:
Transport category airplanes—
Public address system; comments due by 1-21-03; published 11-22-02 [FR 02-29668]
Class E airspace; comments due by 1-22-03; published 12-10-02 [FR 02-29898]
Class E5 airspace; comments due by 1-23-03; published 12-24-02 [FR 02-32416]

TRANSPORTATION DEPARTMENT
National Highway Traffic Safety Administration
Motor vehicle safety standards:
Defect and noncompliance—
Manufacturer's remedy program; acceleration; comments due by 1-21-03; published 12-5-02 [FR 02-30523]

TREASURY DEPARTMENT
Internal Revenue Service
Income taxes:
Stock dispositions; suspension of losses; comments due by 1-21-03; published 10-23-02 [FR 02-26835]

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 ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.access.gpo.gov/nara/nara005.html*. Some laws may not yet be available.

H.R. 11/P.L. 108–3

National Flood Insurance Program Reauthorization Act of 2003 (Jan. 13, 2003; 117 Stat. 7)

Last List January 14, 2003

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://hydra.gsa.gov/archives/publaws-l.html* or send E-mail to **listserv@listserv.gsa.gov** with the following text message:

SUBSCRIBE PUBLAWS-L Your Name.

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.