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Presidential Documents

Title 3—

The President

Memorandum of March 28, 2003

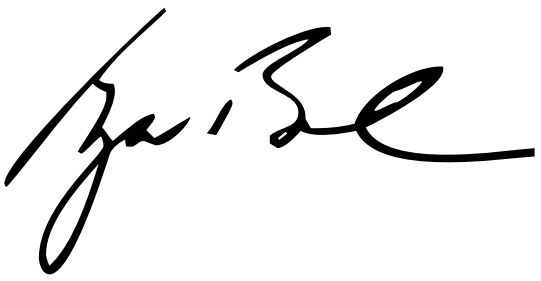
Report to the Congress Regarding Conditions in Burma and U.S. Policy Toward Burma

Memorandum for the Secretary of State

Pursuant to the requirements set forth under the heading ''Policy Toward Burma'' in section 570(d) of the Fiscal Year 1997 Foreign Operations Appropriations Act, as contained in the Omnibus Consolidated Appropriations Act (Public Law 104–208), a report is required every 6 months following enactment concerning:

(1) progress toward democratization in Burma;
(2) progress on improving the quality of life of the Burmese people, including progress on market reforms, living standards, labor standards, use of forced labor in the tourism industry, and environmental quality; and
(3) progress made in developing a comprehensive, multilateral strategy to bring democracy to and improve human rights practices and the quality of life in Burma, including the development of a dialogue between the State Peace and Development Council and democratic opposition groups in Burma.

You are hereby authorized and directed to transmit the attached report fulfilling these requirements to the appropriate committees of the Congress and to arrange for its publication in the **Federal Register.**



THE WHITE HOUSE,
Washington, March 28, 2003.

Billing code 4710–10–P

Conditions in Burma and U.S. Policy Toward Burma For the Period September 28, 2002—March 27, 2003

Introduction and Summary

Efforts to foster peaceful democratic change in Burma essentially ground to a halt over the past six months. The regime has become more confrontational in its exchanges with the National League for Democracy (NLD), led by Aung San Suu Kyi, and has offered few signs of progress toward their stated commitment to a political transition to democracy and not interest in pursuing political dialogue with the elected opposition. UN Special Envoy Razali continued his mission, the National League for Democracy opened up a significant number of township and divisional party offices, and NLD General Secretary Aung San Suu Kyi was able to continue her travels in Burma, visiting both Shan and Rakhine States. However, the visit to Rakhine State was marred by incidents instigated by government-affiliated organizations and believed to be based on orders from Rangoon; political prisoner releases stopped as of late November, and there were new arrests of political activists. Aung San Suu Kyi was nearly jailed in February on charges arising from a civil lawsuit filed by a relative. Most seriously, the regime has not demonstrated its willingness to begin a real dialogue with the NLD on substantive political issues.

Economic developments were punctuated by the banking crisis that followed the collapse of approximately 20 informal financial institutions, which had taken deposits in return for promises of returns of five percent per month or more. Stimulated by the rampant inflation in recent years, and the repressed financial conditions that had stifled the growth of legitimate financial institutions, these informal financial institutions had grown rapidly for two years, before collapsing in January, sparking a run on the private banks. The banks have coped by restricting withdrawals, calling in loans, and requesting emergency central bank support. Several may nonetheless fail. Only private banks have been affected thus far. All of the government-owned banks and all of the banks in which government corporations participate as joint venture partners have continued to run normally. Inflation has also come down sharply as the asset price inflation fueled by the activities of the informal financial institutions has collapsed.

The Government of Burma (GOB) severely abuses the human rights of its citizens. There is no real freedom of speech, press, assembly, association, or travel. Burmese citizens are not free to change their government. Religious minorities (particularly Christians and Muslims) are discriminated against and any form of proselytizing is discouraged. Security forces also regularly monitor citizens' movements and communications, search homes without warrants, and relocate persons forcibly without just compensation or legal recourse. In June 2002, the Shan Human Rights Foundation (SHRF) accused the Burma Army of using rape systematically as ''a weapon of war'' in ethnic minority areas along the Thai border. The regime denied those charges and has not agreed with UN Special Rapporteur for Human Rights in Burma Paulo Sergio Pinheiro on the ways and means for an effective, impartial international investigation of these allegations. However, the government did recently intervene and punish both an army officer found guilty of rape and his commanding officers. Forced labor also remained an issue of serious international concern, despite some limited government efforts to control the practice. An International Labor Organization (ILO) Liaison Officer was appointed to Burma in October 2002 and, at the direction of the ILO Governing Body, has attempted to hammer out a ''viable program of action'' with the government to eliminate forced labor. Thus far, those efforts have not achieved the stated objective.

Burma remains one of the world's largest producers of opium, heroin, and amphetamine-type stimulants. Its overall output of opium and heroin has declined for six straight years; in 2002 Burma produced less than one-quarter of the opium and heroin than it did six years before. At the same

time, however, the production of methamphetamines has soared, particularly in the area controlled by the Wa ethnic group. According to some estimates, as many as 400 million to 800 million methamphetamine tablets may be produced in Burma each year, although these estimates are difficult to verify. Burma has joined with China, Thailand, and India in attempting to curb this traffic; as yet, however, there are few signs that this regional effort is succeeding.

U.S. policy goals in Burma include a return to constitutional democracy, restoration of human rights, including fundamental civil and political rights, national reconciliation, implementation of the rule of law, a more effective counternarcotics effort, HIV/AIDS mitigation, combating trafficking in persons, accounting for missing servicemen from World War II, counterterrorism efforts, and regional stability. We continue to encourage talks between Aung San Suu Kyi and the regime in the hope that the regime will live up to its stated commitment to political transition, leading to meaningful democratic change. We also consult regularly, at senior levels, with countries with major interests in Burma and/or major concerns regarding Burma's current deplorable human rights practices.

In coordination with the European Union and other states, the United States has maintained sanctions on Burma. These include an arms embargo, ban on new investment, and other measures. Our goal in applying these sanctions is to encourage a transition to democratic rule and greater respect for human rights. Should there be significant progress towards those goals as a result of dialogue between Aung San Suu Kyi and the military government, then the United States would look seriously at measures to support this process of constructive change. Continued absence of positive change would force the U.S. to look at the possibility of increased sanctions in conjunction with the international community.

Measuring Progress toward Democratization

Efforts to foster peaceful democratic change in Burma have once again ground to a halt over the past six months. While there have been some positive developments, the regime has become more confrontational in its exchanges with the NLD, led by Aung San Suu Kyi, and has offered few signs of progress toward their stated commitment to a political transition to democracy.

UN Special Envoy Razali Ismail continued his mission, visiting Burma for the eighth time in November 2002. On the positive side, the NLD also continued to rebuild itself as a national party, opening up offices throughout Burma. Altogether, the NLD has now reopened about one-quarter of its township and divisional offices (92 offices out of approximately 360). In addition, the Committee to Represent the People's Parliament (CRPP), a group of parties elected to Parliament in 1990, expanded to a total of 18 elected Members of Parliament (MP). In 1998, the opposition's decision to establish the CRPP led to the arrest of many of the MPs by the regime.

Finally, the NLD's General Secretary Aung San Suu Kyi continued her travels, visiting Shan and Rakhine States and opening NLD offices in both states. In Shan State, this travel went relatively smoothly; in Rakhine State in December, however, efforts by the United Solidarity Development Association (a ''mass organization'' affiliated with the regime) to discourage any large turnout of crowds for Aung San Suu Kyi, turned ugly. In the town of Mrauk Oo Aung San Suu Kyi intervened with local authorities by climbing atop a fire truck to prevent them from dispersing a crowd of 20,000 supporters with water hoses.

Political prisoner releases stopped as of late November, despite continued appeals from the international community (UN Special Envoy Razali and UN Special Rapporteur Pinheiro, as well as the EU, U.S., and others) for the unconditional release of all political prisoners. Approximately 550 political prisoners have been released since October 2000, including 380 NLD

party members. However, another 1,300 ''security detainees'' still remain in detention, including approximately 110 NLD party members and 17 elected MPs.

There were also new arrests. Approximately 60 political activists, mostly teachers, lawyers, and students, were detained by the government between August 2002 and March 2003 on charges including conspiracy to commit terrorist acts for the simple peaceful expression of political dissent. Due to international pressure, most of these activists were released within days, but one died while in detention (apparently from a lack of medical care), while several were convicted of offences carrying sentences of seven years or more.

In February 2003 Aung San Suu Kyi was involved in a minor civil law suit brought by a relative that appeared to be politically motivated. Aung San Suu Kyi counter-sued. Both were found guilty. She and other NLD leaders characterized the initial suit as being instigated by the regime and politically motivated. She was given a choice of paying a small fine or being jailed for a week. She refused to admit guilt by paying the fine and indicated her willingness to be jailed for a week as a result. The government then issued a ''suspension of judgment'' decree as several thousand NLD supporters gathered outside the courthouse.

Most seriously, the regime has shown no inclination to engage the democratic opposition in meaningful political dialogue. The government arranged meetings between Aung San Suu Kyi and the Minister of Education and others, but the NLD leader made clear to UN Special Envoy Razali in October that there was ''no real dialogue'' with the regime. There were also signs of Senior General Than Shwe's frustration with the lack of increased aid or reduced sanctions.

The hamstrung status quo has frustrated a number of concerned countries. Australian Foreign Minister Downer, Japan's Deputy Foreign Minister Tanaka, and the EU Troika visited Burma over the past several months and Japan's Prime Minister Koizumi reportedly weighed in on behalf of reform at ASEAN Summit in Phnom Penh in November; however, no one has yet been able to move the process forward. At the most recent meeting of the U.N. Contact Group on Burma, held in Tokyo in February, there was little consensus on next steps and what new strategies could be effective. Both the EU and the United States are now considering the advisability of increasing sanctions on Burma.

Counternarcotics

The United States judged earlier this year that Burma had ''failed demonstrably'' to make substantial efforts to cooperate on narcotics matters, primarily due to the failure to stem the production and flow of amphetamine-type stimulants into neighboring countries. At the same time, the USG has sustained a successful program of cooperation between police authorities in Burma and the U.S. Drug Enforcement Administration. Since 1993 the USG and GOB have cooperated on annual opium yield surveys in Burma and with UNODC and other donors on opium reduction and crop substitution programs. In June 2002, the United States pledged an additional $700,000 to support UNODC's Wa Alternative Development Project, which helped reduce opium production in the territories of one of the most notorious former insurgent groups, the United Wa State Army.

While Burma is the world's second largest producer of illicit opium, its overall production in 2002 was only a fraction of its production in the mid-1990s. According to the joint U.S./Burma opium yield survey, opium production in Burma totaled no more than 630 metric tons in 2002, down 26 percent from 2001, and less than one-quarter of the 2,560 metric tons produced in Burma in 1996. Burma's success in reducing the production of opium and heroin, however, has been offset by increasing production of amphetamine-type stimulants, particularly in outlying regions governed

by former insurgents that are not under the effective control of the Rangoon government. According to some estimates, as many as 400 to 800 million methamphetamine tablets may be produced in Burma each year. Due to the mobile, small-scale nature of the methamphetamine production facilities both reliable data and effective law enforcement measures are difficult. Burma does not have a chemical industry, and as far as we know, does not produce any of the precursors for synthetic drugs. This highlights the regional character of this problem and the need for regional cooperation to put an end to drug flows from the region.

There are reliable reports that individual Burmese officials in outlying areas are involved in narcotics production or trafficking or offering protection for these activities. In addition, while the government says it urges former ethnic insurgents to curb narcotics production and trafficking in their self-administered areas along the Chinese border, it has only recently, with the support and assistance of China, begun to crack down hard on some of these groups. Since September 2001, it has begun to enforce pledges from these former insurgent groups to make their self-administered areas opium-free and has pressured groups (including the Wa and the Kokang Chinese) into issuing decrees outlawing narcotics production and trafficking in areas under their control. According to early reports from UNODC's opium surveyors, the cultivation in traditional growing areas has been reduced. However, the Wa have not committed to eliminating narcotics production until 2005. The Burmese junta gauges that any military operation to end production would be extremely costly.

In recent years, Burma continues to improve its cooperation with neighboring states, particularly China. In 2001, Burma signed memoranda of understanding on narcotics control with both China and Thailand. The MOU with China established a framework for joint operations, which in turn led to a series of arrests and renditions of major traffickers in 2001 and 2002, many of whom were captured in the former insurgents' self-administered areas. Over the past two years Burma has returned over 30 Chinese fugitives to China, including principals from one group that China described as ''the largest armed drug-trafficking gang in the Golden Triangle.'' Burma's MOU with Thailand has committed both sides to closer police cooperation on narcotics control and to the establishment of three joint ''narcotics suppression coordination stations'' at major crossing points on the border. Recent visits by Thai Prime Minister Thaksin and other Thai officials to Rangoon made narcotics cooperation a centerpiece of bilateral relations. In addition, India participated in a January 2003 meeting with China and Burma in Rangoon on precursor control. As a result, India is now exploring the possibility of establishing a 100-mile wide ''restricted area'' within which any possession of ephedrine, acetic anhydride, or other drug precursors would be criminalized. If adopted by Thailand and China, such action could have a major impact on amphetamine production in areas not under Rangoon's effective control.

Burma is part of every major multilateral narcotics control program in the region. It is a party to the 1961 UN Single Convention, the 1971 UN Convention on Psychotropic Substances, and the 1988 UN Drug Convention. It has also announced that it will shortly adhere to the 1972 Protocol to the 1961 Single Convention. Burma has also supported UNODC's 1993 Memorandum of Understanding that was signed among the six regional states—Burma, China, Thailand, Laos, Vietnam, and Cambodia—to control narcotics production. Finally, as China and Thailand have become more active multilaterally, Burma has joined all trilateral and quadrilateral programs organized by either to coordinate counter-narcotics efforts among the four states of the Golden Triangle (Laos, Burma, China, and Thailand).

Under pressure from the Financial Action Task Force (FATF), the Government of Burma has taken action on money laundering issues. In June 2002 the GOB enacted a new money laundering law that criminalized money laundering in connection with most major offenses, including terrorism and

narcotics trafficking. A Central Control Board chaired by the Minister of Home Affairs was established in July; training for financial investigators was conducted in Rangoon and Mandalay in August and September, and the initial investigations were begun in July 2002. Using the provisions of the law, assets have been frozen and/or seized in several major narcotics-related cases. With assistance from UNODC, the Burmese government is also in the process of drafting a new mutual legal assistance law, which should lay the groundwork for judicial and law enforcement cooperation across borders in the prosecution of money laundering and other cases.

The Quality of Life in Burma

The Economy: Economic developments in Burma were punctuated in February and March 2003 by a banking crisis centered on several major private banks. Undermined by soaring inflation and government restrictions on interest rates, Burma's private banks were shaken to their roots by the collapse of several unofficial financial institutions in January 2003. During February, approximately 40 percent of the banks' deposits were withdrawn, obliging the banks to restrict withdrawals, call in loans, and apply to the Central Bank for emergency assistance. The run has focused on private banks, especially those with Chinese or Chinese-Burmese ownership. Government-owned and joint venture banks with government participation have not been affected, presumably because the public is more confident of government support in those cases. Burmese-owned private banks have also escaped the extreme pressures applied to the Chinese-owned banks, presumably again because depositors are more confident of government support in those cases.

Looking ahead, several private banks may fail within the next several months. Since the private banks hold a majority of bank deposits in Burma, this will have a major impact on their customers' savings and on the payments system throughout Burma. A good portion of the inflation that plagued Burma over the past two years was generated by the uncontrolled credit and investment operations of the informal financial institutions, which have now collapsed. With them gone and the banking system crippled by the current run, inflation should decline, while the kyat, now suddenly in short supply, strengthens. Since the start of the crisis in February, the values of both gold and the dollar have fallen by about 20 percent against the kyat, while general price inflation has moderated. Both trends should continue in the months ahead.

In the energy sector, some good luck has saved the government from the consequences of a string of disastrous public investment decisions. As it turns out, a crash government exploration program has turned up enough natural gas onshore to ensure against a recurrence of the severe load shedding and blackouts that plagued the economy in 2002. Where in January 2002 the nation's peak generating capacity was sufficient to meet only about two-thirds of the nation's peak demand, it now appears that all, or virtually all customers in Rangoon and other major cities are getting electricity on a regular basis. In 2004, several major hydropower projects are due to come on line and, provided that the new-found gas holds out that long, Burma may finally be able to put its long-running energy problems behind it.

In the fiscal budget, the situation continues to be desperate, but not so desperate as thought earlier. There, a failed fiscal concept, in which the GOB attempted to run the entire government on the basis of the profits of the state-owned enterprises, has left the GOB without any basis for long-term planning, as profits have turned to losses in one state-owned enterprise after another. In fact, in Burma's fiscal year 2001/2002, the deficits of the state-owned enterprises actually absorbed all the revenues collected by the government, leaving the government proper (i.e., the army, the navy, the health and education services, and all ministerial operations) to run on the basis of monies borrowed from the Central Bank. This has over the

past two years produced a rapid expansion of the money supply, a commensurate increase in inflation and a sharp depreciation in the value of the domestic currency.

The collapse of the informal financial institutions has had a deflationary effect. Previously propped-up asset values have collapsed and relatively high interest rates for savers have also gone away. Thus, the inflation associated with the government's mismanaged fiscal expansion will have less impact.

Human Rights: The Government of Burma severely abuses the human rights of its citizens. Burmese do not have the right to change their government. Nor is there any real freedom of speech, press, assembly, association, or travel. Religious minorities (particularly Christians and Muslims) are discriminated against and any form of proselytizing activity is actively discouraged. Burma was designated a Country of Particular Concern for particularly severe violations religious freedom in 2002. Security forces also regularly monitor citizens' movements and communications, search homes without warrants, and relocate persons forcibly without compensation or legal recourse.

Patterns of abuses are worse in ethnic minority areas. These abuses include censorship, persecution, beatings, disappearances, extrajudicial executions, the curtailing of religious freedom, forced relocations, rapes, and forced labor, including conscription of child soldiers. Several reports by non-governmental organizations have been published this year alleging human rights abuses by the Burmese military on Burmese civilians including rapes of hundreds of women between 1992 and 2001. The regime initially denied these charges but, after conducting investigations, conceded that it had identified five cases (out of the 173 presented by SHRF) whose circumstances approximate those described by SHRF. The international community is calling for an independent investigation by competent officials from outside Burma conducting private interviews with victims in an atmosphere of security and free of reprisals. In March 2003, UN Special Rapporteur for Human Rights Pinheiro visited Burma to discuss the human rights situation there, including prospects for an independent, credible investigation of the rape allegations. However, he cut his visit short when he learned that his supposedly confidential discussions with political prisoners were being monitored by Burmese authorities.

In August 2002, a Burma Army Captain raped a four-year-old girl in a village in Kayah State, and local officials attempted to cover up the crime when villagers first complained to them. However, the government has since taken action. The Captain was brought back to Rangoon in handcuffs, and the Commander and Deputy Commander of the Captain's battalion were relieved of command for their mishandling of the incident. Reportedly, there have been no reprisals against the villagers.

There had been no releases of political prisoners since late November 2002 until shortly before Pinheiro arrived in March 2003. The regime claimed to have released 45 prisoners on March 16, including ''elderly inmates, females either pregnant or with young children, and those incarcerated for disturbing peace and tranquility.'' Three to four of those released were NLD members. Approximately 550 political prisoners have been released since October 2000, including approximately 380 NLD party members. However another 1,300 ''security detainees'' (including pro-democracy activists, lawyers, students, teachers, journalists, insurgents, and those accused of aiding insurgents) still remain in prison. Of these, about 110 are NLD members and 17 are elected Members of Parliament. Another 400 prisoners (mainly mothers with young children) were released on humanitarian grounds. U.N. Special Rapporteur Pinheiro and U.N. Special Envoy, along with members of the international community, have consistently and strongly pressed for the unconditional release of all political prisoners. This appeal has thus far not been answered. The United States continues to recognize

the results of the 1990 elections and will continue to push for the full restoration of the civil and political rights of the people of Burma.

Instead of more releases of prisoners, as pledged, arrests of political activists continued in late 2002 and early 2003. Between August 2002 and March 2003, the government detained approximately 60 activists for peaceably promoting democracy and freedom. While most of these activists were released within days of their arrest, there were reports that several were beaten or otherwise abused while in detention. In addition, one detainee died (apparently as a result of a lack of medical attention), while others were convicted and sent to prison for periods of seven years or more. However, the aggregate number of political prisoners and security detainees has decreased by dozens at least in the period covered by this report.

The regime has allowed the United Nations High Commission on Refugees to maintain a presence in northern Rakhine State, providing support and protection services to more than 230,000 Rohingya Muslims who have returned from Bangladesh. After nearly a decade, however, some 22,000 Rohingya refugees still remain in two refugee camps in Bangladesh and another estimated 200,000 Rohingya live illegally in southernmost Bangladesh. In spite of ongoing repatriation efforts, for the last few years repatriations to Burma have not kept up with the camp birthrates and restrictions on movement in Burma have made life exceedingly difficult for this population. There are concerns that members of this disenfranchised population have been recruited by terrorist organizations.

Furthermore, more than 132,000 other Burmese ethnic minority displaced persons live in several refugee camps along the border in Thailand, and an estimated two million Burmese, both ethnic minorities and ethnic Burmans, live illegally in Thailand; many of these are economic migrants rather than political refugees. The tens of thousands of Burmese and ethnic minorities living illegally in the countries surrounding Burma are willing to endure an often perilous existence because they believe it is even more dangerous to return to Burma.

Forced labor also remained an issue of serious concern to the international community, despite some (still relatively ineffective) government efforts to control the practice. In June 2000, the International Labor Conference concluded that the Government of Burma had not taken effective action to deal with the use of forced labor in the country and, for the first time in the history of the International Labor Organization (ILO), it called on all ILO members to review their policies to ensure that those policies did not support forced labor. The ILO Governing Body implemented this decision in November 2000. The United States strongly supported this decision.

Over the past 18 months, the Government of Burma has slowly begun to work with the ILO on procedural measures to address the problem. In September 2001, it allowed an ILO High Level Team to visit Burma to assess the situation. That team concluded that the GOB had made an ''obvious, but uneven'' effort to curtail the use of forced labor, but that forced labor persisted, particularly in areas where the Burma Army was waging active military campaigns against insurgent forces. The team recommended that the ILO establish a presence in Burma, a step that was finally completed in October 2002 with the opening of an ILO Liaison Office in Rangoon. In August 2002, the ILO began field visits to sites along the Thai/Burmese border that have been identified by Amnesty International and other organizations as ''hot spots'' for forced labor and Burmese Army abuse of ethnic minorities. The ILO Liaison Officer has also attempted to engage the GOB in discussions to develop a ''viable plan of action'' to eliminate forced labor as demanded by the ILO Governing Body in November 2002, but so far these efforts have been unsuccessful. While the GOB has made some procedural concessions to ILO demands, the GOB has still not prosecuted any individual for use of forced labor, and there is abundant evidence that the centuries-old tradition of forced labor in Burma continues. As a result, the ILO has continued to press for an effective investigative

body, the appointment of an independent ombudsman to report on violations, and the elimination of forced labor in law and practice. The use of forced labor to build infrastructure for tourist sites appears to be reduced from levels reported in the late 1990's. In recent years, there have been isolated reports of forced labor at tourist sites.

Burma was ranked as a Tier 3 country in the Department's 2002 Trafficking in Persons Report. Since the publication of that report, the GOB has tried to make more transparent that it is taking steps against sexual exploitation trafficking, which most often involves the clandestine movement of Burmese women and children from ethnic minority areas into Thailand. The Myanmar National Committee on Women's Affairs has taken measures to help educate vulnerable populations on the dangers of trafficking by distributing booklets, producing some media programming and organizing community talks. The Ministry of Home Affairs and the Attorney General's office have carried out arrests and prosecutions of traffickers. The effectiveness of these efforts appears to be uneven and difficult to evaluate given the government's overall credibility and the political climate in the country, but this represents what seems to be a genuine engagement of some senior government officials to fighting sex trafficking. The GOB has also allowed some limited but important NGO and international organization activity to assist returning trafficking victims and educate officials, but the government needs to be open to much more of this kind of cooperation. The GOB has concentrated its efforts in fighting sex trafficking, although officials are aware that the international definition of trafficking in persons also encompasses labor exploitation.

The regime did allow a visit by Amnesty International (AI) in February 2003. During the visit, the AI delegation met with government ministers and other officials, as well as with Aung San Suu Kyi and other members of the NLD. AI used their meetings with government officials to discuss the conditions under which political prisoners are held and to call for the immediate release of 19 prisoners on humanitarian grounds.

The Environment: Illegal logging and illicit trade in wildlife and wildlife products are overwhelming efforts at protection. To help deal with both of these issues, the Ministry of Forestry has instituted a program to increase the size of protected areas, but pressures are mounting as agricultural lands expand. Other concerns include threats to reefs and fisheries and overall water resource management.

Development of a Multilateral Strategy

U.S. policy goals in Burma include a return to constitutional democracy, the institution of a rule of law, improved human rights, national reconciliation, counterterrorism efforts, regional stability, HIV/AIDS mitigation, combating trafficking in persons, accounting for missing servicemen from World War II, and more effective counternarcotics efforts. We encourage talks between Aung San Suu Kyi and the military government in the hope that it will lead to meaningful democratic change in Burma. We also consult regularly, at senior levels, with countries with major interests in Burma and/or major concerns regarding Burma's human rights practices.

The United States has co-sponsored annual resolutions at the UN General Assembly and the UN Commission on Human Rights that target Burma. We have also supported the ILO's unprecedented decision on Burma given its failure to deal effectively with its severe and pervasive forced labor problems. Most importantly, we strongly support the mission of the UN Secretary General's Special Representative for Burma, Razali Ismail, whose efforts are key in facilitating the start of any meaningful political dialogue between the regime and the NLD.

In coordination with the European Union and others, the United States has imposed sanctions on Burma. These sanctions include an arms embargo, a ban on all new U.S. investment in Burma, the suspension of all bilateral

aid, the withdrawal of GSP privileges, the denial of OPIC and EXIMBANK programs, visa restrictions on Burma's senior leaders, and a vote against any loan or other utilization of funds to or for Burma by international financial institutions in which the United States has a major interest. We have also maintained our diplomatic representation at the Chargé d'Affaires level since 1990.

Our goal in applying these sanctions is to encourage a transition to democratic rule and greater respect for human rights. Nevertheless, we remain concerned about the growing humanitarian crisis in Burma. In 2002, we initiated a $1 million program to address the growing HIV/AIDS epidemic in Burma by funding only international non-governmental organizations (INGOs) to undertake prevention activities; no assistance is direct to the regime. Discussions with the government continue on allowing INGOs to conduct voluntary HIV testing and counseling, as well as a greater commitment to more effective prevention, treatment, and care programs, including for pregnant mothers and high risk groups. We also use a portion of the funding from the U.S. Burma earmark to develop programs in support of democracy in Burma, as well as democracy, social, educational, and governance-related programs outside Burma. None of these funds are disbursed to or through the Government of Burma. We will also continue to examine the potential for cooperation with Burma on terrorism and narcotics issues. Should there be significant progress in Burma in coming months on political transition, economic reform, and human rights, the United States would look seriously at additional measures that could be applied to support the process of constructive change. Absent progress, we will be forced to consider, in conjunction with the international community, additional sanctions and/or other measures.

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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 993

[Docket No. FV02–993–2 FR]

Dried Prunes Produced in California; Revising the Regulations Concerning Compensation Rates for Handlers' Services Performed Regarding Reserve Prunes Covered Under the California Dried Prune Marketing Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule revises the regulations concerning compensation rates for handlers' services performed in connection with reserve prunes covered under Marketing Order No. 993 (order). The order regulates the handling of dried prunes produced in California and is administered locally by the Prune Marketing Committee (Committee). This rule will establish a procedure in the administrative rules and regulations which the Committee will follow to compute the level of handler payments for holding reserve prunes during and beyond the crop year of acquisition. These payment rates will reflect current industry costs. The rule also will establish time frames for changing the payment rates, and procedures for informing interested persons of the payment rates and payment procedures. This rule also does not allow for payment of handler services for reserve prunes released through the handler acceptance of diversion certificates if the released prunes have not been stored by the handler.

EFFECTIVE DATE: This final rule becomes effective May 12, 2003.

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

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

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement and Order No. 993, both as amended (7 CFR part 993), regulating the handling of dried prunes produced in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

This final rule revises the regulations concerning compensation to handlers for services they perform pertaining to reserve prunes covered under the order. Under the order, handlers are compensated for such costs as inspection, receiving, storing, grading, and fumigation of reserve prunes held for the account of the Committee. In the administrative rules and regulations, the compensation rate has been $25 per ton since the early 1970's. This rule establishes a procedure in the administrative rules and regulations that the Committee will follow to compute the level of handler payments that reflect current industry costs instead of having the compensation rate stated in the rule. The Committee will obtain current industry costs through surveys of dried prune handlers and compute average costs based on the number of handlers participating in the survey. Abnormally high or low results will not be considered in the average. The average may be rounded to the nearest $0.25. USDA will approve the updated compensation rate computed by the Committee. The Committee will announce the compensation rate for handling reserve prunes at the time the Committee reviews the industry statistics during the latter part of June and notify all handlers accordingly. Additional payment for handler services for reserve prunes held beyond the crop year of acquisition will be updated through a stated percentage of the handler compensation rate during the crop year of acquisition. The Committee unanimously recommended this action on November 29, 2001.

The order provides authority for volume regulation designed to promote orderly marketing conditions, to stabilize prices and supplies, and to improve producer returns. When volume regulation is in effect, a certain percentage of the California prune crop may be sold by handlers to any market (salable tonnage) while the remaining percentage must be held by handlers in a reserve pool (or reserve) for the account of the Committee. Reserve prunes are disposed of through various programs authorized under the order, including government purchases. Net

proceeds generated from sales of reserve prunes are distributed to the reserve pool's equity holders, primarily producers.

Definitions

Section 993.21c of the prune marketing order defines salable prunes as prunes which are free to be handled pursuant to any salable percentage established by the USDA pursuant to § 993.54.

Section 993.21d of the order defines reserve prunes as prunes which must be withheld in satisfaction of a reserve obligation arising from the application of a reserve percentage established by the USDA pursuant to § 993.54.

Section 993.54 of the order provides authority for USDA, based on recommendations by the Committee and supporting information supplied by the Committee, or from other available information, to establish salable and reserve percentages for dried prunes received by handlers during a crop year. The crop year begins August 1 and runs through July 31. When salable and reserve percentages are in effect, § 993.57 requires handlers to hold in their possession or under their control, for the account of the Committee, the quantity of prunes necessary to meet their reserve obligation.

Authority To Pay Handlers for Reserve Pool Services

Section 993.59 of the order specifies that handlers be compensated for necessary services performed in connection with reserve prunes including, but not limited to inspection, receiving, storing, grading, and fumigation. The payment is made on the tonnage of reserve prunes held by the handler for the account of the Committee, in accordance with a schedule of payments.

Handler Service Payments and Conditions for Reserve Prunes

Pursuant to § 993.59 of the order, details of the criteria and procedures for compensating prune handlers in connection with reserve prunes are established by regulation after recommendation by the Committee. They may be found in § 993.159 of the administrative rules and regulations. Since the early 1970's, the compensation rate has been $25 per ton. The prune industry has not implemented salable and reserve percentages since 1971; therefore, the compensation rate does not reflect current costs. In recent years, the Committee has considered implementing a reserve.

The Committee normally meets during the end of June or early July to discuss marketing policy issues and decides whether to recommend implementing a reserve. The Committee met on November 29, 2001, and unanimously recommended revising the rules and regulations pertaining to the compensation rates for handler services in connection with reserve prunes. One change recommended establishes a procedure in the administrative rules and regulations for computing the compensation rates instead of having the rates stated in the rule. To aid in formulating the compensation rates, the Committee will obtain current costs through surveys of dried prune handlers and compute average costs based on the number of handlers participating in the survey. Abnormally high or low results will not be considered in the average. The average may be rounded to the nearest $0.25.

An updated compensation rate for handling reserve prunes during the crop year of acquisition will be computed when the Committee considers its annual marketing policy, but no later than July 20. This date could be extended up to 10 days, if warranted by a late crop. During marketing policy discussions, the Committee reviews, among other things, industry production and marketing statistics for dried prunes here and abroad, pricing information for domestic and foreign produced dried prunes, and handler costs for holding reserve prunes, including, but not limited to inspection, receiving, storing, grading, and fumigating prunes. Any recommended change in compensation rate will be reviewed, and will have to be approved by USDA. Upon approval, the Committee will inform all handlers of the changed compensation rate for the upcoming crop year. The process will be completed by the beginning of the crop year (August 1).

On November 29, 2001, the Committee also recommended that no payment for handler services be made for reserve prunes released by handler acceptance of diversion certificates under §§ 993.62 and 993.162, if the handler has not stored the prunes. For example, a handler may have a reserve obligation of 1,000 tons and received 900 tons worth of diversion certificates. The handler submits the 900 tons of diversion certificates to the Committee and requests that he be relieved of 900 tons of reserve prune obligation, leaving a reserve obligation of 100 tons. In this situation, the Committee will only reimburse the handler for reserve pool costs on the 100 tons.

The Committee intends to pay up to one-half the compensation rate (first payment) as soon as practicable after the majority of the deliveries have been made and funds are available. During normal years, the first payment will occur after the second quarter of the crop year (usually during February) and quarterly payments will be made thereafter, as funds are available. The crop year runs from August 1 through July 31.

The Committee also recommends a number of administrative changes to the rules and regulations. They include: (1) Correcting a reference in § 993.159(a) from § 993.57 to § 993.59; (2) adding a provision in § 993.159(a)(1) stating that in crop years when the Committee recommends a reserve pool, it shall meet by July 20 to review costs for handler services in connection with reserve prunes pursuant to § 993.59, except that the Committee may extend this date by not more than 10 business days if warranted by a late crop; (3) adding weighing and stacking prunes as part of the direct labor costs in § 993.159(a)(2); (4) adding clean-up, health insurance, pension plan contributions, vacation pay, holiday and other paid days off as part of the plant overhead costs in § 993.159(a)(2); and (5) eliminating reference to personal pronouns and replacing them with a descriptive noun so the regulatory text is not gender specific. Paragraphs (a)(1), (2), and (3) of § 993.159 are modified accordingly.

In addition, the Committee recommended that the provisions in § 993.159(c)(2) regarding payments to handlers for services rendered in connection with reserve prunes held beyond the end of the crop year of acquisition also be updated. The regulations currently establish the reimbursement rate for storage and fumigation at $2 per ton for the first quarter of the year beyond the crop year of acquisition. This approximates 10 percent of the current handler compensation rate for the crop year of acquisition. The Committee recommended that handlers be compensated at 10 percent of the yearly rate computed by the Committee and approved by USDA for the crop year of acquisition for the first quarter after the crop year of acquisition, rather than establishing a specific rate. That paragraph also specifies specific amounts per ton for storage and fumigation for the second, third, and fourth quarters after the crop year of acquisition at $1.00, $0.25, and $0.25 per ton, respectively. This equates to 50 percent of the first quarter's amount for the second quarter and 25 percent each for the third and fourth quarters. Rather than maintaining specific rates for the

second, third, and fourth quarters, the Committee recommended that the rates be expressed as these percentages in the administrative rules and regulations. Expressing these rates paid to handlers for services rendered beyond the crop year of acquisition as percentages will add flexibility to the regulatory scheme and eliminate the need to revise that part of the regulations when the rates for handler services during the crop year are changed.

The Committee also recommended that it be allowed to determine the rate per ton for bin rental within the industry for the succeeding crop year and to inform handlers in accordance with paragraph (e) of § 993.159. Handlers will be compensated at that rate for use of their bins in storing reserve prunes for the account of the Committee. Paragraphs (c)(1) and (2) of § 993.159 are modified accordingly.

New paragraph (e) of § 993.159 will specify that the Committee shall give reasonable publicity to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider handler payment rates or any modification thereof, and each such meeting shall be open to them. Similar publicity shall be given to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each payment rate modification submitted to USDA for review and approval. The Committee shall notify producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and cooperative bargaining association(s) of USDA's action on payment rates and conditions for payment by first class mail and/or by electronic communications.

Final Regulatory Flexibility Analysis

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

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

There are approximately 1,205 producers of dried prunes in the production area and approximately 24 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000.

An updated industry profile shows that 9 out of 24 handlers (37.5 percent) shipped over $5,000,000 worth of dried prunes and could be considered large handlers by the Small Business Administration. Fifteen of the 24 handlers (62.5 percent) shipped under $5,000,000 worth of prunes and could be considered small handlers. An estimated 32 producers, or less than 3 percent of the 1,205 total producers, will be considered large growers with annual incomes over $750,000. The majority of handlers and producers of California dried prunes may be classified as small entities.

Pursuant to § 993.59 of the order, this final rule will allow the Committee to compute and announce the level of payments paid to handlers for services performed in connection with holding reserve prunes for the account of the Committee. Each handler holding reserve prunes for the account of the Committee will complete such services so that the Committee is assured that the prunes are maintained in good condition. The Committee will use the procedure specified in the administrative rules and regulations for computing the payment levels. This flexibility will allow for cost updates in a timely and efficient manner and at less cost to implement. This rule will allow the Committee to survey each of the prune handlers to obtain their costs for each category of expenses for handling reserve prunes listed in § 993.159 of the administrative rules and regulations. These costs will be averaged according to the formula in the rules and regulations. After reviewing and computing these costs, the Committee will submit the compensation rates to USDA for approval. After USDA approves the compensation rates, the payment rates will be publicized as required in paragraph (e) of this section. No payments for handler services will be made for reserve prunes released by handler acceptance of diversion certificates if the handler has not stored the released dried prunes for the account of the Committee.

The Committee also recommended a number of administrative changes to the rules and regulations. They include: (1) Correcting a section reference in § 993.159(a) from § 993.57 to § 993.59; (2) Adding a provision to § 993.159(a)(1) stating that in crop years when the Committee recommends a reserve pool, it shall meet by July 20 to review the costs incurred by handlers in connection with holding reserve prunes for the account of the Committee, except that the Committee may extend this date up to 10 business days if warranted by a late crop; (3) Adding weighing and stacking prunes as part of the direct labor costs in § 993.159(a)(2); (4) Adding clean-up, health insurance, pension plan contributions, vacation pay, holiday and other paid days off as part of the plant overhead costs in § 993.159(a)(2); and (5) Eliminating references to personal pronouns and replacing them with descriptive nouns so the regulatory text is not gender specific. Paragraphs (a)(1), (2), and (3) of § 993.159 are modified accordingly.

In addition, the Committee recommended that the provisions in § 993.159(c)(2) also be updated and be formula based. These provisions regard payments to handlers for services (storage and fumigation) rendered in connection with reserve prunes held beyond the crop year of acquisition. The regulations currently establish the reimbursement rate at $2 per ton for the first quarter of the crop year after acquisition. This approximates 10 percent of the current handler compensation rate for the crop year of acquisition. The Committee recommended that the handler payment rate for the first quarter of the crop year after acquisition be 10 percent of the yearly rate for the crop year of acquisition, rather than establishing a specific payment rate. That paragraph also specifies specific amounts per ton for storage and fumigation for the second, third, and fourth quarters of the crop year following acquisition at $1.00, $0.25, and $0.25 per ton, respectively. This equates to 50 percent of the first quarter's amount for the second quarter and 25 percent each for the third and fourth quarters. Rather than maintaining specific rates for the second, third, and fourth quarters, the Committee recommended that the rates be expressed as these percentages in the administrative rules and regulations. Expressing these rates paid to handlers for services rendered beyond the crop year of acquisition as percentages will add flexibility to the regulatory scheme and eliminate the need to revise that part of the regulations when the rates for

handler services during the crop year are changed.

The Committee also recommended that it be allowed to determine the rate per ton for bin rental within the industry for the succeeding crop year and to inform handlers in accordance with paragraph (e) of § 993.159. Handlers will be compensated at that rate for the use of their bins in storing reserve prunes for the account of the Committee. Paragraphs (c)(1) and (2) of § 993.159 are modified accordingly.

New paragraph (e) of § 993.159 will specify that the Committee give reasonable publicity to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider handler payment rates or any modification thereof, and each such meeting shall be open to them. Similar publicity will be given to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each payment report submitted to USDA for review and approval. The Committee will notify producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and cooperative bargaining association(s) of USDA's action on payment rates and conditions for payment by first class mail and/or by electronic communication.

Regarding the impact of this rule on affected entities, the order provides that handlers shall store reserve prunes for the account of the Committee. Net proceeds from sales of such reserve prunes are distributed back to the reserve pool's equity holders, primarily producers. Handlers are compensated from reserve pool funds for their costs in inspecting, receiving, storing, grading, fumigation, and handling reserve prunes. Currently, handlers are compensated at a rate of $25 per ton for reserve prunes acquired during a particular crop year. The $25 per ton rate has been the compensation rate since the early 1970's. Costs have increased dramatically in the past 30 years. The Committee recommended that a procedure be added to the administrative rules and regulations to allow the Committee to adjust the compensation rate for handling reserve prunes in a timely manner instead of specifying them in the rules and regulations. The industry meets during the end of June or early July to discuss marketing policy issues, including reserve pooling, for the next crop year, which begins August 1. A procedure in the administrative rules and regulations will allow the Committee to update the compensation rate during a particular crop year in a timely, efficient, and less expensive manner. The computed payment rates will be recommended by the Committee and approved administratively by USDA. After USDA approval the payment rates will be publicized as required in § 993.159(e).

This rule will allow the Committee to reimburse handlers their actual costs incurred in holding reserve prunes for the account of the Committee. While this may reduce net proceeds to the equity holders, it shifts the costs to the appropriate entities. There should be no disproportionate impact of this action on small entities. Costs of the reserve pool are taken out of the proceeds of the pool and each equity holder shares in the expenses based on their proportionate share of prunes in the reserve pool.

The Committee discussed other alternatives to this change on November 29, 2001, including doing nothing. However, that will leave reserve pooling as a less viable supply management option due to the outdated schedule of handler payments. Another option discussed was to update the data for a given crop year; however, the survey and formula procedure was considered more viable.

This action will allow the Committee to survey prune handlers to obtain their costs applicable to holding reserve prunes for the account of the Committee. Reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data to administer the program. This rule will impose some additional reporting and recordkeeping requirements on both small and large California dried prune handlers. In order to help the Committee formulate the compensation rate for handler services in connection with reserve prunes, current costs will be obtained through a survey voluntarily submitted by dried prune handlers. The average costs will be computed based on the number of handlers participating in the survey. It is estimated that it will take an average of 15 minutes per response to collect this information. If all 24 handlers participate in the survey, the additional burden created is estimated to be 6 hours. However, the Committee believes that the burden to complete a handler compensation survey will be outweighed by obtaining and using updated cost data to determine the handler compensation for handling reserve prunes.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), AMS is seeking approval for the additional burden imposed by the Handler Compensation Survey. Upon OMB approval, the additional burden will be merged into the information collection currently approved under OMB No. 0581–0178, Vegetable and Specialty Crop Marketing Orders. As noted in the initial regulatory flexibility analysis, the USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Committee's Supply Management Subcommittee meeting on November 28, 2001, and the Committee meeting on November 29, 2001, where this action was deliberated were both public meetings widely publicized throughout the prune industry. All interested persons, both large and small, were invited to attend the subcommittee and Committee meetings and participate in the industry's deliberations.

A proposed rule concerning this action was published in the **Federal Register** on Tuesday, October 15, 2002, (67 FR 63568). Copies of this rule were mailed or sent via facsimile to all Committee members, alternates and dried prune handlers. Finally, the Office of the Federal Register and USDA made the rule available through the Internet. The rule provided a comment period that ended December 16, 2002. No comments were received. Accordingly, no changes will be made to the rule as proposed.

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

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

List of Subjects in 7 CFR Part 993

Marketing agreements, Plums, Prunes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 993 is amended as follows:

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

■ 1. The authority citation for 7 CFR part 993 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 993.159 is revised to read as follows:

993.159 Payments for services performed with respect to reserve tonnage prunes.

(a) *Payment for crop year of acquisition.* Each handler shall, with respect to reserve prunes held by the handler for the account of the Committee pursuant to § 993.59, be paid at a rate computed by the Committee (natural condition rate) for necessary services rendered by the handler in connection with such prunes so held during all or any part of the crop year in which the prunes were physically received from producers or dehydrators. Each handler holding reserve prunes shall perform such services to assure that the prunes are maintained in good condition. No payment will be made for prunes released by handler acceptance of diversion certificates if the handler has not stored the released prunes. The rate of payment shall be established by the Committee and must be approved by the Secretary. Following such approval, it shall be publicized as required in paragraph (e) of this section.

(1) On or before July 20 of each crop year when the Committee recommends a reserve pool (except the Committee may extend this date by not more than ten business days if warranted by a late crop), the Committee shall hold a meeting to review the costs for necessary services rendered by handlers in connection with reserve prunes.

(2) Such amount shall, together with the additional payments, as provided in this section, be in full payment for the costs incurred in connection with but not be limited to the following services: Inspection, receiving, storing, grading, fumigation, and handling. The costs include, but are not limited to:

(i) Acquisition costs, which include those for salaries, commission, or brokerage fees, transportation and handling between plants and receiving stations, inspection, and other costs, including container expenses, incidental to acquisition or storage;

(ii) Direct labor costs, which include those for weighing, receiving and stacking, grading, preliminary sorting and storing (including that performed by the handler at the receiving station), and loading for shipment or other delivery to the Committee or its designee;

(iii) Plant overhead costs, which include those for supervision, indirect labor, fuel, power and water, taxes and insurance on facilities, depreciation and rent, repairs and maintenance (clean-up, etc.), factory supplies and expense, and employee benefits (payroll taxes, compensation insurance, health insurance, pension plan contributions, vacation pay, holiday and other paid days off, and other such costs).

(3) The Committee shall survey all handlers to obtain their costs for services performed with respect to reserve tonnage prunes. The Committee will compute the average industry cost for holding reserve pool prunes by adding each handlers' cost data, and dividing the composite figure by the number of handlers participating in the survey. In the event that any handler's cost data is too low or too high, the Committee may choose to exclude the high and low data in computing an industry average. The industry average costs may be rounded to the nearest $0.25. The industry average costs computed by the Committee shall be publicized by the Committee pursuant to paragraph (e) of this section.

(b) *Reimbursement for required insurance costs.* Each handler holding reserve prunes for the account of the Committee shall maintain proper insurance thereon, including fire and extended coverage, in valuations (according to grade and/or size) established by, or acceptable to, the Committee for the particular crop year. The Committee shall reimburse the handler for the actual costs of such insurance. Prior to the receipt of reserve prunes at the beginning of each crop year, the handler shall certify to the Committee and the Secretary of Agriculture, on Form PMC 4.5, that such handler has a fire and extended coverage policy fully insuring all reserve prunes received by the handler during such crop year. Such certification shall contain the following information:

(1) The name and address of the handler;

(2) The location(s) where reserve prunes will be held for the account of the Committee and the premium rate per $100 value per annum at each location;

(3) The value per ton at which the reserve prunes are insured; and

(4) The name and address of the insurance underwriter.

(c) *Certain additional payments in connection with the holding of reserve prunes for the account of the Committee.*

(1) Whenever a handler is directed by the Committee to move and dump containers or reserve prunes held by the handler for the account of the Committee for the purpose of causing an inspection to be made of the prunes as provided in § 993.75, but without taking delivery of the prunes at that time, the handler shall be paid for such services at a rate per ton (natural condition weight) determined by the Committee and approved by the Secretary of Agriculture. Such reimbursement rate shall be computed as described in paragraph (a)(3) of this section and publicized as required in paragraph (e) of this section.

(2) Additional payment for reserve tonnage prunes held beyond the crop year of acquisition shall be made in accordance with this paragraph. Each handler holding reserve prunes shall complete such services so that the Committee is assured that the prunes are maintained in good condition.

(i) For storage and necessary fumigation, each handler shall be compensated at a per ton rate announced by the Committee in accordance with paragraph (a)(3) of this section:

(A) For all or any part of the first 3 months of the succeeding crop year, the rate per ton shall be 10 percent of the yearly rate established for the crop year of acquisition;

(B) For all or any part of the second 3 months of the succeeding crop year, the rate per ton shall be 50 percent of the rate established for the first 3 months of the succeeding crop year;

(C) For all or any part of the third 3 months of the succeeding crop year, the rate per ton shall be 25 percent of the rate established for the first 3 months of the succeeding crop year;

(D) For all or any part of the fourth 3 months of the succeeding crop year, the rate per ton shall be 25 percent of the rate established for the first 3 months of the succeeding crop year;

(ii) For all or part of the succeeding crop year, the Committee shall determine the per ton rate for bin rental within the industry and announce bin rental rate to the industry pursuant to paragraph (e) of this section.

(iii) For insurance as prescribed in paragraph (b) of this section.

(d) *Certain additional payments in connection with the delivery of reserve prunes to the Committee or its designee.*

(1) Whenever a handler is directed by the Committee to deliver to it or its designee reserve prunes in natural condition, the Committee shall furnish the handler with the containers in which to deliver the prunes, or reimburse the handler, at cost, for any containers which the handler furnishes pursuant to an agreement with the Committee.

(2) Whenever the Committee arranges with a handler for the reserve prunes delivered to it or its designee to be in processed and packaged condition, the Committee shall reimburse the handler

at the agreed rate, determined by the Committee to be reasonable, for the processing, container, and packaging costs.

(e) The Committee shall give reasonable publicity to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each meeting to consider handler payment rates or any modification thereof, and each such meeting shall be open to them. Similar publicity shall be given to producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and the cooperative bargaining association(s) of each payment rate modification submitted to USDA for review and approval. The Committee shall notify producer and handler members and alternates who serve on the Committee, commercial dehydrators, handlers, and cooperative bargaining association(s) of USDA's action on payment rates and conditions for payment by first class mail and/or by electronic communications.

Dated: April 3, 2003.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 03–8800 Filed 4–9–03; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–134–AD; Amendment 39–13110; AD 2003–07–14]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas DC–10–30 Airplane

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to a single McDonnell Douglas Model DC–10–30 airplane, that requires repetitive tests for electrical continuity and resistance and repetitive inspections to detect discrepancies of the fuel boost/transfer pump connectors; and corrective actions, if necessary. This action is necessary to prevent arcing of connectors in the fuel boost/transfer pump circuit, which could result in a fire or explosion of the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Effective May 15, 2003.

The incorporation by reference of Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 02, dated December 7, 2001, as listed in the regulations, was approved previously by the Director of the Federal Register as of August 12, 2002 (67 FR 45053, July 8, 2002).

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Philip C. Kush, Aerospace Engineer, Propulsion Branch, ANM–140L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712; telephone (562) 627–5263; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to a single McDonnell Douglas Model DC–10–30 airplane was published in the **Federal Register** on January 3, 2003 (68 FR 320). That action proposed to require repetitive tests for electrical continuity and resistance and repetitive inspections to detect discrepancies of the fuel boost/transfer pump connectors; and corrective actions, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Changes to 14 CFR Part 39/Effect on the Proposed AD

On July 10, 2002, the FAA issued a new version of 14 CFR part 39 (67 FR 47997, July 22, 2002), which governs the FAA's airworthiness directives system. The regulation now includes material that relates to altered products, special flight permits, and alternative methods of compliance. However, for clarity and consistency in this final rule, we have retained the language of the NPRM regarding that material.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Cost Impact

This AD applies to one McDonnell Douglas Model DC–10–30 airplane and that airplane is of U.S. registry. It will take approximately 65 work hours to accomplish the required tests and inspections on that airplane, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the AD on the single U.S. operator is estimated to be $3,900, per test or inspection cycle.

The cost impact figure discussed above is based on assumptions that the operator has not yet accomplished the requirements of this AD action, and that the operator would not accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory

Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–07–14 McDonnell Douglas: Amendment 39–13110. Docket 2002–NM–134–AD.

Applicability: Model DC–10–30 airplane, fuselage number 0106, certificated in any category.

Note 1: The requirements of this AD are identical to those in AD 2002–13–10, amendment 39–12798, which applies to Model DC–10–10, –10F, –15, –30, –30F, –30F (KC10A and KDC–10), –40, and –40F airplanes, and Model MD–10–10F and –30F airplanes; as listed in Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 01, dated July 16, 2001; and Model MD–11 and –11F airplanes, as listed in Boeing Alert Service Bulletin MD11–28A112, including Appendix, dated December 11, 2000.

Note 2: Airplane fuel tanks on which the fuel/boost pump and wiring connector have been physically removed and the fuel tank made inoperable are not subject to the requirements of this AD.

Note 3: This AD applies to the airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. If the airplane has been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent arcing of connectors of the fuel boost/transfer pump, which could result in a fire or explosion of the fuel tank, accomplish the following:

Repetitive Tests and Inspections

(a) Within 6 months after the effective date of this AD, do tests (using a digital multimeter and Quadtech 1864 megohm meter or an equivalent megohm meter that meets current and voltage requirements, as specified in the service bulletin) for electrical continuity and resistance and a general visual inspection to detect discrepancies (*e.g.*, damage, arcing, loose parts, wear) of the fuel boost/transfer pump (alternating current pumping unit) by accomplishing all the actions specified in the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 02, dated December 7, 2001. Repeat the tests and inspection thereafter every 18 months. Although the service bulletin refers to a reporting requirement using the Appendix of the service bulletin, such reporting is not required.

Note 4: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to enhance visual access to all exposed surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Corrective Actions, If Necessary

(b) If the result of any test required by paragraph (a) of this AD is outside the limits specified in the service bulletin identified in that paragraph, or if any discrepancy is detected during any inspection required by paragraph (a) of this AD, before further flight, accomplish corrective actions (*e.g.*, replacement of connector/wire assembly with serviceable connector/wire assembly, and replacement of the pump with a serviceable fuel boost/transfer pump), as applicable, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 02, dated December 7, 2001. Although the service bulletin refers to a reporting requirement using the Appendix of the service bulletin, such reporting is not required.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The actions shall be done in accordance with Boeing Alert Service Bulletin DC10–28A228, including Appendix, Revision 02, dated December 7, 2001. The incorporation by reference of that document was approved previously by the Director of the Federal Register as of August 12, 2002 (67 FR 45053, July 8, 2002). Copies may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on May 15, 2003.

Issued in Renton, Washington, on April 4, 2003.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–8740 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 135, and 145

[Docket No. FAA–1999–5836]

RIN 2120–AC38

Repair Stations; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; delay of effective date; correction.

SUMMARY: This document makes a correction to the **DATES** section of a final rule published in the **Federal Register** on March 14, 2003 (68 FR 12542). That final rule delayed the effective date of a final rule amending the regulations for aeronautical repair stations.

FOR FURTHER INFORMATION CONTACT: Diana Frohn, telephone (202) 267–7027.

Correction

In FR Doc. 03–6181 published on March 14, 2003, on page 12542, in the first column, correct the **DATES** paragraph to read as follows:

DATES: The effective date of the final rule amending 14 CFR parts 91, 121, 135 and 145 published on August 6, 2001, at 66 FR 41088 is delayed until October 3, 2003, with the following exception: § 145.163 remains effective April 6, 2005.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 03–8691 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–13–M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1305

Land Between The Lakes—Removal of Regulations on Motorized Vehicles

AGENCY: Tennessee Valley Authority.

ACTION: Final rule; removal.

SUMMARY: The Tennessee Valley Authority (TVA) hereby removes obsolete rules regulating the use of motorized vehicles over the Land Between The Lakes. Under the Land Between The Lakes Protection Act of 1998, administrative jurisdiction transferred from TVA to the United States Department of Agriculture—Forest Service (USDA–FS) on October 1, 1999. The USDA–FS currently is in charge of operation, maintenance, and development of this area. Accordingly, this rule would rescind the regulations effective upon publication in the **Federal Register**.

EFFECTIVE DATE: April 10, 2003.

FOR FURTHER INFORMATION CONTACT: Rebecca Chunn Tolene, Office of the General Counsel, Tennessee Valley Authority, 865–632–3045.

SUPPLEMENTARY INFORMATION: Land Between The Lakes (''LBL'') is a national recreation area located in western Kentucky and Tennessee established by the Tennessee Valley Authority (TVA) in 1964 and maintained by TVA until 1999. 18 CFR part 1305 contains rules regulating the use of motorized vehicles over LBL including designating the Turkey Bay Off-Road Vehicle Area as the only area to be authorized for use of off-road vehicles. Under the Land Between The Lakes Protection Act of 1998 (16 U.S.C. 460111–61), administrative jurisdiction transferred on October 1, 1999, from TVA to the USDA–FS. Accordingly, this rule rescinds 18 CFR part 1305 effective upon publication in the **Federal Register**.

List of Subjects in 18 CFR Part 1305

Traffic regulations.

■ For reasons set out in the preamble, under the authority of 16 U.S.C. 831–831ee, Chapter XIII of Title 18 of the Code of Federal Regulations is amended as follows:

PART 1305—[REMOVED AND RESERVED]

■ Part 1305 is removed and reserved.

Dated: March 28, 2003.

Kathryn J. Jackson,

Executive Vice President, River System Operations & Environment, Tennessee Valley Authority.

[FR Doc. 03–8801 Filed 4–9–03; 8:45 am]

BILLING CODE 8120–08–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

[AL–072–FOR]

Alabama 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 Alabama regulatory program (Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Alabama proposed revisions to its rules concerning forms and license applications. Alabama revised its program to improve operational efficiency.

EFFECTIVE DATE: April 10, 2003.

FOR FURTHER INFORMATION CONTACT: Arthur W. Abbs, Director, Birmingham Field Office. Telephone: (205) 290–7282. Internet address: *aabbs@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Alabama 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 Alabama 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 State 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 Alabama program on May 20, 1982. You can find background information on the Alabama program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the May 20, 1982, **Federal Register** (47 FR 22030). You can find later actions on the Alabama program at 30 CFR 901.10, 901.15, and 901.16.

II. Submission of the Amendment

By letter dated October 17, 2002 (Administrative Record No. AL–0654), Alabama sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Alabama sent the amendment at its own initiative. Alabama proposed to revise the following provisions of the Alabama Surface Mining Commission (ASMC) rules: 880–X–1B, forms and 880–X–6A–.06, license application requirements.

We announced receipt of the proposed amendment in the January 16, 2003, **Federal Register** (68 FR 2263). 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. The public comment period closed on February 18, 2003. Because no one requested a public hearing or meeting, we did not hold one. We did not receive any comments.

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.

A. ASMC 880–X–1B Forms.

ASMC 880–X–1B lists the forms used in the operations and organization of the Alabama Surface Mining Commission. Alabama proposed to revise its list of forms by deleting some of the existing forms that are no longer used, revising the titles of other existing forms to clarify their use, and adding some new forms.

1. Alabama deleted the following forms:

Form ASMC–3 Request for Inspection & Bond Release.
Form ASMC–17 Permit Application for Underground Mining.
Form ASMC–98 Application for Coal Exploration Permit to Remove More Than 250 Tons of Coal or Disturb More Than One-Half Acre.
Form ASMC–137 Permit Application for Coal Processing Plants.

Alabama uses other existing forms in place of the deleted forms.

2. Alabama changed the existing descriptions of Forms ASMC–6, ASMC–16, ASMC–176, and ASMC–232 to the descriptions shown below:

Form ASMC–6 Application for Coal Mining License/Application for Annual Update of Coal Mining License/Notification of Change in Ownership or Control.
Form ASMC–16 Permit Application for a Surface Coal Mine/Permit Application for an Underground Coal Mine/Permit Application for a Preparation Facility.
Form ASMC–176 Renewal Application for a Surface Coal Mine/Renewal Application for an Underground Coal Mine/Renewal Application for a Preparation Facility.
Form ASMC–232 Transfer Application for a Surface Coal Mine/Transfer Application for an Underground Coal Mine/Transfer Application for a Preparation Facility.

Alabama revised the descriptions of the above forms to clarify their current use.

3. Alabama added the following new forms to its list:

Form ASMC 254 Notice of the Filing of a Renewal Application for Surface Coal Mining Permit (To Agencies).
Form ASMC 255 Notice of the Filing of a Revision Application for Surface Coal Mining Permit (To Agencies).
Form ASMC 256 Notice of the Filing of a Revision Application for Surface Coal Mining Operations (Landowner Notice).
Form ASMC 257 Notice of the Filing of a Renewal Application for Surface Coal Mining Operations (Landowner Notice).
Form ASMC 258 Statement as to Negotiability of Certificate of Deposit and Assignment (Subsidence Impacts).
Form ASMC 259 Surety Bond (Subsidence).

There is no direct Federal regulation counterpart to Alabama's rule at ASMC 880–X–1B. However, we find that the revised list of forms used in the operations and organization of the Alabama Surface Mining Commission is not inconsistent with the requirements of the Federal regulations or SMCRA. Therefore, we are approving the revisions to ASMC 880–X–1B.

B. ASMC 880–X–6A–.06 License Application Requirements

Alabama's rule at ASMC 880–X–6A–.06(g)2 requires an applicant to submit information that demonstrates sufficient financial responsibility to reasonably assure the Alabama Surface Mining Commission of the applicant's financial ability to meet the requirements of the Alabama program. Alabama is proposing to revise one of the information provisions at ASMC 880–X–6A–.06(g)2(ii)(I). This revised provision will allow public accountants to certify and sign current statements of the net worth of applicants applying for licenses to conduct surface coal mining operations. Currently, Alabama only allows certified public accountants to certify and sign these statements. The revised provision reads as follows:

> A current statement in letter form, certified by a certified public accountant or public accountant licensed to do business in the State of Alabama that the applicant has a net worth of not less than $100,000. The statement must not be ambiguous, qualified, or otherwise vague. It must state the Alabama certificate or registration number of, and be signed by the certified public accountant or public accountant.

There is no direct Federal regulation counterpart to Alabama's rule at ASMC 880–X–6A–.06(g)2(ii)(I). However, we find that the revised provision is not inconsistent with the Federal regulation at 30 CFR 778.11, which requires a permit applicant to submit various kinds of applicant, operator, and ownership and control information. Therefore, we are approving the revision to ASMC 880–X–6A–.06(g)2(ii)(I).

Public Comments

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

Federal Agency Comments

On October 25, 2002, 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 Alabama program (Administrative Record No. AL–0655). We did not receive any comments.

Environmental Protection Agency (EPA) Concurrence and Comments

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written concurrence from 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 Alabama proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask EPA to concur on the amendment.

On October 25, 2002, under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from EPA (Administrative Record No. AL–0655). EPA did not respond to our request.

State Historical 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 October 25, 2002, we requested comments on Alabama's amendment (Administrative Record No. AL–0655), but neither responded to our request.

V. OSM's Decision

Based on the above findings, we approve the amendment Alabama sent us on October 17, 2002.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 901, which codify decisions concerning the Alabama 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 rule effective immediately will expedite that process. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12630—Takings

The revisions made at the initiative of the State have been reviewed and a determination made that they do not have takings implications. This determination is based on the fact that the deletions, revisions, and additions by the Alabama Surface Mining Commission to the forms listed in ASMC 880–X–1B are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry. The same is true for the revisions to ASMC 880–X–6A–.06.

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 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. This determination is based on the fact that the Alabama program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Alabama program has no effect on Federally recognized Indian tribes.

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.*). This determination is based on the fact that the deletions, revisions, and additions by the Alabama Surface Mining Commission to the forms listed in ASMC 880–X–1B are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry. The same is true for the revisions to ASMC 880–X–6A–.06.

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 on the fact that the deletions, revisions, and additions by the Alabama Surface Mining Commission to the forms listed in ASMC 880–X–1B are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry. The same is true for the revisions to ASMC 880–X–6A–.06.

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 on the fact that the deletions, revisions, and additions by the Alabama Surface Mining Commission to the forms listed in ASMC 880–X–1B are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry. The same is true for the revisions to ASMC 880–X–6A–.06.

List of Subjects in 30 CFR Part 901

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 26, 2003.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

■ For the reasons set out in the preamble, 30 CFR part 901 is amended as set forth below:

PART 901—ALABAMA

■ 1. The authority citation for part 901 continues to read as follows:

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

■ 2. Section 901.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 901.15 Approval of Alabama regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* * * * * * *		
October 17, 2002	April 10, 2003	ASMC 880–X–1B; 880–X–6A–.06(g)2(ii)(I).

[FR Doc. 03–8806 Filed 4–9–03; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Parts 1, 14 and 17

RIN 2900–AL31

Referrals of Information Regarding Criminal Violations

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This final rule amends VA's conduct regulations to provide that VA employees are required to report information about possible criminal activity to appropriate authorities. The VA Police and the VA Office of Inspector General, the department's two law enforcement entities, will receive such information, will investigate those cases within their respective jurisdiction and will refer proper cases for prosecution. In addition, the final rule will clarify and more accurately state the investigative jurisdiction of the Office of Inspector General. The goal of the final rule is to protect the VA, its employees and the veterans it serves, by having information about criminal activity reported and properly investigated as quickly and thoroughly as possible to prevent additional harm and to bring criminal perpetrators to justice.

DATES: *Effective Date:* April 10, 2003.

FOR FURTHER INFORMATION CONTACT: Michael R. Bennett, Attorney Advisor, Office of Inspector General (51A1), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, at (202) 565–8678. (The telephone number is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

Some significant, serious criminal matters related to VA programs and operations have not been reported to the VA Office of Inspector General (OIG), or to any law enforcement organization, in a timely manner to permit a thorough, effective criminal investigation. In reviewing these cases, it was discovered that there is no regulation that requires all VA employees to report possible criminal activity to law enforcement organizations. The final rule corrects this flaw by adding new sections to 38 CFR part 1.

Employee's Duty To Report Possible Crimes

The final rule is a reasonable and logical extension of an existing regulatory duty to report wrongdoing already placed on VA (and Federal) employees. 5 CFR 2635.101(b)(1) requires that ''[e]mployees shall disclose waste, fraud, abuse and corruption to appropriate authorities.'' Obviously, this requirement already requires Federal employees to report some criminal behavior to appropriate authorities. Given that there is a legal duty to report certain possibly criminal behavior, there should be an equal duty placed on employees to report even more serious matters that could involve physical harm to other employees, VA patients, veterans or other individuals.

In addition, a duty to report criminal activities exists in VA's Employee Handbook. The Handbook, which is dated February 2002, states on page 30 that, ''You, as a VA employee, are responsible for reporting any evidence or information that gives reasonable cause to suspect that a serious irregularity or other criminal violation may have occurred in any activity of VA.'' The VA Employee Handbook goes on to cite section 7(a) of the Inspector General Act, which authorizes the OIG to ''receive and investigate complaints or other information from any employee concerning * * * a violation of law * * *.'' It is worth noting that the section on ''How To Contact the Office of Inspector General'' is on the same page as the duty to report serious irregularities and criminal acts.

At least six other Federal agencies (Department of the Interior, Department of Health and Human Services, Small Business Administration, Department of Energy, Department of Health and Human Services/Office of Scientific Investigations, and Federal Aviation Administration) have enacted regulations which require their employees to report information about possible criminal activity. The regulations of the first five agencies listed include references to their respective Offices of Inspector General as an appropriate recipient of such information.

Office of Inspector General Experience in Criminal Investigations

A second reason for the final rule is to make certain that, once reported, the appropriate law enforcement organization quickly and properly investigates serious criminal matters relating to the programs and operations of VA. Independent and objective investigations of criminal matters relating to the programs and operations of VA are a major part of the OIG's statutory responsibilities.

In coordination with the VA police, the OIG intends to ensure that the appropriate entity investigates allegations of criminal conduct. Because the criminal law enforcement authority of VA police is restricted to VA property, their ability to conduct criminal investigations is limited. The OIG is the only VA entity with the authority to conduct criminal investigations off VA premises. The OIG's experience and knowledge of VA, combined with its statutory authority, makes the OIG uniquely qualified to conduct criminal investigations related to VA programs and operations since virtually all serious, complex cases will require some investigative work away from VA premises.

The VA OIG is also well qualified to serve as the point of referral and contact with the United States Attorneys' Offices on serious criminal matters affecting VA. Finally, there is a clear legal basis for the OIG's jurisdiction and statutory authority to conduct such criminal investigations.

Current Regulatory Scheme

At present, the only VA regulations that relate to the referral of criminal allegations are found in 38 CFR 14.560 *et seq.* This section of VA's regulations is a part of the chapter on ''Legal Services'' and is found under the section heading ''Prosecution.'' Section 14.560(a) imposes upon the Regional Counsels the duty to refer allegations of crimes against the person or property to the U.S. Attorney's Office, the FBI or local law enforcement agencies. Section 14.560(b) provides that ''[a]llegations of fraud, corruption or other criminal conduct involving programs and operations of VA will be referred to the Office of Inspector General.'' The final rule removes the obligation from the Regional Counsels to make referrals to

law enforcement agencies, both for investigation and prosecution, and instead utilizes the VA's own law enforcement entities, the VA police and the OIG, to take the primary role in investigation of criminal behavior and referral to prosecution authorities. 38 CFR 14.560(a), 14.560(b), and 14.563 should be deleted because they all involve criminal matters and referrals to the U.S. Attorneys' Office and are obsolete given the new final rule. In addition, 38 CFR 17.170(c) must be amended by substituting ''Office of Inspector General'' in the place of ''Regional Counsel'' in both the first and second sentence of § 17.170(c). Finally, the final rule clarifies and more accurately sets forth the OIG's jurisdiction for criminal investigations.

OIG's Jurisdiction for Criminal Investigations

The existing regulation cited above, and various other VA policy directives, indicate that the jurisdiction of the VA OIG is limited to ''fraud, waste and abuse'' and does not include crimes against the person or property. In fact, the Inspector General Act of 1978 (IG Act) confers extremely broad jurisdiction on the OIG with respect to investigations. 5 U.S.C. App. 3. The purpose section of the IG Act states that Offices of Inspector General are created so that ''independent and objective units within departments and agencies [can conduct] investigations relating to the programs and operations' of the department. *Id.*, § 2(1). Section 4 of the IG Act provides that one of the duties and responsibilities of the IG is to conduct ''investigations relating to the programs and operations'' of the department in question. Thus, the IG Act authorizes the IG to conduct virtually any investigation so long as it relates to VA's programs and operations.

The IG Act also provides that, in order to assure independence and objectivity, the IG is personally vested with the discretion to determine whether to conduct a particular investigation. Section 6(a)(2) of the IG Act states that the Inspector General ''is authorized to make such investigations and reports relating to the administration of the programs and operations of the applicable establishment as are, in the judgment of the Inspector General, necessary or desirable.''

Perhaps the most significant section of the IG Act, with respect to the IG's investigative authority, is section 7 of the Act. Section 7(a) provides that the IG may investigate complaints from an employee ''concerning the possible existence of an activity constituting a violation of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial and specific danger to the public health or safety.'' A felony is a ''violation of law'' and can also constitute a ''substantial and specific danger to the public health or safety.'' Therefore, so long as there is some relation to the programs and operations of VA, these violations are clearly within the IG's investigative jurisdiction. Current VA regulations and policies improperly limit and restrict the IG's statutory authority by stating, or implying, incorrectly, that OIG jurisdiction is limited to fraud, waste and abuse. The final rule, in part, corrects the improper limitations placed on the IG by the current regulations.

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 final 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).

Administrative Procedure Act

This document is published without regard to the notice and comment and effective date provisions of 5 U.S.C. 553 since it relates to agency management and personnel.

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This final rule would affect only individuals. Accordingly, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analysis requirements of §§ 603 and 604.

There is no Catalog of Federal Domestic Assistance number for this final rule.

List of Subjects

38 CFR Part 1

Administrative practice and procedure, Courts, Government employees, Government property, Penalties, Reporting and recordkeeping requirements, Security measures.

38 CFR Part 14

Administrative practice and procedure, Claims, Courts, Foreign relations, Government employees, Lawyers, Legal services, Organization and functions (government agencies), Reporting and recordkeeping requirements, Surety bonds, Trusts and trustees, Veterans.

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: February 14, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

■ For the reasons set out in the preamble, 38 CFR parts 1, 14 and 17 are amended as set forth below.

PART 1—GENERAL PROVISIONS

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

Authority: 38 U.S.C. 501(a), unless otherwise noted.

■ 2. An undesignated center heading and §§ 1.200 through 1.205 are added to read as follows:

Referrals of Information Regarding Criminal Violations

§ 1.200 Purpose.

This subpart establishes a duty upon and sets forth the mechanism for VA employees to report information about actual or possible criminal violations to appropriate law enforcement entities.

(Authority: 5 U.S.C. App. 3, 38 U.S.C. 902)

§ 1.201 Employee's duty to report.

All VA employees with knowledge or information about actual or possible violations of criminal law related to VA programs, operations, facilities, contracts, or information technology systems shall immediately report such knowledge or information to their supervisor, any management official, or directly to the Office of Inspector General.

(Authority: 5 U.S.C. App. 3, 38 U.S.C. 902)

§ 1.203 Information to be reported to VA Police.

Information about actual or possible violations of criminal laws related to VA programs, operations, facilities, or involving VA employees, where the violation of criminal law occurs on VA premises, will be reported by VA management officials to the VA police component with responsibility for the VA station or facility in question. If there is no VA police component with jurisdiction over the offense, the information will be reported to Federal, state or local law enforcement officials, as appropriate.

(Authority: 38 U.S.C. 902)

§ 1.204 Information to be reported to the Office of Inspector General.

Criminal matters involving felonies will also be immediately referred to the Office of Inspector General, Office of Investigations. VA management officials with information about possible criminal matters involving felonies will ensure and be responsible for prompt referrals to the OIG. Examples of felonies include but are not limited to, theft of Government property over $1000, false claims, false statements, drug offenses, crimes involving information technology systems and serious crimes against the person, *i.e.*, homicides, armed robbery, rape, aggravated assault and serious physical abuse of a VA patient.

(Authority: 5 U.S.C. App. 3)

§ 1.205 Notification to the Attorney General or United States Attorney's Office.

VA police and/or the OIG, whichever has primary responsibility within VA for investigation of the offense in question, will be responsible for notifying the appropriate United States Attorney's Office, pursuant to 28 U.S.C. 535.

(Authority: 5 U.S.C. App. 3, 38 U.S.C. 902)

PART 14—LEGAL SERVICES, GENERAL COUNSEL, AND MISCELLANEOUS CLAIMS

■ 3. The authority citation for part 14 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2671–2680; 38 U.S.C. 501(a), 512, 515, 5502, 5902–5905; 28 CFR part 14, appendix to part 14, unless otherwise noted.

§ 14.560 [Amended]

■ 4. In § 14.560, remove paragraphs (a) and (b); and remove the designation (c) from paragraph (c).

§ 14.563 [Removed]

■ 5. Section 14.563 is removed.

PART 17—MEDICAL

■ 6. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, 1721, unless otherwise noted.

§ 17.170 [Amended]

■ 7. Section 17.170, paragraph (c), first sentence, remove ''appropriate Regional Counsel'' and add, in its place, ''Office of Inspector General''; and in the second sentence, remove ''Regional Counsel'' and add, in its place, ''Office of Inspector General''.

[FR Doc. 03–8723 Filed 4–9–03; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI–113–7343A; FRL–7466–6]

Approval and Promulgation of State Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The EPA is approving a revision to Wisconsin's State Implementation Plan (SIP) for the attainment of the one-hour ozone standard for the Milwaukee-Racine area. This SIP revision, submitted to EPA on December 16, 2002, provides new compliance options for sources subject to the state's rules limiting emissions of nitrogen oxides (NO_X) from large electricity generating units in southeast Wisconsin. Under the revised SIP, sources would have the option of complying with emissions limits on a per unit basis or complying as part of an emissions averaging plan that also includes an emissions cap. In addition, the revision creates a new categorical emissions limit for new integrated gasification combined cycled units.

DATES: This direct final rule is effective on June 9, 2003 without further notice unless EPA receives adverse written comments by May 12, 2003. If we receive adverse comment, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: You should mail written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the state's request is available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Alexis Cain, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7018.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?
II. What Is EPA's Evaluation of This Program?
III. Administrative Requirements

I. What Action Is EPA Taking Today?

EPA is approving, as part of the Wisconsin ozone SIP, rules that would allow sources to use emissions averaging and an emissions cap as a option for complying with ozone season limits on emissions (NO_X). These limits apply to large electricity generating units in Southeast Wisconsin. EPA approved the rules setting these NO_X emissions limits into Wisconsin's SIP on November 13, 2001 (66 FR 56931). The limits are expressed in mass of allowable emissions per unit of heat input (pounds per million Btu).

Emissions averaging will allow units subject to the NO_X emissions limits of NR 428 of the Wisconsin Administrative Code to create emissions averaging plans in which the compliance of multiple sources would be assessed collectively. Participating sources would need to submit such plans to the Wisconsin Department of Natural Resources (WDNR) at least 90 days prior to the start of the ozone season, and would need to identify the participating units, their owners or operators, applicable emissions limitations, projected heat input and emissions rate, and projected mass emissions for the ozone season. The plan would establish an aggregate ozone season emissions rate limit for participating units through a formula that sums allowable emissions for each unit (based on projected heat input and each source's individual emissions rate), and divides it by the total projected heat input. To provide an environmental benefit from averaging, the formula subtracts 0.01 pounds/mmbtu from each unit's allowable emissions.

Plan Emission Rate = {Sum [Projected Unit Heat Input x (Unit Emission Rate Limit—0.01)}/(Sum of Projected Unit Heat Inputs)

As a result, total emissions under an averaging plan would be lower than they would be if each unit demonstrated compliance on an individual basis. However, individual units would be allowed to exceed emissions rates specified in the NO_X reduction rules, while other units would emit less than

allowed under the rules. Thus, averaging allows companies to minimize the cost of emissions reductions by allocating reductions at the units that can achieve them most inexpensively.

In addition, units participating in an averaging plan are subject to a mass emission limitation, beginning with the 2008 ozone season. This feature of the program ''caps'' the aggregate ozone season NO_X emissions of participating sources at a level that could not be exceeded regardless of heat input. This level is determined by the participating units' share of actual heat input during the 1995, 1996 and 1997 ozone seasons, multiplied by 15,912 tons, an amount consistent with the state's one-hour ozone attainment demonstration.

Within 60 days of the end of each ozone season, owners or operators of the participating units must submit compliance reports demonstrating compliance with the plan's emission rate and mass emission limit.

II. What Is EPA's Evaluation of This Program?

EPA has determined that this SIP revision will not interfere with reasonable further progress or with attainment or maintenance of the National Ambient Air Quality Standards or any other requirement of the Clean Air Act. Emissions averaging programs are considered a type of economic incentive program. EPA's guidance on such programs is ''Improving Air Quality with Economic Incentive Programs,'' EPA–452/R–01–001, January 2001 (the EIP guidance).

Wisconsin's NO_X averaging program conforms with the EIP guidance, with one notable exception. The EIP guidance indicates that averaging should take place only among units that are under common ownership or control. This provision of the guidance is motivated by the concern that compliance and enforcement difficulties might result from averaging among sources under different ownership or control. Compliance in averaging programs depends not only on the emissions rates of the various sources, but also on the activity level (heat input) of higher-emitting sources relative to lower-emitting sources. Since activity levels are subject to constant change and are difficult to project, it could therefore be difficult for an averaging plan involving units under different ownership or control to ensure that compliance is maintained. It could be particularly difficult to maintain compliance if owners of units projected to have lower emissions rates projected higher activity levels than could actually be maintained.

Wisconsin's NO_X averaging program allows averaging among sources that are not under common ownership or control. Nonetheless, EPA is approving Wisconsin's program, for several reasons. Most important, beginning in 2008, Wisconsin's program includes an enforceable emissions cap in addition to emissions averaging. The cap is set at a level consistent with the one-hour ozone attainment plan for the Milwaukee-Racine area, and ensures that emissions cannot increase beyond levels consistent with attainment, regardless of changes in emissions rates.

In addition, EPA finds that the operation of an averaging program with averaging across ownership will be of minimal risk in the individual case of Wisconsin's program. This program involves a limited number of existing sources, and new sources cannot use emissions averaging. Therefore, the State will receive only a small number of averaging plans, and it will be well able to review such plans ahead of time to ensure that projected activity levels are reasonable. Moreover, the sources that are potential participants in Wisconsin's averaging program all operate at levels close to capacity, and therefore have limited ability to project significant increases in activity levels. Therefore, EPA anticipates no problems resulting of averaging across sources under different ownership; nonetheless, EPA will evaluate as the program operates whether averaging across units under different ownership creates compliance problems or interferes with the achievement of expected reductions.

Other provisions of Wisconsin's program include:

- Excess emission reductions used in an averaging program must be reductions beyond those needed to meet all other state and federal requirements;
- Emissions averaging will create an environmental benefit, since in calculating the aggregate allowable emission rate, the allowable emission rate of each source is reduced by 0.01 pounds per million btu;
- If either the aggregate allowable emission rate or the mass ozone season cap is violated, each unit participating in the averaging plan is considered out of compliance for each day of non-compliance, and is potentially subject to penalties for each day of non-compliance;
- NO_X reductions used in an emissions averaging plan cannot be used for compliance with emissions limits established under the new source review or prevention of significant deterioration program, or with the NO_X reduction requirements of the acid rain program;
- If the mass ozone season cap for an averaging plan is violated, WDNR can require additional emissions reductions from participating units;
- Emissions must be measured using continuous monitoring equipment;
- WDNR will have the opportunity to review emissions averaging plans to determine their completeness prior to the beginning of the ozone season. Averaging plans must be submitted to WDNR 90 days prior to the beginning of the ozone season, and WDNR has 30 days to determine whether additional information is needed;
- The public will be kept informed of potential changes in emissions caused by emissions averaging; operators of units involved in an emissions averaging plan are required to provide public notice at least 60 days prior to the start of the ozone season, and to provide copies of the plan to the public upon request.

In addition to the NO_X averaging and emission cap provisions, EPA is approving a new categorical emission limit for new integrated gasification combined cycle units. WDNR created this limit because these sources will not be able to comply with the limit for natural gas-fired units that would otherwise apply. While this new limit is higher than the natural gas-fired limit, these types of sources will be taking the place of higher emitting coal-fired units and will, therefore, not affect emissions projections made earlier by the WDNR, which included growth of coal-fired units. The approval of this new limit will have no impact on the Wisconsin one-hour ozone attainment demonstration SIP.

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state regulations as meeting federal requirements and imposes no additional requirements beyond those imposed by state regulations. 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. Therefore, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding this action under section 801 because this is a rule of particular applicability.

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 June 9, 2003. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: March 6, 2003.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

■ For the reasons stated in the preamble, part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart YY—Wisconsin

■ 2. Section 52.2570 is amended by adding paragraph (c)(108), to read as follows:

§ 52.2570 Identification of plan.

* * * * *

(c) * * *

(108) On December 16, 2002, Lloyd L. Eagan, Director, Wisconsin Department of Natural Resources, submitted revised rules to allow use of NO_X emissions averaging for sources subject to NO_X emission limits in the Milwaukee-Racine area. The revised rules also establish a NO_X emissions cap for sources that participate in emissions averaging, consistent with the emissions modeled in Wisconsin's approved one-hour ozone attainment demonstration for the Milwaukee-Racine area. The rule revision also creates a new categorical emissions limit for new integrated gasification combined cycle units.

(i) Incorporation by reference.

(A) NR 428.02(6m) as published in the (Wisconsin) Register, November 2002, No. 563 and effective December 1, 2002.

(B) NR 428.04(2)(g)(3) as published in the (Wisconsin) Register, November 2002, No. 563 and effective December 1, 2002.

(C) NR 428.06 as published in the (Wisconsin) Register, November 2002, No. 563 and effective December 1, 2002.

[FR Doc. 03–8536 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7480–9]

Nebraska: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Nebraska has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization, and is authorizing the State's changes through this immediate final action. EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Nebraska's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on June 9, 2003 unless EPA receives adverse written comment by May 12, 2003. If EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Send written comments to Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101. You can view and copy Nebraska's application during normal business hours at the following addresses: Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 ''N'' Street, Lincoln, Nebraska 68509–8922, (402) 471–2186; and EPA Region 7, Library, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7877, Lisa V. Haugen.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7877.

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

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

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

- Do inspections, and require monitoring, tests, analyses, or reports
- Enforce RCRA requirements and suspend or revoke permits

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

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

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

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

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

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

F. For What Has Nebraska Previously Been Authorized?

Nebraska initially received Final authorization on January 24, 1985, effective February 7, 1985 (50 FR 3345), to implement the RCRA hazardous waste management program. We granted authorization for changes to its program on October 4, 1985, effective December 3, 1988 (53 FR 38950), June 25, 1996, effective August 26, 1996 (61 FR 32699), and June 4, 2002, effective April 22, 2002 (67 FR 38418).

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

On July 23, 2002, Nebraska submitted a final complete program revision application, seeking authorization of its changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to EPA's receipt of written comments that oppose this action, that Nebraska's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Nebraska Final authorization for the following program changes:

Description of Federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous State authority [1]
Toxicity Characteristic Revisions (Toxicity Leaching Procedure)—Checklist 74.	55 FR 11798–11877, March 29, 1990.	Title 128 2–009.07; 2–009.09–.10; 2–016; 3–010.01–.02; 3–011.02–.03; 21–014; 22–011; 22–013 (effective June 18, 2001, with amendments to Chapters 3, 4, 10, 12, 14, 16, 25, and Appendix V, effective April 2002)

Description of Federal requirement (include checklist #, if relevant)	Federal Register date and page (and/or RCRA statutory authority)	Analogous State authority [1]
Universal Waste: General Provisions—Checklist 142A; Specific Provisions for Batteries—Checklist 142B; Specific Provisions for Pesticides—Checklist 142C; Specific Provisions for Thermostats—Checklist 142D; Petition Provisions to Add a New Universal Waste.	60 FR 25492–25551, May 11, 1995.	Nebraska Revised Statues § 81–1504(15)(b) (2000); Title 128 1–004; 1–053; 1–086; 1–129; 2–001.07; 4–002.04; 6–001; 7–002.03–.04; 7–002.06–.09; 7–011; 8–003; 8–006.03; 9–002–003; 9–007.01; 10–001.03–.05; 12–001.03H; 20–001.06; 21–001; 22–001.01K; Chapter 25 (effective June 18, 2001, with amendments to Chapters 3, 4, 10, 12, 14, 16, 25, and Appendix V, effective April 2002)

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

In this authorization of the State of Nebraska's program revisions for Federal Revision Checklists 71 and 142A–D, there are no provisions that are more stringent or broader in scope. Broader in scope requirements are not part of the authorized program and EPA cannot enforce them.

I. Who Handles Permits After the Authorization Takes Effect?

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

J. What Is Codification and Is EPA Codifying Nebraska's Hazardous Waste Program as Authorized in This Rule?

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

K. Administrative Requirements

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes preexisting 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 (Public Law 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

List of Subjects in 40 CFR Part 271

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

Authority: This action is issued under the authority of sections 2002(a), 3006, and

7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: March 17, 2003.

Nat Scurry,

Acting Regional Administrator, Region 7.

[FR Doc. 03–8835 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7480–6]

Utah: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Utah has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA has determined that these changes satisfy all requirements needed to qualify for Final authorization and is authorizing the State's changes through this immediate final action. We are publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Utah's changes to their hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this **Federal Register** will serve as a proposal to authorize the changes.

DATES: This Final authorization will become effective on June 9, 2003 unless EPA receives adverse written comment by May 12, 2003. If EPA receives such comment, it will publish a timely withdrawal of this Immediate Final Rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Copies of the Utah program revision applications and the materials which EPA used in evaluating the revisions are available for inspection and copying at the following locations: EPA Region VIII, from 7 a.m. to 4 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139 or Utah Department of Environmental Quality (UDEQ), from 8 a.m. to 5 p.m., 288 North 1460 West, Salt Lake City, Utah 84114–4880, contact: Susan Toronto, phone number: (801) 538–6776. Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139 or electronically to *shurr.kris@epa.gov.*

FOR FURTHER INFORMATION CONTACT: Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139 or *shurr.kris@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Are Revisions to State Programs Necessary?

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

B. What Decisions Have We Made in This Rule?

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

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

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

- Conduct inspections; require monitoring, tests, analyses, or reports;
- enforce RCRA requirements; suspend or revoke permits; and,
- take enforcement actions regardless of whether Utah has taken its own actions.

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

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

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

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

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

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

will become effective and which part is being withdrawn.

F. What Has Utah Previously Been Authorized for?

Utah initially received Final Authorization on October 10, 1984, effective October 24, 1984 (49 FR 39683) to implement its base hazardous waste management program. Utah received authorization for revisions to its program on February 21, 1989 (54 FR 7417), effective March 7, 1989; May 23, 1991 (56 FR 23648) and August 6, 1991 (56 FR 37291), both effective July 22, 1991; May 15, 1992 (57 FR 20770), effective July 14, 1992; February 12, 1993 (58 FR 8232) and May 5, 1993 (58 FR 26689), both effective April 13, 1993; October 14, 1994 (59 FR 52084), effective December 13, 1994; May 20, 1997 (62 FR 27501), effective July 21, 1997; January 13, 1999 (64 FR 02144), effective March 15, 1999; October 16, 2000 (65 FR 61109), effective January 16, 2001, and May 7, 2002 (67 FR 30599), effective July 7, 2002.

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

On February 12, 2003, Utah submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Utah's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant Utah Final authorization for the following program changes (the Federal Citation followed by the analog from the Utah Administrative Code (R315), revised August 15, 2002): Emergency Revision of the Land Disposal Restrictions (LDR) Treatment Standards for Listed Hazardous Wastes from Carbamate Production [63 FR 47409, 09/04/98](Checklist 171)/R315–13–1(Utah rules for checklist revised 09/20/2001); HWIR Media [63 FR 65874, 11/30/98](Checklist 175)/R315–1–1(b), R315–2–4(g) through R315–2–4(g)(2)(iii), R315–8–1(g) through R315–8–1(g)(13), R315–8–5.3, and R315–8–6.12(d); Land Disposal Restrictions Phase IV—Technical Corrections and Clarifications to Treatment Standards [64 FR 25408, 05/11/99](Checklist 179)/R315–2–2(c), R315–2–2(c)(3), R315–2–2(e)(1)(iii), R315–2–4(a)(16), R315–2–4(a)(17) and R315–2–4(a)(17)(v), R315–2–4(b)(7)(iii) and R315–2–4(b)(7)(iii)(A), R315–5–3.34, and R315–13–1; Test Procedures for the Analysis of Oil and Grease and Non-Polar Material [64 FR 26315, 05/14/99](Checklist 180)/R315–1–2(a); Universal Waste Rule: Specific Provisions for Hazardous Waste Lamps [64 FR 36466, 07/06/99](Checklist 181)/R315–1–1(b), R315–2–25(b)–(d), R315–8–1(e)(10)(ii)–(iv), R315–7–8.1(c)(11)(ii)–(iv), R315–13–1, R315–3–1(e)(2)(viii)(B)–(D), R315–16–1.1(a)(2)–(4), R315–16–1.2(a)(1), R315–16–1.2(b)(2) & (3), R315–16–1.3(a), R315–16–1.4(a), R315–16–1.5(a), R315–16–1.5(b) through R315–16–1.5(b)(2), R315–16–1.5(c) through R315–16–1.5(c)(2), R315–16–1.8(a) through R315–16–1.8(a)(2), R315–16–1.8(b), R315–16–1.9(e), R315–16–1.9(f), R315–16–1.9(i), R315–16–1.9(k), R315–16–2.1, R315–16–2.4(d) through R315–16–2.4(d)(2), R315–16–2.5(e), R315–16–3.1, R315–16–3.3(b)(4) & (5), R315–16–3.4(d) through R315–16–3.4(d)(2), R315–16–3.5(e), R315–16–4.1, R315–16–5.1(a), and R315–16–7.1(a); Hazardous Air Pollutant Standards for Combustors [64 FR 52828, 09/30/99](Checklist 182)/R315–1–1(b), R315–2–26, R315–8–15.1(b) through R315–8–15.1(b)(2), R315–8–15.1(c)–(e), R315–8–16, R315–7–22.1(b) through R315–7–22.1(b)(2), R315–7–22.1(c); R315–14–7, R315–50–16, R315–3–2.10, R315–3–2.10(e), R315–3–2.13, R315–3–4.3, R315–3–6.3, and R315–3–6.6; Land Disposal Restrictions Phase IV—Technical Corrections [64 FR 56469, 10/20/99](Checklist 183)/R315–2–10(f), R315–5–3.34(a), and R315–13–1; Accumulation Time for Waste Water Treatment Sludges [65 FR 12378, 03/08/2000](Checklist 184)/R315–5–3.34(a); Organobromine Production Wastes Vacatur [65 FR 14472, 03/17/2000](Checklist 185)/R315–2–10(f), R315–2–11(f), R315–50–9, R315–50–10, and R315–13–1; Petroleum Refining Process Wastes—Clarification [65 FR 36365, 06/08/2000](Checklist 187)/R315–2–10(e) and R315–13–1.

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

Utah did not make any changes that are more stringent or broader-in-scope than the Federal rules in this rulemaking. Utah did not change any previously more stringent or broader-in-scope provisions to be equivalent to the Federal rules.

I. Who Handles Permits After the Authorization Takes Effect?

Utah will issue permits for all the provisions for which it is authorized and will administer the permits it issues. EPA will continue to administer any RCRA hazardous waste permits or portions of permits which were issued prior to the effective date of this authorization until Utah has equivalent instruments in place. We will not issue any new permits or new portions of permits for the provisions listed in Item G after the effective date of this authorization. EPA previously suspended issuance of permits for other provisions on the effective date of Utah's Final Authorization for the RCRA base program and each of the revisions listed in Item F. EPA will continue to implement and issue permits for HSWA requirements for which Utah is not yet authorized.

J. How Does Today's Action Affect Indian Country (18 U.S.C. 1151) in Utah?

This program revision does not extend to ''Indian Country'' as defined in 18 U.S.C. 1151. Indian Country includes lands within the exterior boundaries of the following Indian reservations located within or abutting the State of Utah:

1. Goshute Indian Reservation

2. Navajo Indian Reservation

3. Northwestern Band of Shoshoni Nation of Utah (Washakie) Indian Reservation

4. Paiute Indian Tribe of Utah Indian Reservation

5. Skull Valley Band of Goshute Indians of Utah Indian Reservation

6. Uintah and Ouray Indian Reservation (see below)

7. Ute Mountain Indian Reservation

With respect to the Uintah and Ouray Indian Reservation, Federal courts have determined that certain lands within the exterior boundaries of the Reservation do not constitute Indian Country. This State program revision approval will extend to those lands which the courts have determined are not Indian Country.

In excluding Indian Country from the scope of this program revision, EPA is not making a determination that Utah either has adequate jurisdiction or lacks jurisdiction over sources in Indian Country. Should the Utah choose to seek program authorization within Indian Country, it may do so without prejudice. Before EPA would approve the State's program for any portion of Indian Country, EPA would have to be satisfied that the State has authority, either pursuant to explicit Congressional authorization or applicable principles of Federal Indian law, to enforce its laws against existing and potential pollution sources within any geographical area for which it seeks program approval and that such approval would constitute sound administrative practice.

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

Codification is the process of placing a State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. Utah's rules, up to and including those revised 2/15/96, have previously been codified through the incorporation-by-reference effective 3/15/99 (66 FR 58964, 11/26/2001) We reserve the amendment of 40 CFR part 272, subpart TT for the codification of Utah's updated program until a later date.

L. Administrative Requirements

The Office of Management and Budget has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective June 9, 2003.

List of Subjects in 40 CFR Part 271

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

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

Dated: March 25, 2003.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 03–8833 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 70 and 71

RIN 0920–AA03

Control of Communicable Diseases

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Interim final rule with comment period.

SUMMARY: The Public Health Service Act authorizes the Secretary, in consultation with the Surgeon General, to make and enforce regulations as are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. The existing regulations are outdated and do not address communicable diseases that currently pose a substantial public health threat.

As of April 2, 2003, the World Health Organization (WHO) has reported 2236 cases and 78 deaths related to outbreaks of a severe form of pneumonia of unknown origin in Hong Kong SAR, Vietnam, Guangdong province in southern China, Canada, Singapore, and Thailand, which appears to have spread rapidly. For this reason, the Director General of the World Health Organization (WHO) issued a global alert about cases of atypical pneumonia and recommended that travelers with atypical pneumonia who may be related to these outbreaks be placed into isolation and assessed by quarantine officials. The Centers for Disease Control and Prevention (CDC) is currently investigating 85 suspected cases of the disease in the United States. This is being issued as an interim final rule because this newly-detected disease is likely spread in person-to-person fashion and may have an adverse public

health impact if further introduced into the United States.

DATES: This rule is effective on April 10, 2003. Comments must be submitted by June 9, 2003.

ADDRESSES: Mail written comments to the following address: Jennifer Brooks, National Center for Infectious Diseases, Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333; telephone (404) 639–2763. Mail written comments on the proposed information collection requirements to Office of Information and Regulatory Affairs, OMB, New Executive Office Building, 725 17th Street, NW., rm. 10235, Washington, DC 20503, Attn: Desk Officer for CDC.

FOR FURTHER INFORMATION CONTACT: James E. Barrow, National Center for Infectious Diseases (E03), Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Atlanta, GA 30333; telephone (404) 498–1604.

SUPPLEMENTARY INFORMATION:

Background and Purpose

This interim final rule, which was reviewed by the Office of Management and Budget in accordance with Executive Order 12866, is being promulgated in accordance with U.S.C. 42 section 264 (section 361 of the PHS Act) which authorizes the Secretary, in consultation with the Surgeon General, to make and enforce regulations as are necessary to prevent the introduction, transmission or spread of communicable diseases from foreign countries into the States or possessions, or from one State or possession into any other State or possession. The quarantine of persons believed to be infected with communicable diseases is a public health prevention measure that has been used effectively to contain the spread of disease. The existing regulations are outdated and do not address communicable diseases that currently pose a substantial public health threat.

The Public Health Service Act gives the Secretary of HHS responsibility for preventing the introduction, transmission, and spread of communicable diseases from foreign countries into the United States and from one State or possession into another within the United States. Under its delegated authority, the CDC Division of Global Migration and Quarantine is empowered to detain, medically examine, or conditionally release individuals suspected of carrying a communicable disease. The list of quarantinable diseases is contained in an Executive Order of the President.

Waiver of Prior Notice and Comment and Waiver of Delay in Effective Date

This rule is being issued on an interim final basis with no prior notice and comment and no delay in effective date. As of April 2, 2003, the WHO has reported 2236 cases and 78 deaths of severe pneumonia-like illness of unknown origin in a growing number of countries. Several countries, including Canada, Hong Kong SAR, and Singapore have instituted maximum health measures, including quarantine, to prevent the further spread of the disease. The CDC is currently investigating 85 suspected cases of the disease in the United States. While no deaths have been reported in the United States, the potentially fatal disease is likely spread in person-to-person fashion and may have an adverse public health impact if further spread. Accordingly, appropriate public health control measures including quarantine need to be available immediately to protect against this threat.

Changes to 42 CFR Parts 70 and 71

Following is a summary of changes to the current regulations:

Sections modified:

70.6 Apprehension and detention of persons with specific diseases.

71.32 Persons, carriers, and things.

Plain Language Instructions

We try to write clearly. If you can suggest how to improve the clarity of these regulations, call or write Jennifer Brooks at the address listed above.

List of Subjects

42 CFR Part 70

Communicable diseases, Public health, Quarantine, Reporting and recordkeeping requirements, Travel restrictions.

42 CFR Part 71

Airports, Animals, Communicable diseases, Harbors, Imports, Pesticides and pests, Public health, Quarantine, Reporting and recordkeeping requirements.

■ For the reasons stated in the preamble, we are amending 42 CFR part 70 and Part 71 as follows.

PART 70—INTERSTATE QUARANTINE

■ 1. The authority for part 70 is revised to read as follows:

Authority: Secs. 215 and 311 of Public Health Service (PHS) Act. as amended (42 U.S.C. 216, 243); secs. 361–369, PHS Act, as amended (42 U.S.C. 264–272).

■ 2. Revise Section 70.6 to read as follows:

§ 70.6 Apprehension and detention of persons with specific diseases.

Regulations prescribed in this part authorize the detention, isolation, quarantine, or conditional release of individuals, for the purpose of preventing the introduction, transmission, and spread of the communicable diseases listed in an Executive Order setting out a list of quarantinable communicable diseases, as provided under section 361(b) of the Public Health Service Act. Executive Order 13295, of April 4, 2003, contains the current revised list of quarantinable communicable diseases, and may be obtained at *http://www.cdc.gov*, or at *http://www.archives.gov/federal_register*. If this Order is amended, HHS will enforce that amended order immediately and update this reference.

PART 71—FOREIGN QUARANTINE

■ 1. The authority for part 71 is revised to read as follows:

Authority: Secs. 215 and 311 of Public Health Service (PHS) Act. as amended (42 U.S.C. 216, 243); secs. 361–369, PHS Act, as amended (42 U.S.C. 264–272).

■ 2. Revise Section 71.32 to read as follows:

§ 71.32 Persons, carriers, and things

(a) Whenever the Director has reason to believe that any arriving person is infected with or has been exposed to any of the communicable diseases listed in an Executive Order, as provided under section 361(b) of the Public Health Service Act, he/she may isolate, quarantine, or place the person under surveillance and may order disinfection or disinfestation, fumigation, as he/she considers necessary to prevent the introduction, transmission or spread of the listed communicable diseases. Executive Order 13295, of April 4, 2003, contains the current revised list of quarantinable communicable diseases, and may be obtained at *http://www.cdc.gov* and *http://www.archives.gov/federal_register*. If this Order is amended, HHS will enforce that amended order immediately and update this reference.

(b) Whenever the Director has reason to believe that any arriving carrier or article or thing on board the carrier is or may be infected or contaminated with a communicable disease, he/she may require detention, disinfection, disinfestation, fumigation, or other related measures respecting the carrier or article or thing as he/she considers necessary to prevent the introduction, transmission, or spread of communicable diseases.

Dated: April 4, 2003.

Tommy G. Thompson,

Secretary.

[FR Doc. 03–8736 Filed 4–8–03; 12:42 pm]

BILLING CODE 4160–17–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 74

[ET Docket No. 01–75; FCC 02–298]

Broadcast Auxiliary Service Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: Federal Communications Commission published in the **Federal Register** of March 17, 2003, a document amending rules for Broadcast Auxiliary Services to introduce new technologies and conforming rules for Broadcast Auxiliary Services, Cable Television Relay Service, and Fixed Microwave Services. Inadvertently, the amendatory instruction for § 74.602 specified removing and revising paragraph (a)(2). This document revises the amendatory instruction to specify removing and reserving paragraph (a)(2).

DATES: Effective April 16, 2003.

FOR FURTHER INFORMATION CONTACT: Ted Ryder, Office of Engineering and Technology, (202) 418–2803.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register** of March 17, 2003, (68 FR 12743) inadvertently specifying, in the amendatory instruction for § 74.602, removing and revising paragraph (a)(2). This correction revises the amendatory language to specify removing and reserving paragraph (a)(2).

In rule FR Doc. 03–4176 published on March 17, 2003 (68 FR 12743) make the following correction. On page 12768, in the second column, revise the amendatory instruction for § 74.602 to read as follows:

PART 74—[CORRECTED]

§ 74.602 [Corrected]

■ Section 74.602 is amended by revising paragraphs (a) introductory text, the channel boundaries for channel designation B03 in the table of paragraph (a), footnote 2 of the table of paragraph (a), paragraphs (d), (f), (h), and (i) introductory text, and by removing and reserving paragraph (a)(2) to read as follows:

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–8578 Filed 4–9–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 17, 222 and 226

[Docket No. 030318064–3064–01; I.D. 012903C]

RIN 0648–AQ74

Endangered Fish and Wildlife; Notice of Technical Revision to Right Whale Nomenclature and Taxonomy Under the U.S. Endangered Species Act

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

ACTION: Final rule.

SUMMARY: NMFS is issuing a final rule concerning the nomenclature and taxonomy of the North Atlantic right whale, North Pacific right whale, and the southern right whale. The first change updates the formerly-used genus *Balaena* to the genus *Eubalaena* to conform to the taxonomy currently accepted by the scientific community and supported by the scientific literature. The second change reflects the genetic distinctiveness now recognized between Pacific and Atlantic right whale populations in the northern hemisphere. Due to recent genetic findings, NMFS is changing the species name of the northern right whale as follows: the North Atlantic right whale, Eubalaena glacialis, and the North Pacific right whale, Eubalaena japonica. These technical changes will not change the listing status of these species under the Endangered Species Act (ESA)(all three remain ''endangered'').

DATES: Effective on May 12, 2003.

ADDRESSES: Supporting documentation is available for public inspection, by request from NMFS, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3226.

FOR FURTHER INFORMATION CONTACT: Aleria Jensen or Gregory Silber at (301) 713–2322.

SUPPLEMENTARY INFORMATION: The right whale was originally described as *Eubalaena glacialis* (Muller, 1776). However, the technical literature on the nomenclature has not been clear over the course of the last three decades. The species was initially listed as *Eubalaena glacialis* by the U.S. Fish and Wildlife Service in the 1973 Edition of Threatened Wildlife of the United States (USFWS, 1973). Subsequently, however, some authorities have put right and bowhead whales in the same genus, *Balaena* (Rice, 1977). In addition, the current List of Endangered and Threatened Wildlife lists the right whale as *Balaena glacialis* (incl. *australis*) (50 CFR 17.11). Despite these differences in listing, the genus *Eubalaena* has been most widely recognized and commonly used in the scientific community as the genus associated with all right whale species. Virtually all related scientific literature and popular literature on marine mammals (see, for example, Cummings, 1985; Hall and Kelson, 1959; Jefferson *et al.*, 1993; Klinowska, 1991) historically use the genus *Eubalaena* to identify right whales as originally named by Muller in 1776.

Eubalaena is also the name accepted by both the International Whaling Commission (IWC) and NMFS. The IWC 2001 report on the world-wide status of right whales uses the genus *Eubalaena* (Best *et al.*, 2001). NMFS has used this nomenclature in its Stock Assessment Reports, the Final Recovery Plan for the Northern Right Whale (NMFS, 1991), and other technical documents dating back to at least 1991. Therefore, this nomenclatorial change would make the List consistent with the generally accepted use by the scientific community, IWC reports, and NMFS technical documents for over a decade. Thus, to recognize the currently accepted genus for right whale species worldwide, the first technical revision in this rule is to correct right whale nomenclature on the list from genus *Balaena* to genus *Eubalaena*.

The second change reflects new evidence from recent genetic studies regarding the taxonomic classification of right whales. Historically, right whales were classified as two distinct species, *Eubalaena glacialis* in the northern hemisphere (Pacific and Atlantic Ocean basins) and *Eubalaena australis* in the southern hemisphere, based on a morphological difference in the orbital region of the skull (Muller, 1954; Rosenbaum *et al.*, 2000). Other interpretations had given North Pacific right whales full species status as *Eubalaena japonica* (Lacepede 1818) or treated the population as a subspecies of *Eubalaena glacialis*. Prior to the current technical revision, North Pacific right whales have been most widely recognized as an intraspecific population of northern right whales (Rice, 1998). The taxonomic structure of

right whales had not been analyzed in a comprehensive manner for the purposes of conservation and systematics until recent genetic studies. The generally accepted analyses by Rosenbaum *et al*. (2000) conclude that the right whale should be regarded as three separate species as follows:

1. The North Atlantic right whale (*Eubalaena glacialis*), historically ranging in the North Atlantic Ocean from latitudes 60° N to 20° N;

2. The North Pacific right whale (*Eubalaena japonica*), historically ranging in the North Pacific Ocean from latitudes 70° N to 20° N; and

3. The southern right whale (*Eubalaena australis*), historically ranging throughout the southern hemisphere's oceans.

Previous genetic studies concluded there was sufficient haplotypic divergence between North Atlantic and South Atlantic right whales to indicate that the northern and southern populations have not interbred for approximately 3–12.5 million years (Malik *et al.*, 2000; Schaeff *et al.*, 1997). Through an analysis of mitochondrial DNA control region sequences isolated from skin tissue biopsy, stranded animals, and historical whaling samples, Rosenbaum *et al*.(2000) supported these conclusions and, in addition, demonstrated a relatively strong historical separation of North Atlantic, North Pacific, and Southern Ocean right whale lineages (*i.e.,* no haplotypes were shared among these three populations). Their findings led to the conclusion that these populations are three distinct evolutionary entities. In addition, the probability of future interbreeding among the three lineages is extremely low considering current distribution. The International Whaling Commission's Scientific Committee formally recognized the three-species classification for right whales at its 2000 meeting in Adelaide, Australia (IWC 2000).

Conservation measures, recovery planning, and Federal consultations have been treated distinctly for each of these species. For over a decade, the treatment of these species as discrete entities has been well-established in agency science and management. Draft recovery plans are currently in review for both North Atlantic and North Pacific right whales, designated in these plans as *Eubalaena glacialis* and *Eubalaena japonica*. Issues of critical habitat have been addressed separately for both species under U.S. management authority.

Refining the taxonomy of these endangered cetaceans is critical to the recovery planning and conservation of these species. Genetic data now provide unequivocal support to distinguish three right whale lineages as separate phylogenetic species. The revised designation of these populations allows for consistent scientific practice and management policies in recovering these populations.

The following NMFS documents will be affected by this technical revision:

1. MMPA Stock Assessment Reports for Alaska currently refer to stocks of right whales in the North Pacific as ''Northern Right Whale, *Eubalaena glacialis*''. This will be changed in all future Stock Assessment Reports to read ''North Pacific Right Whale, *Eubalaena japonica*''.

2. All Biological Opinions prepared under section 7 of the ESA will now consider the North Pacific, North Atlantic and southern right whales as separate species for the purposes of establishing baseline information and conducting consultations on Federal actions with the potential to affect the taxa.

3. The ''Final Recovery Plan for the Northern Right Whale, *Eubalaena glacialis*'' (NMFS, 1991) has been divided, in the process of updating the plan, into two separate draft recovery plans: ''Updated Recovery Plan for the North Atlantic right whale, *Eubalaena glacialis*'' and ''Updated Recovery Plan for the North Pacific right whale, *Eubalaena japonica*.'' These will become final as separate recovery plans.

These changes result in technical revisions to provisions related to right whales in 50 CFR parts 17, 222, and 226. However, all right whales will remain listed as endangered under the Endangered Species Act and subject to the same protections as existed prior to these changes.

Classification

The Assistant Administrator for Fisheries, NMFS (AA) finds that good cause exists to waive the requirement for prior notice and the opportunity for comment, pursuant to authority set forth at 5 U.S.C. 553(b)(B). Such procedures would be unnecessary, as the taxonomic changes made in this rule are technical and reflect actions already taken in the scientific community. This rule does not change the listing status of right whales under the ESA; therefore, it does not increase the scope of the regulated community nor add any new requirements.

This action is not subject to review under Executive Order 12866. In addition, because a general notice of proposed rulemaking is not required under 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq*., are inapplicable.

Although this final rule simply makes taxonomic changes relative to a listing determination that NMFS has already made under the ESA and does not change the listing status of right whales under the ESA, NOAA has concluded that ESA listing determinations are exempt from requirements of the National Environmental Policy Act. Therefore, these taxonomic changes relative to a listing determination are also exempt from these requirements. (See NOAA Administrative Order 216–6.)

This final rule does not contain policies with federalism implications under Executive Order 13132.

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List of Subjects in 50 CFR Parts 17, 222 and 226

Endangered and threatened species.

Dated: April 2, 2003.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR part 17, 50 CFR part 222, and 50 CFR part 226 are amended as follows:

50 CFR CHAPTER 1

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

■ 2. In § 17.11, paragraph (h), in the table that contains the list of endangered and threatened wildlife, remove the ''Whale, right'' entry in between ''Whale, humpback'' and ''Whale, Sei'' and add in its place the following three entries to read as follows:

§ 17.11 Endangered and threatened wildlife.

(h) * * *

Species		Historic Range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common Name	Scientific Name						
* * *	*	*	*	*	*		
Mammals							
* * *	*	*	*	*	*		
Whale, North Atlantic right...	*Eubalaena glacialis*	Oceanic	Entire	E	3	226.203	224.103
Whale, North Pacific right...	*Eubalaena japonica*	do.....	do.....	do.....	do.....	NA	NA
Whale, Southern right...	*Eubalaena australis*	do.....	do.....	do.....	do.....	NA	NA
* * *	*	*	*	*	*		

50 CFR CHAPTER II

PART 222—GENERAL ENDANGERED AND THREATENED MARINE SPECIES

■ 3. The authority citation for part 222 continues to read as follows:

Authority: 16 U.S.C. 1531 *et seq.*; 16 U.S.C. 742a *et seq.*; 31 U.S.C. 9701.

■ 4. In § 222.102, the definition for ''Right whale'' is revised to read as follows:

§ 222.102 Definitions.

* * * * *

Right whale means, as used in § 224.103 of this chapter, any whale that is a member of the western North Atlantic population of the North Atlantic right whale species (*Eubalaena glacialis*).

* * * * *

50 CFR CHAPTER II

PART 226—DESIGNATED CRITICAL HABITAT

■ 5. The authority citation for part 226 continues to read as follows:

Authority: 16 U.S.C. 1533.

■ 6. In § 226.203, the section heading and the introductory text are revised to read as follows:

§ 226.203 Critical Habitat for North Atlantic right whales.

NORTH ATLANTIC RIGHT WHALE (*Eubalaena glacialis*)

* * * * *

[FR Doc. 03–8683 Filed 4–9–03; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 69
Thursday, April 10, 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 39

[Docket No. 2003–CE–15–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers and Harland Ltd. Models SC–7 Series 2 and SC–7 Series 3 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt a new airworthiness directive (AD) that would apply to all Short Brothers and Harland Ltd. (Shorts) Models SC–7 Series 2 and SC–7 Series 3 airplanes. This proposed AD would require you to repetitively inspect all flight control system rods for corrosion and cracks, replace any cracked rod, and repair corrosion damage or replace any corroded rod depending on the extent of the damage. This proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by this proposed AD are intended to prevent failure of any flight control system rod caused by cracks or corrosion. Such failure could lead to complete failure of the flight control system with consequent loss of control of the airplane.

DATES: The Federal Aviation Administration (FAA) must receive any comments on this proposed rule on or before May 19, 2003.

ADDRESSES: Submit comments to FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 2003–CE–15–AD, 901 Locust, Room 506, Kansas City, Missouri 64106. You may view any comments at this location between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. You may also send comments electronically to the following address: *9-ACE-7-Docket@faa.gov*. Comments sent electronically must contain ''Docket No. 2003–CE–15–AD'' in the subject line. If you send comments electronically as attached electronic files, the files must be formatted in Microsoft Word 97 for Windows or ASCII text.

You may get service information that applies to this proposed AD from Short Brothers PLC, P.O. Box 241, Airport Road, Belfast BT3 9DZ Northern Ireland; telephone: +44 (0) 28 9045 8444; facsimile: +44 (0) 28 9073 3396. You may also view this information at the Rules Docket at the address above.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

How can I be sure FAA receives my comment? If you want FAA to acknowledge the receipt of your mailed comments, you must include a self-addressed, stamped postcard. On the postcard, write ''Comments to Docket No. 2003–CE–15–AD.'' We will date stamp and mail the postcard back to you.

Discussion

What events have caused this proposed AD? The Civil Airworthiness Authority (CAA), which is the airworthiness authority for the United Kingdom, recently notified FAA that an unsafe condition may exist on all Models SC–7 Series 2 and SC–7 Series 3 airplanes. The CAA reports 27 flight control rods with corrosion beyond acceptable limits and 15 rods with cracks. This is on a total of 26 different aircraft.

What are the consequences if the condition is not corrected? Cracked or corroded flight control rods, if not detected or corrected, could lead to complete failure of the flight control system with consequent loss of control of the airplane.

Is there service information that applies to this subject? Shorts has issued Service Bulletin Number 27–77, Original Issue 27/FEB/03.

What are the provisions of this service information? This service bulletin includes procedures for:

—Inspecting all flight control rods for cracks or corrosion;

—Correcting corrosion damage that is not beyond the acceptable limits; and

—Replacing any cracked or corroded (past acceptable limits) control rods.

What action did the CAA take? The CAA classified this service bulletin as mandatory in order to ensure the continued airworthiness of these airplanes in the United Kingdom. The CAA classifying a service bulletin as mandatory is the equivalent for airplanes of British registry as an AD is for airplanes of American registry.

Was this in accordance with the bilateral airworthiness agreement? These airplane models are manufactured in the United Kingdom and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement.

Pursuant to this bilateral airworthiness agreement, the CAA has kept FAA informed of the situation described above.

The FAA's Determination and an Explanation of the Provisions of This Proposed AD

What has FAA decided? The FAA has examined the findings of the CAA; reviewed all available information, including the service information referenced above; and determined that:

—The unsafe condition referenced in this document exists or could develop on other Shorts Models SC–7 Series 2 and SC–7 Series 3 airplanes of the same type design that are on the U.S. registry;

—The actions specified in the previously-referenced service information should be accomplished on the affected airplanes; and

—AD action should be taken in order to correct this unsafe condition.

What would this proposed AD require? This proposed AD would require you to repetitively inspect all flight control system rods for corrosion and cracks, replace any cracked rod, and repair corrosion damage or replace any corroded rod depending on the extent of the damage.

The proposed AD would give initial inspection credit to those operators who had previously inspected the flight control rods in accordance with Shorts Service Bulletin 27–74 (any revision level).

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

Cost Impact

How many airplanes would this proposed AD impact? We estimate that this proposed AD affects 24 airplanes in the U.S. registry.

What would be the cost impact of this proposed AD on owners/operators of the affected airplanes? We estimate the following costs to accomplish the initial inspection:

Labor cost	Parts cost	Total cost per airplane	Total cost on U.S. operators
250 hours × $60 per hour = $15,000	No parts necessary to accomplish inspection.	$15,000 per airplane	$15,000 × 24 airplanes = $360,000

The follow-up inspections would be substantially less than the initial inspection because the flight control rods only have to be removed in the initial inspection. Replacement control rods cost $2,000. We have no way of determining the number of airplanes that may need such repair/replacement.

Compliance Time of This Proposed AD

What would be the compliance time of this proposed AD? The initial inspection compliance time of this proposed AD is ''within the next 3 months after the effective date of this AD or within 24 months after the last inspection accomplished in accordance with Shorts Service Bulletin 27–74 (any revision level), whichever occurs later.'' The repetitive inspection compliance time of the proposed AD is ''thereafter at intervals not to exceed 24 months.''

Why is the compliance time presented in calendar time instead of hours time-in-service (TIS)? The unsafe condition specified by the proposed AD is caused by corrosion. Corrosion can occur regardless of whether the aircraft is in operation or is in storage. Therefore, to ensure that the unsafe condition specified in the proposed AD does not go undetected for a long period of time, the compliance is presented in calendar time instead of hours TIS.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Short Brothers and Harland Ltd.: Docket No. 2003–CE–15–AD.

(a) *What airplanes are affected by this AD?* This AD affects Models SC–7 Series 2 and SC–7 Series 3 airplanes, all serial numbers, that are certificated in any category.

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

(c) *What problem does this AD address?* The actions specified by this AD are intended to prevent failure of any flight control system rod caused by cracks or corrosion. Such failure could lead to complete failure of the flight control system with consequent loss of control of the airplane.

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

Actions	Compliance	Procedures
(1) Inspect all flight control system rods for cracks and corrosion damage.	Initially inspect within the next 3 months after the effective date of this AD or within 24 months after the last inspection accomplished in accordance with Shorts Service Bulletin 27–74 (any revision level), whichever occurs later, unless already accomplished. Repetitively inspect thereafter at intervals not to exceed 24 months.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Shorts Service Bulletin Number 27–77, Original Issue 27/FEB/03.
(2) If corrosion is found during any inspection that does not exceed the limits specified in Shorts Service Bulletin 27–77, repair the corrosion damage on the affected flight control rod.	Prior to further flight after the inspection where the damage is found.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Shorts Service Bulletin Number 27–77, Original Issue 27/FEB/03.
(3) If any crack is found or if corrosion damage that exceeds the limits specified in Shorts Service Bulletin 27–77 is found during any inspection required by this AD, replace the affected flight control rod.	Prior to further flight after the inspection where the damage or cracks are found.	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Shorts Service Bulletin Number 27–77, Original Issue 27/FEB/03.
(4) Do not install any used flight control rod on any affected airplane unless it has been inspected and found to be corrosion and crack free as specified in this AD. Then repetitively inspect as required in paragraph (d)(1) of this AD.	As of the effective date of this AD	In accordance with the ACCOMPLISHMENT INSTRUCTIONS section of Shorts Service Bulletin Number 27–77, Original Issue 27/FEB/03.

(e) *Can I comply with this AD in any other way?* To use an alternative method of compliance or adjust the compliance time, follow the procedures in 14 CFR 39.19. Send these requests to the Manager, Standards Office, Small Airplane Directorate. For information on any already approved alternative methods of compliance, contact Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; facsimile: (816) 329–4090.

(f) *How do I get copies of the documents referenced in this AD?* You may get copies of the documents referenced in this AD from Short Brothers PLC, P.O. Box 241, Airport Road, Belfast BT3 9DZ Northern Ireland; telephone: +44 (0) 28 9045 8444; facsimile: +44 (0) 28 9073 3396. You may view these documents at FAA, Central Region, Office of the Regional Counsel, 901 Locust, Room 506, Kansas City, Missouri 64106.

Note: The United Kingdom Civil Airworthiness Authority (CAA) classified Shorts Service Bulletin Number 27–77, Original Issue 27/FEB/03, as mandatory. The CAA classifying a service bulletin as mandatory is the equivalent for airplanes on the British registry as an AD is for airplanes on the U.S. registry.

Issued in Kansas City, Missouri, on April 4, 2003.

James E. Jackson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–8750 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AD05

Workshops To Discuss Specific Issues Regarding the Existing Rule—Revision of Gas Royalty Valuation Regulations and Related Topics

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of public workshops.

SUMMARY: The Minerals Management Service (MMS) is giving notice of four public workshops to discuss specific issues regarding the existing Federal gas royalty valuation regulations at 30 CFR Part 206 for natural gas produced from Federal leases.

DATES: The public workshop dates are:

Workshop 1—Denver, Colorado, on April 23, 2003, beginning at 8:30 a.m. and ending at 2 p.m., Mountain time.

Workshop 2—Albuquerque, New Mexico, on April 24, 2003, beginning at 8:30 a.m. and ending at 2 p.m., Mountain time.

Workshop 3—Houston, Texas, on April 29, 2003, beginning at 8:30 a.m. and ending at 11 a.m., and continuing at 2 p.m. and ending at 5 p.m. Central time.

Workshop 4—Washington, DC, on May 1, 2003, beginning at 8:30 a.m. and ending at 2 p.m. Eastern time.

ADDRESSES: The workshop locations are:

Workshop 1 will be held at the Minerals Management Service, Denver Federal Center, 6th Avenue and Kipling Street, Building 85, Auditoriums A–D, Denver, Colorado, 80226–0165, telephone number (303) 231–3302.

Workshop 2 will be held at the Double Tree Hotel Albuquerque, 201 Marquette NW, Albuquerque, New Mexico 87102, telephone number (505) 247–7000.

Workshop 3 will be held at the Westin Galleria, 5060 West Alabama, Houston, Texas 77056, telephone number (713) 960–8100.

Workshop 4 will be held at the Main Interior Building, 1849 C Street, NW, Washington, DC 20240 (South Penthouse Room), telephone number, (202) 208–3512.

FOR FURTHER INFORMATION CONTACT: Paul Knueven, Minerals Management Service, Minerals Revenue Management, PO Box 25165, MS 320B2, Denver, Colorado 80225–0165, telephone (303) 231–3316, fax number (303) 231–3781, e-mail *Paul.Knueven@mms.gov.*

SUPPLEMENTARY INFORMATION: MMS continues to evaluate the effectiveness and efficiency of its regulations. While we believe that the Federal gas valuation rule generally is accomplishing its objective, that rule is now 15 years old. With the changes having taken place in the natural gas market over the past 15 years, our experience with the 2000 Indian gas valuation rule, and 5 years of experience with taking royalties in kind, we have identified possible changes to the existing rule on which we seek public comment.

Accordingly, MMS is seeking public comment and recommendations on the following specific issues:

(1) Allowing lessees who sell their production to an affiliate the option (for a 2 year period) of basing the royalty value on either a published index price for gas or their affiliate's arm's-length resale price, (2) using NYMEX prices at the Henry Hub rather than published spot prices for natural gas, (3) adjusting natural gas index prices for location differences between the index pricing point and the lease, (4) revising the specific transportation costs that we identified in MMS's 1998 amendment to the gas transportation allowance regulations, (5) determining the rate of return allowed for calculating actual costs under non-arm's-length transportation agreements, (6) allowing lessees to apply natural gas index prices to wellhead gas volumes to eliminate the current requirement of tracing gas that is processed to remove natural gas liquids, and (7) valuing and reporting natural gas disposed of under joint operating agreements.

In addition to the specific issues identified above, we encourage participants to comment on any other significant issues impacting the value of natural gas for royalty purposes.

The workshops will be open to the public without advance registration. Public attendance may be limited to the space available. We encourage a workshop atmosphere; members of the public are encouraged to participate.

For building security measures, each person may be required to present a picture identification to gain entry to the meetings.

Dated: March 31, 2003.

Lucy Querques Denett,

Associate Director for Minerals, Revenue Management.

[FR Doc. 03–8760 Filed 4–8–03; 12:13 pm]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[TX–043–FOR]

Texas Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Texas proposes to add a new rule to its administrative hearing procedures concerning telephonic hearing proceedings. Texas intends to revise its program to improve operational efficiency.

This document gives the times and locations that the Texas program and proposed amendment to that program are available for your inspection, the comment period during which you may submit written comments on the amendment, and the procedures that we will follow for the public hearing, if one is requested.

DATES: We will accept written comments on this amendment until 4 p.m., c.s.t. May 12, 2003. If requested, we will hold a public hearing on the amendment on May 5, 2003. We will accept requests to speak at a hearing until 4 p.m., c.s.t. on April 25, 2003.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Michael C. Wolfrom, Director, Tulsa Field Office, at the address listed below.

You may review copies of the Texas program, this amendment, a listing of any scheduled public hearings, and all written comments received in response to this document at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendment by contacting OSM's Tulsa Field Office.

Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6547, Telephone: (918) 581–6430, Internet address: *mwolfrom@osmre.gov.*

Surface Mining and Reclamation Division, Railroad Commission of Texas, 1701 North Congress Avenue, Capitol Station, P.O. Box 12967, Austin, Texas 78711–2967, Telephone (512) 463–6900.

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

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program
II. Description of the Proposed Amendment
III. Public Comment Procedures
IV. Procedural Determinations

I. Background on the Texas 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 Texas program effective February 16, 1980. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Texas program in the February 27, 1980, **Federal Register** (45 FR 12998). You can also find later actions concerning the Texas program and program amendments at 30 CFR 943.10, 943.15 and 943.16.

II. Description of the Proposed Amendment

By letter dated February 12, 2003 (Administrative Record No. TX–654), Texas sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Texas sent the amendment at its own initiative. Texas is proposing to add Texas Administrative Code (TAC) 1.130 to Title 16, Subchapter G, of the Railroad Commission of Texas' (Commission) General Rules of Practice and Procedure (GRPP). This new rule contains the procedures for conducting all or part of a prehearing conference or hearing by telephone. Below is a summary of the new rule proposed by Texas. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

A. Texas' new rule at 16 TAC 1.130 outlines the method to request a telephonic proceeding, how the proceeding will be conducted, the establishment of the record in such proceedings, and the grounds for a default judgment or a dismissal.

1. Section 1.130(a) allows the hearings examiner, on the timely written motion of a party or on the examiner's own motion, to conduct all or part of a prehearing conference or hearing by telephone. All parties must consent to the telephonic proceeding.

2. Section 1.130(b) requires a written request that is filed at the Commission and served on all parties. The request must include the pertinent telephone number(s), the scope of the telephonic portion of the proceeding, and the identity of any witnesses that may testify telephonically. If expert

witnesses will testify, the request must include their qualifications to testify as experts.

3. Section 1.130(c) requires the hearings examiner to ensure that the proceeding is fair and provides due process. In determining if it is feasible to conduct all or part of a proceeding telephonically, the hearings examiner must take into account the following factors: (1) Timeliness of a party's request; (2) receipt of written agreements from all parties to conduct all or part of the proceeding by telephone; (3) demonstrations from the parties on how witnesses will be separated, how coaching of witnesses will be prevented, why observing only a witness's oral demeanor is sufficient, and how the witnesses' and parties' identities will be established; (4) the number of parties and the number of witnesses; (5) the number and type of exhibits; (6) the distance of the parties or witnesses from Austin; (7) the nature of the hearing; and (8) any other pertinent factors which the hearings examiner believes may affect the proceeding.

4. Section 1.130(d) requires the hearings examiner to notify the parties, not less than ten days before the proceeding, of his or her decision to conduct all or part of a proceeding telephonically.

5. Section 1.130(e) requires the parties to file and serve all documentary evidence, other than prefiled written testimony, in advance of the proceeding.

6. Section 1.130(f) specifies that, subject only to the limitation of the physical arrangement, all substantive and procedural rights apply to telephonic proceedings.

7. Section 1.130(g) requires that the time and location of telephonic proceedings be posted. Any person may, by advance request, be present in the room with the hearings examiner.

8. Section 1.130(h) requires the hearings examiner to conduct telephonic proceedings using a speaker telephone. The hearings examiner must make a tape recording of the telephonic proceeding, or arrange to have the proceeding recorded by a court reporter.

9. Section 1.130(i) requires the hearings examiner to initiate the telephonic proceeding, including arranging any necessary conference call. When all parties appearing telephonically are connected, the hearings examiner will affirm the parties' consent to the telephonic proceeding. The hearings examiner will then call the proceeding to order; ask all parties to identify themselves, their locations, and their witnesses; affirm on the record the prior written agreement from all parties consenting to the telephonic appearance or proceeding; and state whether the proceeding is being tape recorded or whether a court reporter is recording the proceeding. The hearings examiner will administer the oath to each witness individually before his or her testimony.

10. Section 1.130(j) provides that if the hearings examiner is prevented from connecting all parties through circumstances that are beyond the control of any party or the examiner, the examiner may postpone, continue, or recess the proceeding, as appropriate, until the earliest possible date and time for the proceeding to be reconvened.

11. Section 1.130(k) provides that if the hearings examiner decides or any party requests not to proceed with the telephonic proceeding at any time, or asserts that the presence of the parties or witnesses in the hearing room is necessary for full disclosure of the facts, the hearings examiner may postpone, continue, or recess the proceedings, as appropriate. The hearings examiner must reschedule the proceedings to the earliest possible date and time. The examiner must state on the record or in writing to all parties the reasons for terminating the telephonic proceeding and state the date, time, and location of the reconvened proceeding.

12. Section 1.130(l) provides that the Commission may consider the following events to constitute a failure to appear and grounds for default or dismissal: (1) Failure to answer the telephone for more than 10 minutes after the scheduled time for the proceeding; (2) failure to free the telephone for the proceeding for more than 10 minutes after the scheduled time for the proceeding; (3) failure to be ready to proceed with the proceeding within 10 minutes of the scheduled time; and (4) a party's intentional disconnection from the conference call.

13. Finally, Section 1.130(m) specifies that in the event of accidental disconnection of one or more parties to the proceeding, the hearings examiner will immediately recess the hearing and attempt to re-establish the connection or connections. If reconnection is achieved within 30 minutes, the hearings examiner may resume the telephonic hearing, or may postpone, continue, or recess the proceedings, as appropriate, until the earliest possible date and time for the proceeding to be reconvened. The examiner must state on the record the date, time, and location of the reconvened proceeding. If reconnection cannot be achieved, then the hearings examiner must recess the telephonic proceeding and reschedule the hearing.

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

Send your written or electronic comments to OSM at the address given above. Your written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of your recommendations. We will not consider or respond to your comments when developing the final rule if they are received after the close of the comment period (*see* **DATES**). We will make every attempt to log all comments into the administrative record, but comments delivered to an address other than the Tulsa Field Office may not be logged in.

Electronic Comments

Please submit Internet comments as an ASCII or Microsoft Word file avoiding the use of special characters and any form of encryption. Please also include ''Attn: TX–043–FOR'' and your name and return address in your Internet message. If you do not receive a confirmation that we have received your Internet message, contact the Tulsa Field Office at (918) 581–6430.

Availability of Comments

We will make comments, including names and addresses of respondents, available for public review during normal business hours. We will not consider anonymous comments. If individual respondents request confidentiality, we will honor their request to the extent allowable by law. Individual respondents who wish to withhold their name or address from public review, except for the city or town, must state this prominently at the beginning of their 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 review in their entirety.

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.s.t. on April 25, 2003. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the

hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

To assist the transcriber and ensure an accurate record, we request, if possible, that each person who speaks at the public hearing provide us with a written copy of his or her comments. The public hearing will continue on the specified date until everyone scheduled to speak has been given an opportunity to be heard. If you are in the audience and have not been scheduled to speak and wish to do so, you will be allowed to speak after those who have been scheduled. We will end the hearing after everyone scheduled to speak and others present in the audience who wish to speak, have been heard.

Public Meeting

If only one person requests an opportunity to speak, we may hold a public meeting rather than a public hearing. If you wish to meet with us to discuss the amendment, please request a meeting by contacting the person listed under **FOR FURTHER INFORMATION CONTACT.** All such meetings are open to the public and, if possible, we will post notices of meetings at the locations listed under **ADDRESSES.** We will make a written summary of each meeting a part of the administrative record.

IV. Procedural Determinations

Executive Order 12630—Takings

This rule does not have takings implications. This determination is based on the fact that the telephonic hearing provisions proposed by Texas are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

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 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally recognized Indian tribes and have determined that the rule does not have substantial direct effects 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. This determination is based on the fact that the Texas program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Texas program has no effect on Federally recognized Indian tribes.

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.*). This determination is based upon the fact that the telephonic hearing provisions proposed by Texas are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

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 telephonic hearing provisions proposed by Texas are administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

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 telephonic hearing provisions proposed by Texas are

administrative and procedural in nature and are not expected to have a substantive effect on the regulated industry.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 27, 2003.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 03–8807 Filed 4–9–03; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

31 CFR Part 103

RIN 1506–AA28

Financial Crimes Enforcement Network; Anti-Money Laundering Program Requirements for ''Persons Involved in Real Estate Closings and Settlements''

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: FinCEN is in the process of implementing the requirements delegated to it under the USA Patriot Act of 2001, in particular the requirement pursuant to section 352 of the Act that financial institutions establish anti-money laundering programs. The term ''financial institution'' includes ''persons involved in real estate closings and settlements.'' FinCEN is issuing this advance notice of proposed rulemaking (''ANPRM'') to solicit public comments on a wide range of questions pertaining to this requirement, including how to define ''persons involved in real estate closings and settlements,'' the money laundering risks posed by such persons, and whether any such persons should be exempted from this requirement.

DATES: Written comments may be submitted on or before June 9, 2003.

ADDRESSES: Commenters are encouraged to submit comments by electronic mail because paper mail in the Washington, DC area may be delayed. Comments submitted by electronic mail may be sent to *regcomments@fincen.treas.gov* with the caption in the body of the text, ''ATTN: Section 352—Real estate settlements.'' Comments may also be submitted by paper mail to FinCEN, PO Box 39, Vienna, VA 22183–0039, ''ATTN: Section 352 '' Real estate settlements.'' Comments should be sent by one method only. Comments may be inspected at FinCEN between 10 a.m. and 4 p.m., in the FinCEN Reading Room in Washington, DC. People wishing to inspect the comments submitted must request an appointment by telephoning (202) 354–6400 (not a toll-free number).

FOR FURTHER INFORMATION CONTACT: Office of Chief Counsel, FinCEN, (703) 905–3590; Office of the General Counsel (Treasury), (202) 622–1927; or the Office of the Assistant General Counsel for Banking and Finance (Treasury), (202) 622–0480 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

I. Background

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001 (Pub. L. 107–56) (''the Act''). Title III of the Act, also known as the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, made a number of amendments to the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), which are codified in subchapter II of chapter 53 of title 31, United States Code. These amendments are intended to make it easier to prevent, detect, and prosecute international money laundering and the financing of terrorism.

Section 352(a) of the Act, which became effective on April 24, 2002, amended section 5318(h) of the BSA. As amended, section 5318(h)(1) requires every financial institution including persons involved in real estate settlements and closings under section 5312(a)(1)(U) to establish an anti-money laundering program that includes, at a minimum: (i) The development of internal policies, procedures, and controls; (ii) the designation of a compliance officer; (iii) an ongoing employee training program; and (iv) an independent audit function to test programs. When prescribing minimum standards for anti-money laundering programs, section 352 directs the Secretary of the Treasury to ''consider the extent to which the requirements imposed under [section 352 of the Act] are commensurate with the size, location, and activities of the financial institutions to which such regulations apply.'' The Secretary has delegated the authority to administer the BSA to the Director of FinCEN.

On April 29, 2002, and again on November 6, 2002, FinCEN temporarily exempted certain financial institutions, including persons involved in real estate closings and settlements, from the requirement to establish an anti-money laundering program.[1] The purpose of the temporary exemption was to enable Treasury and FinCEN to study the affected industries and to consider the extent to which anti-money laundering program requirements should be applied to them, taking into account the specific characteristics of the various entities defined as ''financial institutions'' by the BSA.

A real estate closing or settlement is the process in which the purchase price is paid to the seller and title is transferred to the buyer.[2] The process may be carried out in different ways, depending on a number of factors, including location. In the eastern states, typically the parties meet and exchange documents in what is sometimes referred to as a ''New York style'' or ''table closing.'' In the western states, the parties may not meet, instead relying on the services on an escrow agent to handle the documents in what is sometimes referred to as a ''Western style'' or an ''escrow closing.''[3] The person actually conducting the process may be an attorney, a title insurance company, an escrow company, or another party.

II. Issues for Comment

1. What Are the Money Laundering Risks in Real Estate Closings and Settlements?

The real estate industry could be vulnerable at all stages of the money laundering process by virtue of dealing with high value products.[4] Money launderers have used real estate transactions to attempt to disguise the illegal source of their proceeds. For example, narcotics traffickers have purchased property with monetary instruments that they purchased in structured amounts (that is, multiple purchases each below the BSA reporting thresholds that in aggregate exceeded

[1] *See* 31 CFR 103.170, as codified by interim final rule published at 67 FR 21110 (April 29, 2002, as amended at 67 FR 67547 (November 6, 2002) and corrected at 67 FR 68935 (November 14, 2002).

[2] Whether the process is referred to as a settlement or a closing may vary by jurisdiction. *See, e.g.*, 24 CFR 3500.2 explaining that settlement for purposes of the Real Estate Settlement Procedures Act of 1974 (''RESPA'') may also be called a ''closing'' depending on the jurisdiction.

[3] *See,* 11 Thompson on Real Property, sec. 94.04.

[4] According to a report published by the National Institute of Justice, ''real estate transactions offer excellent money laundering opportunities,'' and, in particular, opportunities to ''legitimate and repatriate illegal funds.'' Barbara Webster and Michael S. McCampbell, National Institute of Justice, International Money Laundering: Research and Investigation Join Forces, September 1996, pages 5 and 6.

the thresholds).[5] Narcotics traffickers have also tried to launder cash proceeds by exchanging them for checks from a real estate company.[6]

In money laundering, the initial or placement stage is the stage at which funds from illegal activity, or funds intended to support illegal activity, are first introduced into the financial system. This could occur, for example, in the real estate industry through the payment for real estate with a large cash down payment.

In the second or layering stage of money laundering, the illicit funds are further disguised and distanced from their illegal source through the use of a series of frequently complex financial transactions. This could occur in the real estate industry when, for instance, multiple pieces of real estate are bought and resold, exchanged, swapped, or syndicated, making it more difficult to trace the true origin of the funds.[7]

The third or integration phase of money laundering occurs when the illegal funds appear to have been derived from a legitimate source. In the context of the real estate industry, this could occur when real estate is sold by a money launderer to a bona fide purchaser and the purchaser, or his or her financial institution, provides the money launderer with a check that the money launderer then has the ability to represent as the proceeds of a legitimate business transaction.

The real estate industry itself has taken steps to identify potential money laundering vulnerabilities. For instance, the American Land Title Association has identified several potential ''red flag'' situations involving real estate transactions, including:

- Where a prospective buyer is paying for real estate with funds from a high risk country, such as a ''non-cooperative country or territory'' as designated by the Financial Action Task Force (''FATF'') or a country designated by the Secretary as ''a primary money laundering concern'' pursuant to section 311 of the Act;
- Where the seller requests that the proceeds of a sale of real estate be sent to a high risk country;
- Where a person is seeking to purchase real estate in the name of a nominee and has no apparent legitimate explanation for the use of a nominee;
- Where a person is acting, or appears to be acting, as an agent for an undisclosed party and is reluctant or unwilling to provide information about the party or the reason for the agency relationship;
- Where a person does not appear to be sufficiently knowledgeable about the purpose or use of the real estate being purchased;
- Where the person appears to be buying and selling the same piece of real estate within a short period of time or is buying multiple pieces of real estate for no apparent legitimate purpose;
- Where the prospective purchaser or seller seeks to have the documents reflect something other than the true nature of the transaction; and
- Where the person provides suspicious documentation to verify his or her identity.

FinCEN solicits comment on the experience of the real estate settlement industry with money laundering schemes, the existence of any safeguards in the industry to guard against money laundering, and what additional steps may be necessary to protect the industry from abuse by money launderers, including those who finance terrorist activity.

2. How Should Persons Involved in Real Estate Closings and Settlements Be Defined?

The BSA identifies a person involved in a real estate closing or settlement as a financial institution. The statute includes no definition of the term and FinCEN has not had an occasion to define the term in a regulation. Moreover, the legislative history provides no insight into how Congress intended the term to be defined. Because section 5312(a)(1)(U) uses the phrase ''persons *involved* in real estate closings and settlements'' (emphasis added), a reasonable interpretation of the section could therefore cover participants other than those who actually conduct the real estate settlement or closing.[8]

The universe of participants in real estate transactions is potentially broad, even in the simplest residential real estate transaction. The typical residential real estate transaction may involve the following participants:

- A real estate broker or brokers,
- One or more attorneys, who represent the purchaser or the seller,
- A bank, mortgage broker, or other financing entity,
- A title insurance company,
- An escrow agent, and
- An appraiser, who may assess the condition and value of the real estate, as well as various inspectors.

Moreover, the participants involved, and the nature of their involvement, could vary with the contemplated use of the real estate, the nature of the rights to be acquired, or how these rights are to be held. Real estate may be acquired for any one or number of purposes, including, without limitation, residential, commercial, portfolio investment, or development purposes. As for the nature of the rights to be acquired, the real estate may be held in fee simple, under a lease agreement or as security for indebtedness. Finally, real estate may be held directly or through various investment vehicles, such as real estate investment trusts, real estate limited partnerships, or entities commonly referred to as ''syndicates'' of real estate investors.

The guiding principle in defining the phrase ''persons involved in real estate closings and settlement'' is to include those persons whose services rendered or products offered in connection with a real estate closing or settlement that can be abused by money launderers. Equally as important is identifying those persons who are positioned to identify the purpose and nature of the transaction. Another factor may be the importance of various participants to successful completion of the transaction, which may suggest that they are well positioned to identify suspicious conduct. In addition, professionals may have very different roles, in different transactions, that greatly impact on their exposure to money laundering. At one end of the spectrum may be those professionals involved in structuring a real estate deal (and thus in the best position to observe and prevent their use for money laundering); at the other end, those whose role may be far from the financial aspects, such as property inspectors. Finally, involvement with the actual flow of funds used to purchase the property is a significant factor.

As noted above, attorneys often play a key role in real estate closings and settlements and thus merit consideration along with all the other professionals involved in the closing and settlement process. Section 352 requires that a financial institution take steps to detect and prevent itself from being abused by money launderers, and to comply with existing BSA requirements, such as reporting the receipt of cash or cash equivalents in an amount over $10,000 on Form 8300. This provision does not independently impose any reporting requirements on

[5] *See, e.g., U.S.* v. *High*, 117 F.3d 464 (11th Cir. 1997).

[6] *See U.S.* v. *Leslie*, 103 F.3d 1093 (2d Cir. 1997).

[7] *See U.S.* v. *Nattier*, 127 F.3d 655 (8th Cir. 1997) (embezzler engaged in a number of real estate purchases through real estate firm in an attempt to conceal the source of the funds).

[8] Thus, for example, in a settlement or closing involving residential property, the term could cover participants other than the settlement agent listed on the HUD–1 form, as required by RESPA.

financial institutions. FinCEN therefore does not believe that application of section 352 requirements to attorneys in connection with activities relating to real estate closings or settlements raises issues of, or poses obligations inconsistent with, the attorney-client privilege.[9] In fact, attorneys already must exercise due diligence when they receive funds from clients where there is an indication that the funds may be tainted, and cannot simply accept funds without the risk that their fees will be subject to forfeiture.[10] When engaging in conduct subject to anti-money laundering regulations, attorneys, like other professionals, should take the basic steps contemplated by section 352 to ensure that their services are not being abused by money launderers.

FinCEN accordingly seeks comment on which participants in the real estate closing or settlement process are in a position where they can effectively identify and guard against money laundering in such transactions. Information and comment may, among other things, address both the extent to which various participants have access to information regarding the nature and purpose of the transactions at issue and the importance of the participants' involvement to successful completion of the transactions. Information and comment should focus on the real estate sector in general and on various transaction types. FinCEN is particularly interested in receiving comments addressing commercial real estate transactions. Comments are welcome from those involved centrally in the real estate settlement process, *i.e.*, those who may act as an agent for all parties and are responsible for reviewing the form and type of payment, as well as being aware of the parties to the real estate transaction, and those who view their involvement as more peripheral.

3. Should Any Persons Involved in Real Estate Closings or Settlements Be Exempted From Coverage Under Section 352?

FinCEN also solicits comments regarding whether there should be an exemption for any category of persons involved in real estate closings and settlements. In this connection, FinCEN anticipates that persons that are already subject to separate anti-money laundering program rules (or that will be subject to separate rules) will not also be subject to the anti-money laundering rules for persons involved in real estate closings and settlements.[11] Comments regarding possible exemptions should be designed to enable FinCEN to evaluate whether the risk of money laundering through a category of persons is sufficiently small that a proposed anti-money laundering program rule could be crafted that would exempt the category while also providing adequate protection for the industry from the risks of money laundering. In addition, FinCEN wishes to make it clear that it does not intend to cover purchasers and sellers of their own real estate, although they, too, are ''persons involved in real estate settlements and closings.'' The question of exemption is specifically directed to real estate professionals, and those who trade in real estate on a commercial basis.

4. How Should the Anti-Money Laundering Program Requirement for Persons Involved in Real Estate Closings and Settlements Be Structured?

In applying section 352 of the Act to persons involved in real estate closings and settlements, FinCEN must consider the extent to which the standards for anti-money laundering programs are commensurate with the size, location, and activities of persons in this industry. FinCEN recognizes that while large businesses are involved in real estate closings and settlements, businesses in this industry may be smaller companies or sole proprietors. FinCEN thus seeks comment on any particular concerns these smaller businesses may have regarding the implementation of an anti-money laundering program.

FinCEN also recognizes that persons involved in real estate closings and settlements may have some programs in place to meet existing legal obligations, such as the requirement to report on Form 8300 the receipt of over $10,000 in currency and certain monetary instruments. These businesses may also have procedures in place to protect them against fraud. FinCEN therefore seeks comment on what types of programs persons involved in real estate closings and settlements have in place to prevent fraud and illegal activities, and the applicability of such programs to the prevention of money laundering.

III. Conclusion

With this ANPRM, FinCEN is seeking input to assist it in determining how to implement the requirements of section 352 with respect to persons involved in real estate closings and settlements. FinCEN welcomes comments on all aspects of a potential regulation and encourages all interested parties to provide their views.

IV. Executive Order 12866

This ANPRM is not a ''significant regulatory action'' for purposes of Executive Order 12866. It neither establishes nor proposes any regulatory requirements. Instead, it seeks public comment on a wide range of questions concerning the extent to which the anti-money laundering program mandates of section 352 of the USA Patriot Act should apply to persons involved in real estate closings and settlements.

Dated: April 3, 2003.

James F. Sloan,

Director, Financial Crimes Enforcement Network.

[FR Doc. 03–8688 Filed 4–9–03; 8:45 am]

BILLING CODE 4810–02–P

[9] The recent resolution by the American Bar Association opposing the imposition of suspicious activity reporting obligations on attorneys recognizes the distinction between anti-money programs and reporting requirements. *See* Task Force on Gatekeeper Regulation and the Profession, Report to the House of Delegates (available on *www.abanet.org/leadership/recommendations03/104.pdf*) (accepting the concepts of reasonable compliance training and due diligence to minimize risk of lawyers' involvement in illegal money laundering activity).

[10] *See U.S.* v. *Moffitt, Zwerling & Kemler, P.C.*, 83 F.3d 660 (4th Cir. 1996) (firm that ''tiptoed'' around the most pertinent questions regarding the source of fees received from drug dealer required to forfeit fees shown to be derived from proceeds of narcotics trafficking).

[11] For example, banks already must comply with anti-money laundering rules. *See* 31 CFR 103.120. Similarly, loan and finance companies fall within the definition of a financial institution under the BSA, and are currently being studied by FinCEN for inclusion in the anti-money laundering rules.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD08–03–007]

RIN 1625–AA09

Drawbridge Operation Regulation; Apalachicola River, River Junction, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a drawbridge operation regulation for the draw of the CSX Railroad swing bridge across the Apalachicola River, mile 105.9, at River Junction (near Chattahoochee), Florida. The regulation will allow for the bridge to be unmanned and remain closed during hours of infrequent traffic with

an advance notification requirement to open the bridge.

DATES: Comments and related material must reach the Coast Guard on or before June 9, 2003.

ADDRESSES: You may mail comments and related material to Commander (obc), Eighth Coast Guard District, 501 Magazine Street, New Orleans, Louisiana 70130–3396, or deliver them to room 1313 at the same address above between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The Commander, Eighth Coast Guard District, Bridge Administration Branch maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying by appointment at the Bridge Administration Branch, Eighth Coast Guard District between 7 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. David Frank, Bridge Administration Branch, at the address given above or telephone (504) 589–2965.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD08–03–007), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know that they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. However, you may submit a request for a public meeting by writing to the Commander, Eighth Coast Guard District, Bridge Administration Branch at the address under **ADDRESSES** explaining why a public meeting would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The CSX swing bridge across the Apalachicola River, mile 105.9, presently opens on signal for the passage of vessels. The bridge owner has requested to change the operation regulations so that the bridge be required to open on signal only from 8 a.m. until 4 p.m. Monday through Friday. At all other times, the bridge would open on signal if at least four hours advanced notification is given. The request was made based upon a documented decrease in the number of requests for openings in the last three years. In 2000, the bridge opened 63 times for the passage of vessels. In 2001, the bridge opened 38 times for the passage of vessels. In the first five months of 2002, the bridge opened 15 times for the passage of vessels. Information gathered regarding the decrease in vessel movements indicates that the closure of a sand and gravel facility above the bridge and a prolonged drought are the main contributing factors. While water elevations may return to their pre-drought levels, there is presently no evidence that the number of requests for bridge openings will increase in the future due to limited industrial development along the waterway.

Discussion of Proposed Rule

The proposed rule will have no effect on the existing operation of the bridge between 8 a.m. and 4 p.m. Monday through Friday when the bridge will open on signal to accommodate marine traffic. At all other times the bridge will only open if four hours advance notice is provided. This change is proposed to reduce the financial burden on the drawbridge operator of maintaining bridge tenders at times that there is little or no vessel traffic.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary.

Prior to proposing this rule, the Coast Guard analyzed the bridge usage records and determined that requiring four hours notice during off peak periods would have minimal impact on commercial vessel traffic. This proposed rule allows vessels ample opportunity to transit this waterway during normal weekdays and with minimal notification at all other times.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. The proposed rule would affect the following entities, some of which might be small entities: the owners and operators of vessels requiring a vertical clearance of greater than 17.4 feet above Ordinary High Water and needing to transit the bridge outside of the 8 a.m. to 4 p.m. weekday time frame. The impacts to small entities will not be significant because of the limited number of openings required by these vessels.

This is not considered to have a significant impact on a substantial number of small entities.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed rule would have a significant economic impact on it, please submit a comment (*see* **ADDRESSES**) explaining why you think it qualifies and how and to what degree this proposed rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the Bridge Administration Branch, Eighth Coast Guard District at the address above.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct cost of compliance on them. We have analyzed this proposed rule under Executive Order 13132 and have determined that this proposed rule does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their 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 proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Environment

We considered the environmental impact of this proposed rule and concluded that, under figure 2–1, paragraph 32(e), of Commandant Instruction M16475.lD, this proposed rule is categorically excluded from further environmental documentation. This action is categorically excluded under paragraph 32(e) as it is for the purpose of promulgating an operation regulation for this drawbridge. A ''Categorical Exclusion Determination'' is available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. § 117.258 is added to read as follows:

§ 117.258 Apalachicola River.

The draw of the CSX Railroad bridge, mile 105.9, at River Junction shall open on signal Monday through Friday from 8 a.m. until 4 p.m. At all other times, the bridge will open on signal if at least 4 hours notice is given.

Dated: March 27, 2003.

Roy J. Casto,

Rear Admiral, U.S. Coast Guard, , Commander, Eighth Coast Guard District.

[FR Doc. 03–8690 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Region 2 Docket No. NY57–252, FRL–7480–4]

Approval and Promulgation of Implementation Plans; New York State Implementation Plan Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the New York State Implementation Plan (SIP) for ozone concerning the control of volatile organic compounds. The SIP revision consists of amendments to New York Codes, Rules and Regulations part 226, ''Solvent Metal Cleaning,'' part 235, ''Consumer Products'' and the adoption of new rule part 239, ''Portable Fuel Container Spillage Control.'' This SIP revision consists of control measures needed to meet the shortfall emissions reduction identified by EPA in New York's 1-hour ozone attainment demonstration SIP. The intended effect of this action is to approve control strategies required by the Clean Air Act which will result in emission reductions that will help achieve attainment of the national ambient air quality standard for ozone.

DATES: Comments must be received on or before May 12, 2003.

ADDRESSES: All comments should be addressed to: Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

A copy of the New York submittals are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 625 Broadway, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Kirk J. Wieber, Air Programs Branch,

Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3381.

SUPPLEMENTARY INFORMATION:

I. What Is Required by the Clean Air Act and How Does It Apply to New York?

Section 182 of the Clean Air Act (Act) specifies the required State Implementation Plan (SIP) submissions and requirements for areas classified as nonattainment for ozone and when these submissions and requirements are to be submitted to EPA by the states. The specific requirements vary depending upon the severity of the ozone problem. The New York-Northern New Jersey-Long Island area is classified as a severe ozone nonattainment area. Under section 182, severe ozone nonattainment areas were required to submit demonstrations of how they would attain the 1-hour standard. On December 16, 1999 (64 FR 70364), EPA proposed approval of New York's 1-hour ozone attainment demonstration SIP for the New York-Northern New Jersey-Long Island nonattainment area. In that rulemaking, EPA identified an emission reduction shortfall associated with New York's 1-hour ozone attainment demonstration SIP, and required New York to address the shortfall. In a related matter, the Ozone Transport Commission (OTC) developed control measures into model rules for a number of source categories and estimated emission reduction benefits from implementing these model rules. These model rules were designed for use by states in developing their own regulations to achieve additional emission reductions to close emission shortfalls.

On February 4, 2002 (67 FR 5170), EPA approved New York's 1-hour ozone attainment demonstration SIP. This approval included an enforceable commitment submitted by New York to adopt additional control measures to close the shortfall identified by EPA for attainment of the 1-hour ozone standard.

II. What Was Included in New York's Submittal?

On December 30, 2002, Carl Johnson, Deputy Commissioner, New York State Department of Environmental Conservation (NYSDEC), submitted to EPA a revision to the SIP which included state adopted revisions to two regulations. The two regulations consist of New York Codes, Rules and Regulations (NYCRR), part 235, ''Consumer Products'' and part 239, ''Portable Fuel Container Spillage Control.'' In addition, on January 17, 2003, Deputy Commissioner Johnson submitted to EPA a revision to the SIP which included state proposed revisions to NYCRR, part 226, ''Solvent Metal Cleaning.'' All of these revisions will provide volatile organic compound (VOC) emission reductions to address, in part, the shortfall identified by EPA. New York used the OTC model rules as guidelines to develop its rules.

A. What Do the Revisions to Part 226, ''Solvent Metal Cleaning'' Consist of?

Part 226 is intended to establish hardware and operating requirements for vapor cleaning machines used to clean metal parts as well as solvent volatility limits and operating practices for cold cleaners. The revisions to part 226 include clarifications to the general requirements; equipment specifications; and operating requirements, including recordkeeping requirements for cold cleaning degreasers; and exemptions. The revisions to part 226 also include a solvent vapor pressure specification of 1.0 millimeters of mercury at 20 degrees Celsius which becomes mandatory January 1, 2004, unless a process-specific Reasonably Available Control Technology (RACT) demonstration has been approved by the NYSDEC and EPA. The alternate RACT provision is available for situations in which it can be demonstrated that a solvent metal cleaning process cannot be controlled to comply with the requirements of part 226 for reasons of technological and economic infeasibility.

B. What Do the Revisions to Part 235, ''Consumer Products'' Consist of?

The revisions to part 235 include VOC content limits for 43 separate consumer product categories. Revised part 235 establishes that no person shall sell, supply, offer for sale, or manufacture consumer products on or after January 1, 2005, which contain VOCs in excess of the VOC content limits specified by New York for those products. Part 235 includes specific exemptions, as well as certification and product labeling requirements, recordkeeping and reporting requirements, and test methods and procedures, and provisions for acquiring variances and approvals of innovative products exemptions (IPEs) and alternative compliance plans (ACPs).

The part 235 IPE and ACP provisions provide alternatives to complying with the VOC content limits specified in the Table of Standards in part 235. The State has provided criteria for documentation of emissions and the VOC content limit of the product as well as procedures for submissions to apply for IPEs and ACPs. Part 235 also allows a manufacturer who was granted an IPE or ACP pursuant to the California Air Resource Board (CARB) provisions in sections 94511, 94503.5 and 94540–94555 of title 17 of the California Code of Regulations to apply for and obtain an IPE or ACP in New York State. The IPE or ACP can become effective in New York State for the period of time that the CARB IPE or ACP remains in effect, provided that all the consumer products within the CARB IPE or ACP are regulated by part 235. Any manufacturer seeking such an exemption on this basis must submit to the NYSDEC, a copy of the CARB IPE or ACP decision (*i.e.*, the Executive Order) which includes all conditions established by CARB applicable to the IPE or ACP. For those consumer products that have not been granted an exemption by CARB, the manufacturer may apply to the NYSDEC for an IPE or ACP in accordance with the criteria specified in part 235.

Part 235 also establishes procedures for obtaining a variance. Any person who cannot comply with requirements set forth in part 235, due to extraordinary reasons that are beyond that person's reasonable control, may apply in writing to the NYSDEC for a variance. An application for a variance must specify the grounds upon which the variance is sought, the proposed date(s) by which compliance with the part 235 VOC limits will be achieved and a compliance report reasonably detailing the method(s) by which compliance will be achieved.

C. What Do the Requirements of Part 239, ''Portable Fuel Container Spillage Control'' Consist of?

Part 239 is intended to reduce refueling emissions from those equipment and engines in the off-road categories that are predominantly refueled with portable fuel containers. Part 239 applies to any person who sells, supplies, offers for sale, or manufactures for sale in New York State portable fuel container(s) or spout(s) or both for use in New York State. Part 239 includes exemptions; administrative requirements which include date coding; compliance certification; labeling; recordkeeping requirements; a manufacturer warranty requirement; and test methods and procedures.

Part 239 establishes performance standards applicable on or after January 1, 2003, which are divided into two sections. One standard specifically addresses spill-proof systems and the other addresses spill-proof spouts for use in portable fuel containers. Included are performance standards for automatic shut off, automatic closure, container openings, fuel flow rates and fill levels.

Part 239 also includes a permeation rate for spill-proof systems only.

Part 239 allows the manufacturers of noncompliant products a one year sell-through period. Manufacturers may continue to sell an existing product provided that the products were manufactured before January 1, 2003, and the date of manufacture or a date code representing the date of manufacture is clearly displayed on that product.

Part 239 also establishes IPE provisions which allow for alternatives to complying with the performance standards specified in part 239. As in the case of part 235, if a manufacturer was granted an IPE pursuant to the CARB provisions, the IPE can become effective in New York State for the period of time that the CARB IPE remains in effect. Section 2467.4 of title 13 of the California Code of Regulations, specifies the CARB provisions applicable to portable fuel containers. Any manufacturer seeking such an exemption on this basis must submit to the NYSDEC, a copy of the CARB IPE decision (*i.e.,* the Executive Order), which includes all conditions established by CARB applicable to the IPE. For those portable fuel containers or spouts that have not been granted an exemption by CARB, the manufacturer may apply to the NYSDEC for an IPE in accordance with the criteria specified in part 239.

In addition, part 239 provides procedures for obtaining a variance. Any person who cannot comply with the performance standards set forth in part 239, due to extraordinary reasons that are beyond that person's reasonable control, may apply in writing to the NYSDEC for a variance. An application for a variance must specify the grounds upon which the variance is sought, the proposed date(s) by which compliance with the part 239 VOC limits will be achieved and a compliance report reasonably detailing the method(s) by which compliance will be achieved.

III. What Is EPA's Conclusion?

EPA has evaluated New York's submittal for consistency with the Act, EPA regulations, and EPA policy. EPA has determined that the revisions made to part 226, part 235 and new part 239 of title 6 of the New York Codes, Rules and Regulations, entitled, ''Solvent Metal Cleaning'', ''Consumer Products'' and ''Portable Fuel Container Spillage Control'', respectively, meet the SIP revision requirements of the Act with the following exception. While the provisions related to alternate test methods, variances, innovative products and alternate compliance plans pursuant to part 235, ''Consumer Products'' or part 239, ''Portable Fuel Container Spillage Control'' are acceptable, the specific application of those provisions (those that are granted or accepted by NYSDEC) will not be recognized as meeting Federal requirements until they are approved by EPA on a case-by-case basis as a SIP revision. Therefore, EPA is proposing to approve the regulations as part of the New York SIP with the exception that the specific application of provisions associated with alternate test methods, variances, innovative products and alternate compliance plans, must be submitted as SIP revisions.

In addition, the revisions to part 226, ''Solvent Metal Cleaning'' are being proposed under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrent with the state's procedures for amending its regulations. If the proposed revision is substantially changed in areas other than those identified in this document, EPA will evaluate those changes and may publish another notice of proposed rulemaking. If no substantial changes are made to part 226 as cited in this document, EPA will publish a final rulemaking on the revisions. The final rulemaking action by EPA will occur only after the SIP revision has been adopted by New York and submitted formally to EPA for incorporation into the SIP. It should be noted, that if for some reason the adoption process by New York for part 226 is delayed, it is likely that EPA will proceed with a final rulemaking action on the revisions to parts 235 and 239 and address the final rulemaking action for part 226 separately.

IV. Statutory and Executive Order Reviews

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

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

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the 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 Act. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This proposed rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401–7671q.

Dated: March 31, 2003.

Jane M. Kenny,

Regional Administrator, Region 2.

[FR Doc. 03–8826 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WI–113–7343B; FRL–7466–7]

Approval and Promulgation of State Implementation Plans; Wisconsin

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA is proposing to approve a revision to Wisconsin's State Implementation Plan (SIP) for the attainment of the one-hour ozone standard for the Milwaukee-Racine area. This SIP revision, submitted to EPA on December 16, 2002, provides new compliance options for sources subject to the state's rules limiting emissions of nitrogen oxides (NO_X) from large electricity generating units in southeast Wisconsin. Under the revised SIP, sources would have the option of complying with emissions limits on a per unit basis or complying as part of an emissions averaging plan that also includes an emissions cap. In addition, the revision creates a new categorical emissions limit for new integrated gasification combined cycled units.

In the ''Rules and Regulations'' section of this **Federal Register**, EPA is approving the state's request as a direct final rule without prior proposal, because EPA views this action as noncontroversial and anticipates no adverse comments. The rationale for approval is set forth in the direct final rule. If EPA receives no written adverse comments, EPA will take no further action on this proposed rule. If EPA receives written adverse comments, we 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. In that event, EPA will address all relevant public comments in a subsequent final rule based on this proposed rule. In either event, EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: EPA must receive comments on this action by May 12, 2003.

ADDRESSES: You should mail written comments to: Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

A copy of the state's request is available for inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Alexis Cain, Environmental Scientist, Regulation Development Section, Air Programs Branch (AR–18J), USEPA, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 886–7018.

SUPPLEMENTARY INFORMATION:

I. What Action Is EPA Taking Today?
II. Where Can I Find More Information About this Proposal and Corresponding Direct Final Rule?

I. What Action Is EPA Taking Today?

EPA is proposing to approve, as part of the Wisconsin ozone SIP, rules that would allow sources to use emissions averaging and an emissions cap as a option for complying with ozone season limits on emissions of NO_X. These limits apply to large electricity generating units in southeast Wisconsin; EPA approved the rules setting these NO_X emissions limits into Wisconsin's SIP on November 13, 2001 (66 FR 56931). The limits are expressed in mass of allowable emissions per unit of heat input (pounds per million Btu).

Emissions averaging will allow units subject to the NO_X emissions limits of NR 428 of the Wisconsin Administrative Code to create emissions averaging plans in which the compliance of multiple units would be assessed collectively, based on their aggregate emissions rate. The allowable emissions rate for each unit is reduced by 0.01 pounds per million btu in determining the aggregate allowable emissions rate. Beginning in 2008, sources that participate in an emissions averaging plan must also collectively meet a NO_X emissions cap that is consistent with the one-hour ozone attainment plan for southeast Wisconsin. The use of emissions averaging plans will provide compliance flexibility for NO_X emissions sources, while ensuring that NO_X emissions are no higher than they would have been in the absence of averaging.

II. Where Can I Find More Information About This Proposal and Corresponding Direct Final Rule?

For additional information see the direct final rule published in the rules and regulations section of this **Federal Register**.

Authority: 42 U.S.C. 4201 *et seq.*

Dated: March 6, 2003.

Jerri-Anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 03–8535 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7480–8]

Nebraska: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

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

DATES: Send your written comments by May 12, 2003.

ADDRESSES: Send written comments to Lisa V. Haugen, U.S. EPA Region 7, ARTD/RESP, 901 North 5th Street, Kansas City, Kansas. You can view and copy Nebraska's application during normal business hours at the following addresses: Nebraska Department of Environmental Quality, Suite 400, The Atrium, 1200 ''N'' Street, Lincoln, Nebraska, 68509–8922, (402) 471–2186; and EPA Region 7, Library, 901 North 5th Street, Kansas City, Kansas 66101, (913) 551–7877, Lisa V. Haugen.

FOR FURTHER INFORMATION CONTACT: Lisa V. Haugen, (913) 551–7877.

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

Dated: March 17, 2003.

Nat Scurry,

Acting Regional Administrator, Region 7.

[FR Doc. 03–8836 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–7480–5]

Utah: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The EPA proposes to grant Final authorization to the hazardous waste program changes submitted by Utah. In the ''Rules'' section of this **Federal Register**, we are authorizing the State's program changes as an immediate final rule without a prior proposed rule because we believe this action is not controversial. Unless we receive written comments opposing this authorization during the comment period, the immediate final rule will become effective and the Agency will not take further action on this proposal. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect. EPA will address public comments in a later final rule based on this proposal. EPA may not provide further opportunity for comment. Any parties interested in commenting on this action must do so at this time.

DATES: We must receive your comments by May 12, 2003.

ADDRESSES: Send written comments to Kris Shurr, 8P–HW, U.S. EPA, Region VIII, 999 18th St, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139. You can view and copy Utah's application at the following addresses: Utah Department of Environmental Quality (UDEQ), from 8 a.m. to 5 p.m., 288 North 1460 West, Salt Lake City, Utah 84114–4880, contact: Susan Toronto, phone number: (801) 538–6776, and EPA Region VIII, from 8 a.m. to 3 p.m., 999 18th Street, Suite 300, Denver, Colorado 80202–2466, contact: Kris Shurr, phone number: (303) 312–6139.

FOR FURTHER INFORMATION CONTACT: Kris Shurr, EPA Region VIII, 999 18th Street, Suite 300, Denver, Colorado 80202–2466, phone number: (303) 312–6139.

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

Dated: March 25, 2003.

Robert E. Roberts,

Regional Administrator, Region VIII.

[FR Doc. 03–8834 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[MD Docket No. 03–83; FCC 03–64]

Assessment and Collection of Regulatory Fees for Fiscal Year 2003

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is proposing to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress has required it to collect for fiscal year 2003. Section 9 of the Communications Act of 1934, as amended, provides for the annual assessment and collection of regulatory fees under sections 9(b)(2) and (b)(3), respectively, for annual ''Mandatory Adjustments'' and ''Permitted Amendments'' to the Schedule of Regulatory Fees.

DATES: Comments are due on or before April 25, 2003, and reply comments are due on or before May 5, 2003.

FOR FURTHER INFORMATION CONTACT: Roland Helvajian, Office of Managing Director at (202) 418–0444 or Rob Fream, Office of Managing Director at (202) 418–0408.

SUPPLEMENTARY INFORMATION:

Adopted: March 24, 2003.

Released: March 26, 2003.

By the Commission:

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I. Introduction

1. In this *Notice of Proposed Rulemaking,* the Commission proposes to collect $269,000,000 in regulatory fees for Fiscal Year (FY) 2003. These fees are mandated by Congress and are collected to recover the regulatory costs associated with the Commission's enforcement, policy and rulemaking, user information, and international activities.[1]

II. Discussion

A. Development of FY 2003 Fees

i. Calculation of Revenue and Fee Requirements

2. Each fiscal year, the Commission proportionally allocates the total amount that must be collected via regulatory fees (Attachment C).[2] For FY 2003, this allocation was done using FY 2002 revenues as a base. From this base, a revenue amount for each fee category was calculated. Each fee category was then adjusted upward by 23 percent to reflect the increase in regulatory fees from FY 2002 to FY 2003. These FY 2003 amounts were then divided by the number of payment units in each fee category to determine the unit fee.[3] In

[1] 47 U.S.C. 159(a).

[2] The costs assigned to each service category are based upon the regulatory activities (enforcement, policy and rulemaking, user information, and international activities) undertaken by the Commission on behalf of units in each service category. It is important to note that the required increase in regulatory fee payments of approximately 23 percent in FY 2003 is reflected in the revenue that is expected to be collected from each service category. Because this expected revenue is adjusted each year by the number of units in a service category, the actual fee itself is sometimes increased by a number other than 23 percent. For example, in industries where the number of units is declining and the expected revenue is increasing, the impact on the fee increase may be greater.

[3] In most instances, the fee amount is a flat fee per licensee or regulatee. However, in some instances the fee amount represents a unit subscriber fee (such as for Cable, Commercial

Continued

instances of small fees, such as licenses that are renewed over a multiyear term, the resulting unit fee was also divided by the term of the license. These unit fees were then rounded in accordance with 47 U.S.C. 159(b)(2).

ii. Additional Adjustments to Payment Units

3. In calculating the FY 2003 regulatory fees proposed in Attachment D, the Commission further adjusted the FY 2002 list of payment units (Attachment B) based upon licensee data bases and industry and trade group projections. Whenever possible, the Commission verified these estimates from multiple sources to ensure accuracy of these estimates.

4. The NPRM also proposes adjusting payment units for FY 2003 by expanding the AM and FM Radio Station Regulatory Fees Grid. Since FY 1998, the Commission has used a grid that divides broadcast station regulatory fees by class of service, population, and type of service (AM/FM).[4] This grid was originally adopted to provide equity and fairness among radio stations with varying signal strengths and market reach. However, in recent years, modifications to radio stations, a trend toward more powerful stations, and increases in the overall general population—resulting in an ever-larger number of stations grouped together in the one million-plus category of the grid—necessitated the need to review this grid.

5. The NPRM is therefore proposing a revised grid (six by seven) that includes a population category of ''greater than three million people.'' In addition, the NPRM is also proposing to change the population threshold amounts to reflect a slightly wider population field. The current and proposed radio station grids follow:

CURRENT RADIO STATION REGULATORY FEE GRID

[Six by Six]

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=20,000						
20,001–50,000						
50.001–125,000						
125,001–400,000						
400,001–1,000,000						
>1,000,000						

PROPOSED RADIO STATION REGULATORY FEE GRID

[Six by Seven]

Population served	AM class A	AM class B	AM class C	AM class D	FM classes A, B1 & C3	FM classes B, C, C1 & C2
<=25,000						
25,001–75,000						
75,001–150,000						
150,001–500,000						
500,001–1,200,000						
1,200,001–3,000,000						
>3,000,000						

iii. Request for Comment on Possible Service Reclassification

6. In both 2001,[5] and then again in 2002,[6] the Commission denied requests to move the Local Multipoint Distribution Service (LMDS) to a microwave fee category. Thus, at present, LMDS services' regulatory fees are assessed based upon the Multipoint Distribution Service (MDS) category. However, while evaluating these requests it has become clear that product innovation, evolving service offerings, and further technological developments may be creating changes in these services such that reclassification—of some sort—might be appropriate. MDS and LMDS are licensed in different spectrum bands.[7]

Mobile Radio Service (CMRS) Cellular/Mobile and CMRS Messaging), a per unit fee (such as for International Bearer Circuits), or a fee factor per revenue dollar (Interstate Telecommunications Service Provider fee).

[4] *Assessment and Collection of Regulatory Fees for Fiscal Year 1998* (63 FR 35847), paragraph 37, (July 1, 1998).

[5] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2001, Report and Order,* 16 FCC Rcd 13525, 13532 (2001).

[6] *See Assessment and Collection of Regulatory Fees for Fiscal Year 2001, Memorandum Opinion and Order,* MD Dkt. No. 01–76, FCC 02–320, paragraphs 1, 6 (rel. Dec. 4, 2002).

[7] The majority of MDS operations is located in the 190 megahertz in the 2500–2690 MHz band. FCC Staff Releases Its Interim Report on Spectrum Study

MDS is located below 3 GHz while LMDS is in the higher microwave frequencies. Accordingly, we request comment on how LMDS should be categorized for regulatory fee purposes. We note that in a separate proceeding, we have sought comment on possible long-term modification of our regulatory fees for MDS in conjunction with proposed major changes to our MDS rules to facilitate use of the 2500–2690 MHz band for mobile and advanced services.[8]

7. Those who argue for such a reclassification of LMDS for regulatory fee purposes have pointed out other differences between MDS and LMDS, such as individually licensed station hub sites (MDS) versus geographically based licenses (LMDS), differing markets, and different financial/investment requirements. Proponents of moving LMDS to another category also note the differences in the spectrum propagation characteristics of MDS and LMDS—with LMDS having more propagation limitations.

8. Those opposing such a re-classification of LMDS for regulatory fee purposes note that there are many similarities between the services of LMDS and MDS, including that they both provide high speed voice and data services. They also point out that past arguments for making a change have only come forward after the Commission has issued its final annual fee assessments.

9. The Commission's denial of the past requests to move LMDS to a microwave fee category—or any other category—has not been based on rejection or acceptance of either set of arguments, but simply the fact that insufficient evidence has been provided. Thus, the NPRM asks for public comment on how LMDS should be categorized for regulatory fee purposes, including whether an entirely new fee category should be established just for LMDS, in order to build a complete record on whether LMDS is properly classified within its current fee category of ''Multipoint Distribution.'' [9] We also seek comment on whether LMDS should be classified in the same manner as other point-to-point fixed microwave services, or on the basis of other geographically licensed services.

iv. Adjustment of Fee Waiver Policies

10. Section 9 of the Communications Act (47 U.S.C. 159) requires the Commission to assess and collect regulatory fees to cover the costs of certain regulatory activities. The statute also specifies when these fees may be waived.[10] Additionally, Section 8 of the Communications Act (47 U.S.C. 158) requires the Commission to collect application fees to reimburse the United States for amounts appropriated to the Commission (*see* 47 U.S.C. 158(e)). These fees may also be waived.[11] The Commission clarified the general policies applicable to waivers, including those based on financial hardship, in *Implementation of Section 9 of the Communications Act*[12], that ''We will grant waivers of the fees on a sufficient showing of financial hardship.'' [13] We further stated that: ''It will be incumbent upon each regulatee to fully document its financial position and show that it lacks sufficient funds to pay the regulatory fees and to maintain its service to the public.'' [14] Additionally, we explained that ''Evidence of bankruptcy or receivership is sufficient to establish financial hardship * * *. Thus, we will waive the regulatory fees for licensees whose stations are bankrupt, undergoing Chapter 11 reorganizations or in receivership.'' [15,16]

11. Although fee waivers will generally be given in cases of financial hardship, we nevertheless note that even under our current policies, in some circumstances a significant question may exist as to whether bankruptcy represents extraordinary and compelling circumstances justifying a waiver when balanced against the public interest in reimbursing the Commission for its costs as reflected in the statutory fee provisions. A policy of automatically granting a waiver, in the case of large entities owing millions of dollars in fees, for example, might have significant impact on the Commission's overall ability to collect fees to reimburse the government for its costs as required by law. Therefore, under such circumstances a waiver may well not promote the public interest, as provided in sections 8(d)(2) and 9(d). We therefore emphasize that under the statutory waiver provisions, case-by-case review of fee waiver requests is necessary to determine the public interest, even in bankruptcy cases.

12. We also seek comment on whether we should set a cap on the amount of fees that we will generally waive in circumstances involving bankruptcy or otherwise. Fees owed above this cap would, of course, be subject to the provisions of the Bankruptcy Act (11 U.S.C. 101 *et seq.*) and the disposition of the relevant bankruptcy court. By leaving the ultimate disposition of these large fees to bankruptcy law, rather than waiving them, we believe that we would be giving appropriate weight to our congressionally-mandated obligation to collect regulatory and other fees. Moreover, we believe that we would also be giving due regard to our practice, approved by the courts, of reconciling our regulatory responsibilities with the goals of the Bankruptcy Act.[17] In the case of regulatees alleging financial hardship but not in bankruptcy, we would consider waiver, partial waiver or deferral of fees above the cap on a case-by-case basis. We tentatively propose that the cap be set at either $500,000 or $1 million, reviewed annually. In computing the proposed cap, all of the subsidiaries and other

of the 2500–2690 MHz Band: The Potential for Accommodating Third Generation Mobile Systems, Public Notice, DA 00–2583, 5 FCC Rcd 22310 (2000). A large deployment of LMDS has occurred in the frequencies at 17.7–20.2 GHz and 27.5–30 GHz (28 GHz band). See Biennial Review 2000 Staff Report Released, Public Notice, FCC 00–346 (Sept. 19, 2000).

[8] *See* Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150–2162 and 2500–2690 MHz Bands; Part 1 of the Commission's Rules—Further Competitive Bidding Procedures; Amendment of parts 21 and 74 to Enable Multipoint Distribution Service and the Instructional Television Fixed Service Amendment of parts 21 and 74 to Engage in Fixed Two-Way Transmissions; Amendment of parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico; WT Docket Nos. 02–68; 03–66; 03–67; MM Docket No. 97–217; *Notice of Proposed Rulemaking and Memorandum Opinion and Order,* FCC 03–56 (released April 2, 2003).

[9] Effective March 25, 2002, the Commission transferred regulatory functions for Instructional Fixed Service, Multipoint Distribution Service, and the Multichannel Multipoint Distribution Service, from the Mass Media Bureau to the Wireless Telecommunications Bureau (*See* 47 CFR section 1.1153). The Commission intends to modify its rules on annual regulatory fees to reflect the fact that these services are now regulated by the Wireless Telecommunications Bureau.

[10] Section 9(d) (47 U.S.C. 159(d)) provides that: ''The Commission may waive, reduce, or defer payment of a fee in any specific instance for good cause shown, where such action would promote the public interest.'' *See also* 47 CFR section 1.1166 (implementing statutory provision).

[11] Section 8(d)(2) (47 U.S.C. 158(d)(2)) provides that: ''The Commission may waive or defer [payment of an application fee] in any specific instance for good cause shown, where such action would promote the public interest.'' *See also* 47 CFR section 1.1117 (implementing statutory provision).

[12] We held generally that we would waive regulatory fees on a case-by-case basis upon a demonstration of: '' 'extraordinary and compelling circumstances' outweighing the public interest in recouping the cost of the Commission's regulatory services from a particular regulatee.'' 9 FCC Rcd at 5344, paragraph 29. *See also* 9 FCC Rcd 5333 (1994), *recon. granted*, 10 FCC Rcd 12759 (1995)

[13] 10 FCC Rcd at 12761, paragraph 13.

[14] *Id.* at 12762, paragraph 13.

[15] *Id.* at 12762, paragraph 14.

[16] *See also Mobilemedia Corp.,* 14 FCC Rcd 8017, 8027 paragraph 40 (1999) (applying this policy to Section 8 application fees).

[17] *See LaRose* v. *FCC,* 494 F.2d 1145 (D.C. Cir. 1974).

entities with an attributable interest in a particular regulatee would be aggregated. We invite comment on the above proposal and on alternative proposals. Commenters should address whether numerical or other caps should be applied to the waiver of Section 8 or Section 9 fees, the appropriate level at which the cap should be set, and how the level of a cap might be adjusted over time.

v. Procedural Changes

13. In an effort to streamline the regulatory fee process, the Commission is undertaking several initiatives that will make the process of collecting fees more efficient. Historically, in addition to providing official notice of regulatory fee assessments in the **Federal Register**, the Commission mails tens of thousands of public notices to licensees and regulatees, informing them of when regulatory fees are due and providing them the information necessary for them to calculate the amount they owe. This mailing process is very costly and inefficient. Because of the wide availability of the Internet, the Commission is proposing to discontinue mailing public notices. Instead, these notices, and all other pertinent information, will be posted on the FCC's Web site (*http://www.fcc.gov/fees*). Hard copies of public notices and other relevant materials will be mailed upon request. Official notice of regulatory fee assessments will continue to be published in the **Federal Register**.

14. Further, the Commission is also undertaking a pilot program to mail postcards specifically stating the amount owed (*i.e.*, to send a ''bill'' on a postcard) to a select group of media services.[18] The postcards will identify the station call sign, address, facility identification number or other identifier, and amount owed. The regulatee will then have the opportunity to correct any mistakes or, if there are no mistakes, simply submit the amount owed instead of having to calculate the unit's fee based upon information found in Public Notices. If successful, the Commission will consider expanding this method to other service categories.

15. With the exception of the changes noted in the preceding sections, the FY 2003 regulatory fee collection will follow the policies or procedures found in the *FY 2002 Order* (67 FR 46297).

[18] AM and FM Radio Stations, AM and FM Construction Permits, FM Translators/Boosters, VHF and UHF Television Stations, VHF and UHF Television Construction Permits, Satellite Television Stations, Satellite Television Construction Permits, Low Power Television (LPTV) Stations, and LPTV Translators/Boosters.

vi. Future Streamlining of the Regulatory Fee Assessment and Collection Process

16. We are beginning a multi-year effort to review, streamline and modernize our fee assessment and collection processes and procedures. We welcome comments on a broad range of options in this regard. Areas of particular interest include: (1) The process for notifying users about changes in the annual regulatory fee schedule and how it can be improved; (2) the most effective way to disseminate regulatory fee bills, *i.e.* through surface mail, email, or some other mechanism; (3) the fee payment process, including how the agency's electronic payment system can be improved and whether we should make electronic payment mandatory for fees over a certain level; and (4) the timing of fee payments, including whether we should alter the existing fee payment ''window'' in any way. Commenters should bear in mind that proposed improvements must comport with the provisions of Section 9 of the Communications Act of 1934, as amended (47 U.S.C. 159). We anticipate taking action to implement improvements after the current regulatory fee cycle.

B. Procedures for Payment of Regulatory Fees

i. De minimis Fee Payment Liability

17. As in the past, the Commission is proposing that regulatees whose total regulatory fee liability, including all categories of fees for which payment is due by an entity, amounts to less than $10 will be exempted from fee payment in FY 2003.

ii. Standard Fee Calculations and Payment Dates

18. The time for payment of standard fees will be announced in the *Report and Order* terminating this proceeding and will be published in the **Federal Register** pursuant to authority delegated to the Managing Director. As in the past, the responsibility for payment of fees by service category is as follows:

(a) Media services—the responsibility for the payment of regulatory fees rests with the holder of the permit or license on October 1, 2002. However, in instances where a license or permit is transferred or assigned after October 1, 2002, responsibility for payment rests with the holder of the license or permit at the time payment is due.

(b) Wireline (Common Carrier) and Cable Services (fees are not based on a subscriber, unit, or circuit count)—fees must be paid for any authorization issued on or before October 1, 2002.

(c) Cable Subscriber Services and Commercial Mobile Radio Service (CMRS) cellular, mobile, and messaging services (fees based upon a subscriber, unit or circuit count)—the number of subscribers, units or circuits on December 31, 2002 will be used as the basis from which to calculate the fee payment.[19] For facilities-based common carriers with active international bearer circuits, the fee is based on the circuit count as of December 31, 2002.

19. The Commission strongly recommends that entities submitting more than twenty-five (25) Form 159–C's use the electronic fee filer program when sending in their regulatory fee payment. The Commission will, for the convenience of payers, accept fee payments made in advance of the normal formal window for the payment of regulatory fees.

C. Enforcement

20. As required in 47 U.S.C. 159(c), an additional charge shall be assessed as a penalty for late payment of any regulatory fee. A late payment penalty of 25 percent of the amount of the required regulatory fee will be assessed on the first day following the deadline date for filing of these fees. Failure to pay regulatory fees and/or any late penalty will subject regulatees to sanctions, including the provisions set forth in the Debt Collection Improvement Act of 1996 (''DCIA''). The Commission also assesses administrative processing charges on delinquent debts to recover additional costs incurred in processing and handling the related debt pursuant to the DCIA and section 1.1940(d) of the Commission's rules. These administrative processing charges will be assessed on any delinquent regulatory fee, in addition to the 25 percent late charge penalty. Partial underpayments of regulatory fees are treated in the following manner. The licensee will be given credit for the amount paid, but if it is later determined that the fee paid is incorrect or was submitted after the deadline date, the 25 percent late charge penalty will be assessed on the portion that is

[19] Cable system operators are to compute their subscribers as follows: Number of single family dwellings + number of individual households in multiple dwelling unit (apartments, condominiums, mobile home parks, etc.) paying at the basic subscriber rate + bulk rate customers + courtesy and free service. Note: Bulk-Rate Customers = Total annual bulk-rate charge divided by basic annual subscription rate for individual households. Cable system operators may base their count on ''a typical day in the last full week'' of December 2002, rather than on a count as of December 31, 2002.

submitted after the filing window. Failure to pay regulatory fees can result in the initiation of a proceeding to revoke any and all authorizations held by the delinquent payer. [20]

III. Procedural Matters

A. Comment Period and Procedures

21. Pursuant to 47 CFR section 1.415, 1.419, interested parties may file comments on or before April 25, 2003, and reply comments on or before May 5, 2003. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[21]

22. Comments filed through the ECFS are sent as an electronic file via the Internet to *http://www.fcc.gov/e-file/ecfs.html.* Only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by e-mail. To receive filing instructions for e-mail comments, commenters should send an e-mail to *ecfs@fcc.gov,* and should include the following words in the body of the message, ''get form <your e-mail address.>'' A sample form and directions will be sent in reply.

23. Parties who choose to file by paper must file an original and four copies of each filing. Filings can be hand delivered, sent by commercial overnight courier, or mailed through the U.S. Postal Service (please note that the Commission continues to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Vistronix, Inc., will receive hand-delivered paper filings at 236 Massachusetts Avenue, NE., Suite 110, Washington DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene Dortch, Office of the Secretary, Federal Communications Commission.

24. Parties who choose to file by paper must also submit their comments on diskette. Two copies of the diskettes must be submitted. One copy is to be sent to Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The other copy is to be sent to Office of Managing Director, Federal Communications Commission, 445 12th Street, SW., 1–C848, Washington, DC 20554. These submissions must be in a Microsoft Windows ™-compatible format on a 3.5″ floppy diskette. The diskette should be clearly labeled with the commenter's name, proceeding (including the lead docket number MD Docket No. 03–83), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file.

25. The public may view the documents filed in this proceeding during regular business hours in the FCC Reference Center, Federal Communications Commission, Room CY–A257, 445 12th Street, SW., Washington, DC 20554, and through the Commission's Electronic Comment Filing System (ECFS) *http://www.gullfoss2.fcc.gov/prod/ecfs/comsrch_v2.cgi.* Those seeking materials in alternative formats (computer diskette, large print, audio recording, and Braille) should contact Brian Millin at (202) 418–7426 voice, (202) 418–7365 TTY, or *bmillin@fcc.gov.*

B. Ex Parte Rules

26. This is a permit-but-disclose notice and comment rulemaking proceeding. *Ex Parte* presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed pursuant to the Commission's rules.[22]

C. Initial Regulatory Flexibility Analysis

27. As required by the Regulatory Flexibility Act,[23] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the possible impact on small entities of the proposals suggested in this document. The IRFA is set forth as Attachment A. Written public comments are requested with respect to the IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of the NPRM, and must have a separate and distinct heading, designating the comments as responses to the IRFA. The Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the Regulatory Flexibility Act.

D. Authority and Further Information

28. Authority for this proceeding is contained in sections 4(i) and (j), 8, 9, and 303(r) of the Communications Act of 1934, as amended. It is ordered that this NPRM is adopted.[24] It is further ordered that the Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of this NPRM, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

29. Further information about this proceeding may be obtained by contacting the Fees Hotline at (888) 225–5322.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Attachment A

Initial Regulatory Flexibility Analysis

1. As required by the Regulatory Flexibility Act (RFA),[25] the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules in the present *Notice of Proposed Rulemaking, In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 2003.* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the IRFA provided in paragraph 20. The Commission will send a copy of the *NPRM,* including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.[26] In addition, the *NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.[27]

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

2. This rulemaking proceeding is initiated to obtain comments concerning the Commission's proposed amendment of its Schedule of Regulatory Fees in the amount of $269,000,000, the amount that Congress has required the Commission to recover. The Commission seeks to collect the necessary amount through its proposed Schedule of Regulatory Fees in the most efficient manner possible and without undue public burden.

[20] See 47 CFR 1.1164.

[21] *Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (May 1, 1998).

[22] 47 CFR 1.1203 and 1.1206(b).

[23] See 5 U.S.C. 603.

[24] 47 U.S.C. 154(i)–(j), 159, & 303(r).

[25] 5 U.S.C. 603. The RFA, 5 U.S.C. 601 *et. seq.*, has been amended by the Contract With America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847 (1996) (CWAAA). Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA).

[26] 5 U.S.C. 603(a).

[27] *Id.*

II. Legal Basis

3. This action, including publication of proposed rules, is authorized under sections (4)(i) and (j), 9, and 303(r) of the Communications Act of 1934, as amended.[28]

III. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

4. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted.[29] The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' [30] In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act.[31] A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).[32] A small organization is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' [33] Nationwide, as of 1992, there were approximately 275,801 small organizations.[34] ''Small governmental jurisdiction'' [35] generally means ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than 50,000.'' [36] As of 1992, there were approximately 85,006 governmental entities in the United States.[37] This number includes 38,978 counties, cities, and towns; of these, 37,566, or 96%, have populations of fewer than 50,000.[38] The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,600 (96%) are small entities. Below, we further describe and estimate the number of small entity licensees and regulatees that may be affected by these rules.

Cable Services or Systems

5. The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in revenue annually.[39] This definition includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Census Bureau data from 1992, there were 1,788 total cable and other pay television services and 1,423 had less than $11 million in revenue.[40]

6. The Commission has developed its own definition of a small cable system operator for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide.[41] Based on our most recent information, we estimate that there were 1,439 cable operators that qualified as small cable system operators at the end of 1995.[42] Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, we estimate that there are fewer than 1,439 small entity cable system operators.

7. The Communications Act of 1934, as amended, also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' [43] The Commission has determined that there are 67,500,000 subscribers in the United States.[44] Therefore, we estimate that an operator serving fewer than 675,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate.[45] Based on available data, we estimate that the number of cable operators serving 675,000 subscribers or less totals 1,450.[46] We do not request nor collect information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000,[47] and therefore are unable at this time to estimate more accurately the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

8. *Other Pay Services.* Other pay television services are also classified under the North American Industry Classification System (NAICS) codes 51321 and 51322, which includes cable systems operators, closed circuit television services, direct broadcast satellite services (DBS),[48] multipoint distribution systems (MDS),[49] satellite master antenna systems (SMATV), and subscription television services.

Wireline Competition Services and Related Entities

9. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide appears to be data the Commission publishes annually in its *Telecommunications Provider Locator* report, which encompasses data compiled from FCC Form 499–A Telecommunications Reporting Worksheets.[50] According to data in the most recent report, there are 5,679 interstate service providers.[51] These providers include, *inter alia*, incumbent local exchange carriers, competitive access providers (CAPS)/ competitive local exchange carriers (CLECs), local resellers and other local exchange carriers, interexchange carriers, operator service providers, prepaid calling card providers, toll resellers, and other toll carriers.

10. We have included small incumbent local exchange carriers (LECs) [52] in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' [53] The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent LECs are not dominant in their field of operation because any such dominance is not ''national'' in scope.[54] We

[28] 47 U.S.C. 154(i) and (j), 159, and 303(r).

[29] 5 U.S.C. 603(b)(3).

[30] 5 U.S.C. 601(6).

[31] 5 U.S.C. 601(3) (incorporating by reference the definition of ''small business concern'' in 15 U.S.C. 632). Pursuant to the RFA, the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' 5 U.S.C. 601(3).

[32] Small Business Act, 15 U.S.C. 632 (1996).

[33] 5 U.S.C. 601(4).

[34] 1992 Economic Census, U.S. Bureau of the Census, Table 6 (special tabulation of data under contract to Office of Advocacy of the U.S. Small Business Administration).

[35] 47 CFR 1.1162.

[36] 5 U.S.C. 601(5).

[37] U.S. Dept. of Commerce, Bureau of the Census, ''1992 Census of Governments.''

[38] *Id.*

[39] 13 CFR 121.201, North American Industry Classification System (NAICS) codes 51321 and 51322.

[40] *1992 Economic Census Industry and Enterprise Receipts Size Report*, Table 2D, NAICS codes 51321 and 51322 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

[41] 47 CFR 76.901(e). The Commission developed this definition based on its determination that a small cable system operator is one with annual revenues of $100 million or less. *Implementation of Sections of the 1992 Cable Act: Rate Regulation, Sixth Report and Order and Eleventh Order on Reconsideration*, 10 FCC Rcd 7393 (1995), 60 FR 10534 (Feb. 27, 1995).

[42] Paul Kagan Associates, Inc., *Cable TV Investor*, Feb. 29, 1996 (based on figures for Dec. 30, 1995).

[43] 47 U.S.C. 543(m)(2).

[44] Media Services (Cable Division) estimate.

[45] *Id.* 47 CFR 76.1403(b).

[46] *FCC Announces New Subscriber Count for the Definition of Small Cable Operator*, Public Notice, DA–01–0158 (released January 24, 2001).

[47] We do receive such information on a case-by-case basis only if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to § 76.1403(b) of the Commission's rules. *See* 47 CFR 76.1403(d).

[48] Direct Broadcast Services (DBS) are discussed with the international services, *infra.*

[49] Multipoint Distribution Services (MDS) are discussed with the mass media services, *infra.*

[50] FCC, Common Carrier Bureau, Industry Analysis Division, *Telecommunications Provider Locator*, Table 1 (November 2001).

[51] FCC, *Telecommunications Provider Locator* at Table 1.

[52] *See* 47 U.S.C 251(h) (defining ''incumbent local exchange carrier'').

[53] 5 U.S.C. 601(3).

[54] Letter from Jere W. Glover, Chief Counsel for Advocacy, SBA, to William E. Kennard, Chairman, FCC (May 27, 1999). The Small Business Act contains a definition of ''small business concern,'' which the RFA incorporates into its own definition of ''small business.'' *See* 15 U.S.C. 632(a) (Small Business Act); 5 U.S.C. 601(3) (RFA). SBA

have therefore included small incumbent LECs in this IRFA analysis, although we emphasize that this IRFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

11. *Total Number of Telephone Companies Affected.* The Census Bureau reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year.[55] This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, and resellers. It seems certain that some of these 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' [56] It seems reasonable to conclude that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by these revised rules.

12. *Wireline Carriers and Service Providers.* The SBA has developed a definition of small entities for telephone communications companies other than radiotelephone (wireless) companies. The Census Bureau reports that there were 2,321 such telephone companies in operation for at least one year at the end of 1992.[57] According to the SBA's definition, a small business telephone company other than a radiotelephone (wireless) company is one employing no more than 1,500 persons.[58] All but 26 of the 2,321 non-radiotelephone (wireless) companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Even if all 26 of the remaining companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone (wireless) companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Therefore, we estimate that fewer than 2,295 small telephone communications companies other than radiotelephone (wireless) companies are small entities or small incumbent LECs that may be affected by these revised rules.

13. *Local Exchange Carriers (LECS), Competitive Access Providers (CAPs), Interexchange Carriers (IXCs), Operator Service Providers (OSPs), Payphone Providers, and Resellers.* Neither the Commission nor the SBA has developed a definition for small LECs, competitive access providers (CAPs), interexchange carriers (IXCs), operator service providers (OSPs), payphone providers, or resellers. The closest applicable definition for these carrier-types under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies.[59] The most reliable source of information that we know regarding the number of these carriers nationwide appears to be the data that we collect annually in connection with the FCC 499–A Telecommunications Reporting Worksheets.[60] According to our most recent data, there are 1,329 incumbent and other LECs, 532 CAPs and competitive local exchange carriers (CLECs), 229 IXCs, 22 OSPs, 936 payphone providers, 32 prepaid calling card providers, 38 other toll carriers, and 710 local and toll resellers.[61] Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of these carriers that would qualify as small business concerns under the SBA's definition. Therefore, we estimate that there are fewer than 1,329 small entity incumbent and other LECs, 532 CAPs/CLECs, 229 IXCs, 22 OSPs, 936 payphone providers, and 710 local and toll resellers, 32 prepaid calling card providers, and 38 other toll carriers that may be affected by the revised rules.

International Services

14. The Commission has not developed a definition of small entities applicable to licensees in the international services. Therefore, the applicable definition of small entity is generally the definition under the SBA rules applicable to Communications Services, Not Elsewhere Classified (NEC).[62] This definition provides that a small entity is expressed as one with $11.0 million or less in annual receipts.[63] According to the Census Bureau, there were a total of 848 communications services providers, NEC, in operation in 1992, and a total of 775 had annual receipts of less than $10.0 million.[64] The Census report does not provide more precise data.

15. *International Broadcast Stations.* Commission records show that there are approximately 19 international high frequency broadcast station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of international high frequency broadcast stations that would constitute a small business under the SBA definition. However, the Commission estimates that only six international high frequency broadcast stations are subject to regulatory fee payments.

16. *International Public Fixed Radio (Public and Control Stations).* There is one licensee in this service subject to payment of regulatory fees, and the licensee does not constitute a small business under the SBA definition.

17. *Fixed Satellite Transmit/Receive Earth Stations.* There are approximately 4,303 earth station authorizations, a portion of which are Fixed Satellite Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and are unable to estimate the number of the earth stations that would constitute a small business under the SBA definition.

18. *Fixed Satellite Small Transmit/Receive Earth Stations.* There are approximately 4,303 earth station authorizations, a portion of which are Fixed Satellite Small Transmit/Receive Earth Stations. We do not request nor collect annual revenue information, and are unable to estimate the number of fixed small satellite transmit/receive earth stations that would constitute a small business under the SBA definition.

19. *Fixed Satellite Very Small Aperture Terminal (VSAT) Systems.* These stations operate on a primary basis, and frequency coordination with terrestrial microwave systems is not required. Thus, a single ''blanket'' application may be filed for a specified number of small antennas and one or more hub stations. There are 485 current VSAT System authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of VSAT systems that would constitute a small business under the SBA definition.

20. *Mobile Satellite Earth Stations.* There are 21 licensees. We do not request nor collect annual revenue information, and are unable to estimate the number of mobile satellite earth stations that would constitute a small business under the SBA definition.

21. *Radio Determination Satellite Earth Stations.* There are four licensees. We do not request nor collect annual revenue information, and are unable to estimate the number of radio determination satellite earth stations that would constitute a small business under the SBA definition.

22. *Space Stations (Geostationary).* There are presently an estimated 75 Geostationary Space Station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of geostationary space stations that would constitute a small business under the SBA definition.

23. *Space Stations (Non-Geostationary).* There are presently seven Non-Geostationary Space Station authorizations. We do not request nor collect annual revenue information, and are unable to estimate the number of non-geostationary space stations

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regulations interpret ''small business concern'' to include the concept of dominance on a national basis. 13 CFR 121.102(b). Since 1996, out of an abundance of caution, the Commission has included small incumbent LECs in its regulatory flexibility analyses. *See, e.g., Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket, 96–98, First Report and Order, 11 FCC Rcd 15499, 16144–45 (1996), 61 FR 45476 (Aug. 29, 1996).

[55] U.S. Department of Commerce, Bureau of the Census, *1992 Census of Transportation, Communications, and Utilities: Establishment and Firm Size*, at Firm Size 1–123 (1995) (*1992 Census*).

[56] *See generally* 15 U.S.C. 632(a)(1).

[57] *1992 Census, supra*, at Firm Size 1–123.

[58] 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

[59] 13 CFR 121.201, NAICS codes 51331, 51333, and 51334.

[60] *See Telecommunications Provider Locator* at Table 1.

[61] *Telecommunications Provider Locator* at Table 1. The total for resellers includes both toll resellers and local resellers.

[62] An exception is the Direct Broadcast Satellite (DBS) Service, *infra.*

[63] 13 CFR 121.201, NAICS codes 48531, 513322, 51334, and 51339.

[64] *1992 Economic Census Industry and Enterprise Receipts Size Report,* Table 2D, NAICS codes 48531, 513322, 51334, and 513391 (U.S. Bureau of the Census data under contract to the Office of Advocacy of the U.S. Small Business Administration).

that would constitute a small business under the SBA definition.

24. *Direct Broadcast Satellites.* Because DBS provides subscription services, DBS falls within the SBA-recognized definition of ''Cable and Other Pay Television Services.'' [65] This definition provides that a small entity is one with $11.0 million or less in annual receipts.[66] Currently, there are nine DBS authorizations, though there are only two DBS companies in operation at this time. We do not request nor collect annual revenue information for DBS services, and are unable to determine the number of DBS operators that would constitute a small business under the SBA definition.

Media Services

25. *Commercial Radio and Television Services.* The proposed rules and policies will apply to television broadcasting licensees and radio broadcasting licensees.[67] The SBA defines a television broadcasting station that has $10.5 million or less in annual receipts as a small business.[68] Television broadcasting stations consist of establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services.[69] Included in this industry are commercial, religious, educational, and other television stations.[70] Also included are establishments primarily engaged in television broadcasting and which produce taped television program materials.[71] Separate establishments primarily engaged in producing taped television program materials are classified under another NAICS number.[72] There were 1,509 television stations operating in the nation in 1992.[73] That number has remained fairly constant as indicated by the approximately 1,714 operating television broadcasting stations in the nation as of September 30, 2002.[74] For 1992,[75] the number of television stations that produced less than $10.0 million in revenue was 1,155 establishments.[76] Only commercial stations are subject to regulatory fees.

26. Additionally, the SBA defines a radio broadcasting station that has $5 million or less in annual receipts as a small business.[77] A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public.[78] Included in this industry are commercial, religious, educational, and other radio stations.[79] Radio broadcasting stations, which primarily are engaged in radio broadcasting and which produce radio program materials, are similarly included.[80] However, radio stations which are separate establishments and are primarily engaged in producing radio program material are classified under another NAICS number.[81] The 1992 Census indicates that 96 percent (5,861 of 6,127) of radio station establishments produced less than $5 million in revenue in 1992.[82] Official Commission records indicate that a total of 11,334 individual radio stations were operating in 1992.[83] As of September 30, 2002, Commission records indicate that a total of 13,296 radio stations were operating, of which 8,492 were FM stations.[84] Only commercial stations are subject to regulatory fees.

27. The rules may affect an estimated total of 1,714 television stations, approximately 1,320 of which are considered small businesses.[85] The revised rules will also affect an estimated total of 13,296 radio stations, approximately 12,764 of which are small businesses.[86] These estimates may overstate the number of small entities because the revenue figures on which they are based do not include or aggregate revenues from non-television or non-radio affiliated companies. There are also 2,127 low power television stations (LPTV).[87] Given the nature of this service, we will presume that all LPTV licensees qualify as small entities under the SBA definition.

28. *Auxiliary, Special Broadcast and Other Program Distribution Services.* This service involves a variety of transmitters, generally used to relay broadcast programming to the public (through translator and booster stations) or within the program distribution chain (from a remote news gathering unit back to the station). The Commission has not developed a definition of small entities applicable to broadcast auxiliary licensees. The applicable definitions of small entities are those, noted previously, under the SBA rules applicable to radio broadcasting stations and television broadcasting stations.[88]

29. The Commission estimates that there are approximately 3,790 translators and boosters. The Commission does not collect financial information on any broadcast facility, and the Department of Commerce does not collect financial information on these auxiliary broadcast facilities. We believe that most, if not all, of these auxiliary facilities could be classified as small businesses by themselves. We also recognize that most commercial translators and boosters are owned by a parent station which, in some cases, would be covered by the revenue definition of small business entity discussed above. These stations would likely have annual revenues that exceed the SBA maximum to be designated as a small business ($5 million for a radio station or $10.5 million for a TV station). Furthermore, they do not meet the Small Business Act's definition of a ''small business concern'' because they are not independently owned and operated. [89]

30. *Multipoint Distribution Service (MDS).* This service has historically provided primarily point-to-multipoint and one-way

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[65] 13 CFR 121.201, NAICS codes 51321 and 51322.

[66] *Id.*

[67] While we tentatively believe that the SBA's definition of ''small business'' greatly overstates the number of radio and television broadcast stations that are small businesses and is not suitable for purposes of determining the impact of the proposals on small television and radio stations, for purposes of this *Report and Order* we utilize the SBA's definition in determining the number of small businesses to which the proposed rules would apply. We reserve the right to adopt, in the future, a more suitable definition of ''small business'' as applied to radio and television broadcast stations or other entities subject to the proposed rules in this *Report and Order,* and to consider further the issue of the number of small entities that are radio and television broadcasters or other small media entities. *See Report and Order in MM Docket No. 93–48 (Children's Television Programming*), 11 FCC Rcd 10660, 10737–38 (1996), 61 FR 43981 (Aug. 27, 1996), *citing* 5 U.S.C. 601(3).

[68] 13 CFR 121.201, NAICS code 51312.

[69] Economics and Statistics Administration, Bureau of Census, U.S. Department of Commerce, *1992 Census of Transportation, Communications and Utilities, Establishment and Firm Size, Series UC92–S–1,* Appendix A–9 (1995) (*1992 Census, Series UC92–S–1*).

[70] *Id.; see* Executive Office of the President, Office of Management and Budget, *Standard Industrial Classification Manual* (1987), at 283, which describes ''Television Broadcasting Stations'' (SIC code 4833, now NAICS code 51312) as:

Establishments primarily engaged in broadcasting visual programs by television to the public, except cable and other pay television services. Included in this industry are commercial, religious, educational and other television stations. Also included here are establishments primarily engaged in television broadcasting and which produce taped television program materials.

[71] *1992 Census, Series UC92–S–1,* at Appendix A–9.

[72] *Id.,* NAICS code 51211 (Motion Picture and Video Tape Production); NAICS 51229 (Theatrical Producers and Miscellaneous Theatrical Services) (producers of live radio and television programs).

[73] FCC News Release No. 31327 (January 13, 1993); *1992 Census, Series UC92–S–1,* at Appendix A–9.

[74] FCC News Release, ''Broadcast Station Totals as of September 30, 2002.''

[75] A census to determine the estimated number of Communications establishments is performed every five years, in years ending with a ''2'' or ''7.'' See *1992 Census, Series UC92–S–1,* at III.

[76] The amount of $10 million was used to estimate the number of small business establishments because the relevant Census categories stopped at $9,999,999 and began at $10,000,000. No category for $10.5 million existed. Thus, the number is as accurate as it is possible to calculate with the available information.

[77] 13 CFR 121.201, NAICS codes 513111 and 513112.

[78] *1992 Census, Series UC92–S–1,* at Appendix A–9.

[79] *Id.*

[80] *Id.*

[81] *Id.*

[82] The Census Bureau counts radio stations located at the same facility as one establishment. Therefore, each co-located AM/FM combination counts as one establishment.

[83] FCC News Release, No. 31327 (Jan. 13, 1993).

[84] FCC News Release, ''Broadcast Station Totals as of September 30, 2002.''

[85] We use an estimated figure of 77 percent (from 1992) of TV stations operating at less than $10 million and apply it to the 2003 total of 1,714 TV stations to arrive at 1,320 stations categorized as small businesses.

[86] We use the 96% figure of radio station establishments with less than $5 million revenue from data presented in the year 2003 estimate (*FCC News Release,* September 30, 2002) and apply it to the 13,296 individual station count to arrive at 12,764 individual stations as small businesses.

[87] FCC News Release, ''Broadcast Station Totals as of September 30, 2002.''

[88] 13 CFR 121.201, NAICS codes 513111 and 513112.

[89] 15 U.S.C. 632.

video services to subscribers.[90] The Commission recently amended its rules to allow MDS licensees to provide a wide range of high-speed, two-way services to a variety of users.[91] In connection with the 1996 MDS auction, the Commission defined small businesses as entities that had annual average gross revenues for the three preceding years not in excess of $40 million.[92] The Commission established this small business definition in the context of this particular service and with the approval of the SBA.[93] The MDS auction resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs).[94] Of the 67 auction winners, 61 met the definition of a small business. At this time, we estimate that of the 61 small business MDS auction winners, 48 remain small business licensees. In addition to the 48 small businesses that hold BTA authorizations, there are approximately 392 incumbent MDS licensees that are considered small entities.[95] After adding the number of small business auction licensees to the number of incumbent licensees not already counted, we find that there are currently approximately 440 MDS licensees that are defined as small businesses under either the SBA or the Commission's rules. Some of those 440 small business licensees may be affected by these revised rules.

Wireless and Commercial Mobile Services

31. *Cellular Licensees.* Neither the Commission nor the SBA has developed a definition of small entities specific to cellular licensees. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to radiotelephone (wireless) companies. This provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons.[96] According to the Census Bureau, only twelve radiotelephone (wireless) firms from a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[97] Even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, we note that there are 1,780 cellular licenses; however, a cellular licensee may own several licenses. According to the November 2001 *Telecommunications Provider Locater,* 858 wireless telephony providers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS) services, and SMR telephony carriers, which are placed together in the data.[98] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and are unable at this time to estimate with greater precision the number of cellular service carriers that would qualify as small business concerns under the SBA's definition. We estimate that there are fewer than 858 small wireless service providers that may be affected by these revised rules.

32. *220 MHz Radio Service—Phase I Licensees.* The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,000 such non-nationwide licensees and four nationwide licensees currently authorized to use the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, we apply the definition under the SBA rules applicable to Radiotelephone (wireless) Communications companies. This definition provides that a small entity is a radiotelephone (wireless) company employing no more than 1,500 persons.[99] According to the Census Bureau, only 12 radiotelephone (wireless) firms out of a total of 1,178 such firms which operated during 1992 had 1,000 or more employees.[100] If this general ratio continues in 2002 in the context of Phase I 220 MHz licensees, we estimate that nearly all such licensees are small businesses under the SBA's definition.

33. *220 MHz Radio Service—Phase II Licensees.* The Phase II 220 MHz service is subject to spectrum auctions. In the *220 MHz Third Report and Order,* we adopted criteria for defining small and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[101] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years.[102] The SBA has approved these definitions.[103] To date, three Phase II 220 MHz auctions have been conducted. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three Nationwide (NWA) licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold.[104] Thirty-nine companies claiming small or very small businesses status won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Of the 225 licenses auctioned, 222 were sold.[105] Fourteen companies claiming small or very small business status won 158 licenses. The third auction included four licenses; two EA licenses and two EAG licenses.[106] No company claiming small or very small business status won licenses in the third auction.

34. *700 MHz Guard Band Licenses.* In the *700 MHz Guard Band Order,* we adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[107] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 104 licenses (two in each of the 52 Major Economic Areas (MEAs)) commenced on September 6, 2000, and closed on September 21, 2000.[108] Of the 104 licenses auctioned, 96 licenses were sold to nine winning bidders. Five of the winning bidders claimed small or very small business status and won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001.[109] All eight of the licenses auctioned were sold to three winning bidders. One of the winning bidders

[90] For purposes of this item, MDS includes single channel Multipoint Distribution Service (MDS), Local Multipoint Distribution Service (LMDS), and the Multichannel Multipoint Distribution Service (MMDS). *See* 66 FR 36177.

[91] *Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions,* 13 FCC Rcd 19112 (1998), *recon.,* 14 FCC Rcd 12764 (1999), *further recon.,* 15 FCC Rcd 14566 (2000).

[92] 47 CFR 21.961 and 1.2110.

[93] *Amendment of Parts 21 and 74 of the Commission's Rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act—Competitive Bidding,* 10 FCC Rcd 9589, 9670 (1995), 60 FR 36524 (July 17, 1995).

[94] Basic Trading Areas (BTAs) were designed by Rand McNally and are the geographic areas by which MDS was auctioned and authorized. *See id.* At 9608.

[95] 47 U.S.C. 309(j). (Hundreds of stations were licensed to incumbent MDS licensees prior to implementation of Section 309(j) of the Communications Act of 1934, 47 U.S.C. 309(j). For these pre-auction licenses, the applicable standard is SBA's small business size standard for ''other telecommunications'' (annual receipts of $11 million or less). *See* 13 CFR 121.201.

[96] 13 CFR 121.201, NAICS code 513322.

[97] *1992 Census, Series UC92–S–1,* at Table 5, NAICS code 513322.

[98] *Telecommunications Provider Locater,* Table 1 (November 2001).

[99] 13 CFR 121.201, NAICS code 513322.

[100] U.S. Bureau of the Census, U.S. Department of Commerce, 1992 Census of Transportation, Communications, and Utilities, UC92-S–1, Subject Series, Establishment and Firm Size, Table 5, Employment Size of Firms; 1992, NAICS codes 513321, 513322, and 51333.

[101] 220 MHz *Third Report and Order,* 12 FCC Rcd 10943, 11068–70, at paragraphs 291–295 (1997).

[102] Id at paragraph 291.

[103] *See* Letter to D. Phython, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

[104] Phase II 220 MHz Service Auction Closes'', Public Notice, 14 FCC Rcd 605 (1998).

[105] ''Phase II 220 MHz Service Spectrum Auction Closes'', Public Notice, 14 FCC Rcd 11218 (1999).

[106] ''Multiple Radio Service Auction Closes'', Public Notice, 17 FCC Rcd 1446 (2002).

[107] *See* Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, WT Docket No. 99–168, *Second Report and Order,* 15 FCC Rcd 5299 (2000).

[108] *See generally* Public Notice, ''700 MHz Guard Bands Auction Closes,'' 15 FCC Rcd 18026 (2000).

[109] ''700 MHz Guard Bands Auction Closes'', Public Notice 16 FCC Rcd 4590 (2001).

claimed status as a small business and won a total of two licenses.

35. *Private and Common Carrier Paging.* We adopted criteria for defining small businesses and very small businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments.[110] We have defined a small business as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these definitions.[111] An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000.[112] Of the 985 licenses auctioned, 440 were sold to 57 companies claiming status as a small or very small business. A second auction commenced on October 30, 2001 and closed on December 5, 2001.[113] One hundred, thirty-two entities claiming small or very small business status won a total of 3,724 licenses. At present, there are approximately 4,500 Private-Paging site-specific licenses and 5,100 Common Carrier Paging site-specific licenses. According to the most recent data in the *Telecommunications Provider Locator,* 608 carriers reported that they were engaged in the provision of either paging or ''other mobile'' services, which are placed together in the data.[114] We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and therefore are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that there are fewer than 608 small paging carriers that may be affected by these revised rules. We estimate that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

36. *Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[115] For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[116] These regulations defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA.[117] No small businesses within the SBA-approved definition bid successfully for licenses in Blocks A and B. An auction for C-Block licenses commenced on December 18, 1995 and ended on May 6, 1996.[118] There were 89 winning bidders that won a total of 493 licenses and that claimed status as a small business in the Block C auction. A second C-Block Auction commenced on July 3, 1996 and ended on July 16, 1996.[119] An auction for the D and F Blocks commenced on August 16, 1996 and ended on January 14, 1997.[120] A total of 93 winning bidders that won a total of 598 licenses claimed small or very small business status in the D, E, and F Block auction. A re-auction of 347 C, D, E, and F Block licenses commenced on March 23, 1999 and ended on April 15, 1999.[121] There were 48 winning bidders that won a total of 277 licenses and that claimed status as a small or very small business. An auction of 422 C and F Broadband PCS licenses commenced on December 12, 2000 and ended on January 26, 2001.[122] Of the 35 winning bidders in this auction, 29 claimed status as a small or very small business and won a total of 248 licenses.

37. *Narrowband PCS.* To date, three narrowband PCS auctions have been conducted. Through these auctions, 358 licenses were sold to winning bidders. Twelve entities claiming small or very small business status were the winning bidders for 322 licenses. To ensure meaningful participation of small business entities in the auctions, the Commission adopted a two-tiered definition of small businesses in the *Narrowband PCS Second Report and Order.*[123] A small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A very small business is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. These definitions have been approved by the SBA.[124]

38. *Rural Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Rural Radiotelephone Service.[125] A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio Systems (BETRS).[126] We will use the SBA's definition applicable to radiotelephone (wireless) companies, *i.e.*, an entity employing no more than 1,500 persons.[127] There are approximately 640 licensees in the Rural Radiotelephone Service, and we estimate that almost all of the licenses that are authorized in the Rural Radio Service qualify as small entities under the SBA's definition.

39. *Air-Ground Radiotelephone Service.* The Commission has not adopted a definition of small entity specific to the Air-Ground Radiotelephone Service.[128] We will use the SBA's definition applicable to radiotelephone (wireless) companies, *i.e.*, an entity employing no more than 1,500 persons.[129] There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and we estimate that almost all of the licenses authorized in the Air-Ground Radiotelephone Service qualify as small entities under the SBA's definition.

40. *Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has defined ''small business'' in two tiers (for purposes of auctioning 800 MHz and 900 MHz SMR licenses) as a firm that has average annual gross revenues of either $3 million or $15 million or less in the three preceding calendar years.[130] The SBA has approved this small business size standard for the 800 MHz and 900 MHz SMR services.[131] An auction for 900 MHz SMR licenses commenced on December 5, 1995 and closed on April 15, 1996.[132] Sixty winning bidders that won a total of 263 licenses in the 900 MHz SMR band claimed status as a small business. An auction for 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997 and was completed on December 8,

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[110] ''Revisions of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems'', *Memorandum Opinion and Order on Reconsideration and Third Report and Order,* 14 FCC Rcd 10030 (1999).

[111] *Id.*

[112] ''929–931 MHz Paging Auction Closes'', Public Notice, 15 FCC Rcd 4858 (2000).

[113] ''Lower and Upper Band Auction Closes'', Public Notice, 16 FCC Rcd 21821 (2001).

[114] *See Telecommunications Provider Locater* at Table 1 (November 2001).

[115] *See* Amendment of Parts 20 and 24 of the Commission's rules—Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap, *Report and Order,* FCC 96–278, WT Docket No. 96–59 Section 60 (released June 24, 1996, 61 FR 33859 (July 1, 1996).

[116] *Id.*

[117] *See, e.g.,* Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93–253, *Fifth Report and Order,* 9 FCC Rcd 5532, 5581–84 (1994).

[118] ''Entrepreneurs'' C-Block Auction Closes'', Public Notice, DA 96–716 (released on May 8, 1996).

[119] ''Entrepreneurs'' C-Block Reauction Closes'', Public Notice, DA 96–1153 (released on July 17, 1996).

[120] ''D, E and F Block Auction Closes, DA 97–81 (released January 15, 1997).

[121] ''C, D, E, and F Block Broadband PCS License Auction Closes: Winning Bidders of 302 Licenses Announced'', Public Notice, DA 99–757 (released April 20, 1999).

[122] ''C and F Block PCS Auction Closes'', Public Notice, 16 FCC Rcd 2339 (2001).

[123] In the Matter of Amendment of the Commission's rules to Establish New Personal Communications Services, Narrowband PCS, Docket No. ET 92–100, Docket No. PP 93–253, *Second Report and Order and Second Further Notice of Proposed Rulemaking,* 65 FR 35875 (June 6, 2000).

[124] *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

[125] The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

[126] BETRS is defined in section 22.757 and 22.759 of the Commission's rules, 47 CFR 22.757 and 22.759.

[127] 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

[128] The service is defined in section 22.99 of the Commission's rules, 47 CFR 22.99.

[129] 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

[130] 47 CFR 90.814(b)(1).

[131] *See* Letter to Thomas J. Sugrue, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (August 10, 1999).

[132] ''FCC Announces Winning Bidders in the Auction of 1020 Licenses to Provider 900 MHz SMR in Major Trading Areas'', Public Notice, DA 96–586 (released April 15, 1996).

1997.[133] Ten winning bidders that won a total of 38 licenses in the upper 200 channels in the 800 MHz SMR band claimed status as a small business. An auction of 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000 and was completed on September 1, 2000.[134] Of the 1,050 licenses offered in that auction, 1,030 licenses were sold. Eleven winning bidders that won a total of 108 licenses in the General Category channels in the 800 MHz SMR band claimed status as a small business. A second auction for the 800 MHz General Category channels, for which 23 licenses were sold, was completed on January 17, 2002.[135] One winning bidder that won five licenses claimed status as a small business. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold.[136] Nineteen winning bidders that won a total of 129 licenses claimed status as a small business. In addition, there are numerous incumbent site-by-site SMR licenses on the 800 and 900 MHz band.

41. *Private Land Mobile Radio (PLMR).* PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities. These radios are used by companies of all sizes operating in all U.S. business categories. The Commission has not developed a definition of small entity specifically applicable to PLMR licensees due to the vast array of PLMR users. For the purpose of determining whether a licensee is a small business as defined by the SBA, each licensee would need to be evaluated within its own business area.

42. The Commission is unable at this time to estimate the number of small businesses which could be impacted by the rules. The Commission's 1994 Annual Report on PLMRs [137] indicates that at the end of fiscal year 1994 there were 1,087,267 licensees operating 12,481,989 transmitters in the PLMR bands below 512 MHz. Because any entity engaged in a commercial activity is eligible to hold a PLMR license, the revised rules in this context could potentially impact every small business in the United States.

43. *Amateur Radio Service.* We estimate that 9,800 applicants will apply for vanity call signs in FY 2003. These licensees are presumed to be individuals, and therefore not small entities. All other amateur licensees are exempt from payment of regulatory fees.

44. *Aviation and Marine Radio Service.* Small businesses in the aviation and marine radio services use a marine very high frequency (VHF) radio, any type of emergency position indicating radio beacon (EPIRB) and/or radar, a VHF aircraft radio, and/or any type of emergency locator transmitter (ELT). The Commission has not developed a definition of small entities specifically applicable to these small businesses. The applicable definition of small entity is the definition under the SBA rules for radiotelephone (wireless) communications.[138]

45. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of our evaluations and conclusions in this FRFA, we estimate that there may be at least 712,000 potential licensees which are individuals or are small entities, as that term is defined by the SBA. We estimate that only 10,200 will be subject to FY 2003 regulatory fees.

46. *Fixed Microwave Services.* Microwave services include common carrier,[139] private-operational fixed,[140] and broadcast auxiliary radio services.[141] At present, there are approximately 22,015 common carrier fixed licensees and 61,670 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services. The Commission has not yet defined a small business with respect to microwave services. For purposes of this IRFA, we will use the SBA's definition applicable to radiotelephone (wireless) companies—*i.e.*, an entity with no more than 1,500 persons.[142] We estimate that all of the Fixed Microwave licensees (excluding broadcast auxiliary licensees) would qualify as small entities under the SBA definition for radiotelephone (wireless) companies.

47. *Public Safety Radio Services.* Public Safety radio services include police, fire, local government, forestry conservation, highway maintenance, and emergency medical services.[143] There are a total of approximately 127,540 licensees within these services. Governmental entities [144] as well as private businesses comprise the licensees for these services. As indicated *supra* in paragraph four of this IRFA, all governmental entities with populations of less than 50,000 fall within the definition of a small entity.[145] All licensees in this category are exempt from the payment of regulatory fees.

48. *Personal Radio Services.* Personal radio services provide short-range, low power radio for personal communications, radio signaling, and business communications not provided for in other services. The services include the citizen's band (CB) radio service, general mobile radio service (GMRS), radio control radio service, and family radio service (FRS).[146] Since the CB, GMRS, and FRS licensees are individuals, no small business definition applies for these services. We are unable at this time to estimate the number of other licensees that would qualify as small under the SBA's definition; however, only GMRS licensees are subject to regulatory fees.

49. *Offshore Radiotelephone Service.* This service operates on several UHF TV broadcast channels that are not used for TV broadcasting in the coastal areas of states bordering the Gulf of Mexico.[147] There is presently one licensee in this service that holds 18 licenses. We are unable to estimate at this time whether the licensee would qualify as small under the SBA's definition

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[133] ''800 MHz SMR Auction Closes'', Public Notice, DA 97–2583 (released December 9, 1997).

[134] ''800 MHz SMR Specialized Mobile Radio (SMR) Service General Category (851–854 MHz) and Upper Band (861–865 MHz) Auction Closes'', Public Notice, DA 00–2037 (released September 9, 2000).

[135] ''Multi-Radio Service Auction Closes'', Public Notice, DA 02–157 (released January 22, 2002).

[136] ''800 MHz SMR Service Lower 80 Channels Auction Closes'', Public Notice, DA 00–2752 (released October 23, 2000).

[137] Federal Communications Commission, *60th Annual Report, Fiscal Year 1994,* at paragraph 116.

[138] 13 CFR 121.201, NAICS codes 513321, 513322, and 51333.

[139] 47 CFR 101 *et seq.* (formerly, part 21 of the Commission's Rules).

[140] Persons eligible under parts 80 and 90 of the Commission's rules can use Private Operational-Fixed Microwave services. *See* 47 CFR parts 80 and 90. Stations in this service are called operational-fixed to distinguish them from common carrier and public fixed stations. Only the licensee may use the operational-fixed station, and only for communications related to the licensee's commercial, industrial, or safety operations.

[141] Auxiliary Microwave Service is governed by part 74 of Title 47 of the Commission's rules. *See* 47 CFR 74 *et seq.* Available to licensees of broadcast stations and to broadcast and cable network entities, broadcast auxiliary microwave stations are used for relaying broadcast television signals from the studio to the transmitter, or between two points such as a main studio and an auxiliary studio. The service also includes mobile TV pickups, which relay signals from a remote location back to the studio.

[142] 13 CFR 121.201, NAICS codes 513321, 513322, 51333.

[143] With the exception of the special emergency service, these services are governed by Subpart B of part 90 of the Commission's rules, 47 CFR 90.15 through 90.27. The police service includes 26,608 licensees that serve state, county, and municipal enforcement through telephony (voice), telegraphy (code) and teletype and facsimile (printed material). The fire radio service includes 22,677 licensees comprised of private volunteer or professional fire companies as well as units under governmental control. The local government service that is presently comprised of 40,512 licensees that are state, county, or municipal entities that use the radio for official purposes not covered by other public safety services. There are 7,325 licensees within the forestry service which is comprised of licensees from state departments of conservation and private forest organizations who set up communications networks among fire lookout towers and ground crews. The 9,480 state and local governments are licensed to highway maintenance service provide emergency and routine communications to aid other public safety services to keep main roads safe for vehicular traffic. The 1,460 licensees in the Emergency Medical Radio Service (EMRS) use the 39 channels allocated to this service for emergency medical service communications related to the delivery of emergency medical treatment. 47 CFR 90.15 through 90.27. The 19,478 licensees in the special emergency service include medical services, rescue organizations, veterinarians, handicapped persons, disaster relief organizations, school buses, beach patrols, establishments in isolated areas, communications standby facilities, and emergency repair of public communications facilities. 47 CFR 90.33 through 90.55.

[144] 47 CFR 1.1162.

[145] 5 U.S.C. 601(5).

[146] Licensees in the Citizens Band (CB) Radio Service, General Mobile Radio Service (GMRS), Radio Control (R/C) Radio Service and Family Radio Service (FRS) are governed by Subpart D, Subpart A, Subpart C, and Subpart B, respectively, of part 95 of the Commission's rules. 47 CFR 95.401 through 95.428; 95.1 through 95.181; 95.201 through 95.225; 47 CFR 95.191 through 95.194.

[147] This service is governed by subpart I of part 22 of the Commission's rules. *See* 47 CFR 22.1001 through 22.1037.

for radiotelephone (wireless) communications.

50. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation and digital audio broadcasting satellite uses. The Commission defined ''small business'' for the wireless communications services (WCS) auction as an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' as an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these definitions.[148] The FCC auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as very small business entities, and one that qualified as a small business entity. We conclude that the number of geographic area WCS licensees affected includes these eight entities.

51. *39 GHz Service*. The Commission defined ''small entity'' for 39 GHz licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[149] An additional classification for ''very small business'' was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[150] These regulations defining ''small entity'' in the context of 39 GHz auctions have been approved by the SBA. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses.

52. *Local Multipoint Distribution Service*. The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission defined ''small entity'' for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years.[151] An additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.[152] These regulations defining ''small entity'' in the context of LMDS auctions have been approved by the SBA.[153] There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 small business winning bidders. Based on this information, we conclude that the number of small LMDS licenses will include the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers as defined by the SBA and the Commission's auction rules.

53. *218–219 MHz Service*. The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 595 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, we defined a small business as an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years.[154] In the *218–219 MHz Report and Order and Memorandum Opinion and Order*, we defined a small business as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years.[155] A very small business is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years.[156] We cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under our rules in future auctions of 218–219 MHz spectrum. Given the success of small businesses in the previous auction, and the above discussion regarding the prevalence of small businesses in the subscription television services and message communications industries, we assume for purposes of this IRFA that in future auctions, all of the licenses may be awarded to small businesses by these revised rules.

III. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements:

54. With certain exceptions, the Commission's Schedule of Regulatory Fees applies to all Commission licensees and regulatees. Most licensees will be required to count the number of licenses or call signs authorized, complete and submit an FCC Form 159 (''FCC Remittance Advice''), and pay a regulatory fee based on the number of licenses or call signs.[157] Interstate telephone service providers must compute their annual regulatory fee based on their interstate and international end-user revenue using information they already supply to the Commission in compliance with the Form 499–A, Telecommunications Reporting Worksheet, and they must complete and submit the FCC Form 159. Compliance with the fee schedule will require some licensees to tabulate the number of units (*e.g.*, cellular telephones, pagers, cable TV subscribers) they have in service, and complete and submit an FCC Form 159. Licensees ordinarily will keep a list of the number of units they have in service as part of their normal business practices. No additional outside professional skills are required to complete the FCC Form 159, and it can be completed by the employees responsible for an entity's business records.

55. Each licensee must submit the FCC Form 159 to the Commission's lockbox bank after computing the number of units subject to the fee. Licensees may also file electronically to minimize the burden of submitting multiple copies of the FCC Form 159. Applicants who pay small fees in advance and provide fee information as part of their application must use FCC Form 159.

56. Licensees and regulatees are advised that failure to submit the required regulatory fee in a timely manner will subject the licensee or regulatee to a late payment penalty of 25 percent in addition to the required fee.[158] If payment is not received, new or pending applications may be dismissed, and existing authorizations may be subject to rescission.[159] Further, in accordance with the Debt Collection Improvement Act of 1996, federal agencies may bar a person or entity from obtaining a federal loan or loan insurance guarantee if that person or entity fails to pay a delinquent debt owed to any federal agency.[160] Nonpayment of regulatory fees is a debt owed the United States pursuant to 31 U.S.C. 3711

[148] *See* Letter to Amy Zoslov, Chief, Auctions and Industry Analysis Division from A. Alvarez, Administrator, SBA (December 2, 1998).

[149] *See* In the Matter of Amendment of the Commission's rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Band, *Report and Order*, 12 FCC Rcd 18600 (1997).

[150] *Id.*

[151] *See* Local Multipoint Distribution Service, *Second Report and Order*, 62 FR 23148, April 29, 1997.

[152] *Id.*

[153] *See* Letter to Daniel Phythyon, Chief, Wireless Telecommunications Bureau (FCC) from A. Alvarez, Administrator, SBA (January 6, 1998).

[154] Implementation of section 309(j) of the Communications Act—Competitive Bidding, PP WT Docket No. 93–253, *Fourth Report and Order*, 59 FR 24947 (May 13, 1994).

[155] In the Matter of Amendment of Part 95 of the Commission's rules to Provide Regulatory Flexibility in the 218–219 MHz Service, WT Docket No. 98–169, *Report and Order and Memorandum Opinion and Order*, 64 FR 59656 (November 3, 1999).

[156] Amendment of Part 95 of the Commission's rules to Provide Regulatory Flexibility in the 218–219 MHz Service, Report and Order and Memorandum Opinion and Order, 64 FR 59656 (1999).

[157] The following categories are exempt from the Commission's Schedule of Regulatory Fees: Amateur radio licensees (except applicants for vanity call signs) and operators in other non-licensed services (*e.g.*, Personal Radio, part 15, ship and aircraft). Governments and non-profit (exempt under section 501(c) of the Internal Revenue Code) entities are exempt from payment of regulatory fees and need not submit payment. Non-commercial educational broadcast licensees are exempt from regulatory fees as are licensees of auxiliary broadcast services such as low power auxiliary stations, television auxiliary service stations, remote pickup stations and aural broadcast auxiliary stations where such licenses are used in conjunction with commonly owned non-commercial educational stations. Emergency Alert System licenses for auxiliary service facilities are also exempt as are instructional television fixed service licensees. Regulatory fees are automatically waived for the licensee of any translator station that: (1) Is not licensed to, in whole or in part, and does not have common ownership with, the licensee of a commercial broadcast station; (2) does not derive income from advertising; and (3) is dependent on subscriptions or contributions from members of the community served for support. Receive only earth station permittees are exempt from payment of regulatory fees. A regulatee will be relieved of its fee payment requirement if its total fee due, including all categories of fees for which payment is due by the entity, amounts to less than $10.

[158] 47 CFR 1.1164.

[159] 47 CFR 1.1164(c).

[160] Public Law 104–134, 110 Stat. 1321 (1996).

et seq., and the *Debt Collection Improvement Act of 1996,* Public Law 194–134. Appropriate enforcement measures as well as administrative and judicial remedies, may be exercised by the Commission. Debts owed to the Commission may result in a person or entity being denied a federal loan or loan guarantee pending before another federal agency until such obligations are paid.[161]

57. The Commission's rules currently provide for relief in exceptional circumstances. Persons or entities may request a waiver, reduction or deferment of payment of the regulatory fee.[162] However, timely submission of the required regulatory fee must accompany requests for waivers or reductions. This will avoid any late payment penalty if the request is denied. The fee will be refunded if the request is granted. In exceptional and compelling instances (where payment of the regulatory fee along with the waiver or reduction request could result in reduction of service to a community or other financial hardship to the licensee), the Commission will defer payment in response to a request filed with the appropriate supporting documentation.

IV. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

58. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. As described in section IV of this IRFA, *supra*, we have created procedures in which all fee-filing licensees and regulatees use a single form, FCC Form 159, and have described in plain language the general filing requirements. We have sought comment on other alternatives that might simplify our fee procedures or otherwise benefit small entities, while remaining consistent with our statutory responsibilities in this proceeding.

59. *The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 2002,* Public Law 106–553, requires the Commission to revise its Schedule of Regulatory Fees in order to recover the amount of regulatory fees that Congress, pursuant to section 9(a) of the Communications Act, as amended, has required the Commission to collect for Fiscal Year (FY) 2003.[163] As noted, we seek comment on the proposed methodology for implementing these statutory requirements and any other potential impact of these proposals on small entities.

60. With the use of actual cost accounting data for computation of regulatory fees, we found that some fees which were very small in previous years would have increased dramatically and would have a disproportionate impact on smaller entities. The methodology we are adopting in this *Notice of Proposed Rulemaking* minimizes this impact by limiting the amount of increase and shifting costs to other services which, for the most part, are larger entities.

61. Several categories of licensees and regulatees are exempt from payment of regulatory fees. *See, e.g.*, footnote 157, *supra.*

V. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

62. None.

Attachment B

Sources of Payment Unit Estimates for FY 2003

In order to calculate individual service fees for FY 2003, we adjusted FY 2002 payment units for each service to more accurately reflect expected FY 2003 payment liabilities. We obtained our updated estimates through a variety of means. For example, we used Commission licensee data bases, actual prior year payment records and industry and trade association projections when available. We tried to obtain verification for these estimates from multiple sources and, in all cases, we compared FY 2003 estimates with actual FY 2002 payment units to ensure that our revised estimates were reasonable. Where appropriate, we adjusted and/or rounded our final estimates because the impact of certain variables could not be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2003, as well as the number of actual licensees or station operators that may also fluctuate because of economic, technical or other reasons. Therefore, when we note that our estimated FY 2003 payment units are based on FY 2002 actual payment units, we do not necessarily mean that our FY 2003 projection is *exactly* the same number as in FY 2002. It means that we have either rounded the FY 2003 number or adjusted it slightly to account for these variables.

Fee category	Sources of payment unit estimates
Land Mobile (All), Microwave, 218–219 MHz,[164] Marine (Ship & Coast), Aviation (Aircraft & Ground), GMRS, Amateur Vanity Call Signs, Domestic Public Fixed.	Based on Wireless Telecommunications Bureau (WTB) projections of new applications and renewals taking into consideration existing Commission licensee data bases. Aviation (Aircraft) and Marine (Ship) estimates have been adjusted to take into consideration the licensing of portions of these services on a voluntary basis.
CMRS Mobile Services	Based on Wireless Telecommunications Bureau estimates.
CMRS Messaging Services	Based on Wireless Telecommunications Bureau estimates.
AM/FM Radio Stations	Based on estimates from Media Services Bureau estimates and actual FY 2002 payment units.
UHF/VHF Television Stations	Based on Media Services Bureau estimates and actual FY 2002 payment units.
AM/FM/TV Construction Permits	Based on Media Services Bureau estimates and actual FY 2002 payment units.
LPTV, Translators and Boosters	Based on actual FY 2002 payment units.
Auxiliaries	Based on FY 2002 payment units.
MDS/LMDS/MMDS	Based on Wireless Telecommunications Bureau estimates.
Cable Antenna Relay Service (CARS)	Based on Media Services Bureau (previously Cable Services Bureau) estimates.
Cable Television System Subscribers	Based on Media Services Bureau (previously Cable Services Bureau), industry estimates of subscribership, and FY 2002 payment units.
Interstate Telecommunication Service Providers	Based on actual FY 2002 interstate revenues reported on Telecommunications Reporting Worksheet, adjusted for FY 2003 revenue growth/decline for industry as estimated by the Wireline Competition Bureau.
Earth Stations	Based on actual FY 2002 payment estimates.
Space Stations (GSOs & NGSOs)	Based on International Bureau licensee data base estimates.
International Bearer Circuits	Based on International Bureau estimates.
International HF Broadcast Stations, International Public Fixed Radio Service.	Based on International Bureau estimates.

[161] 31 U.S.C. 7701(c)(2)(B).

[162] 47 CFR 1.1166.

[163] 47 U.S.C. 159(a).

Attachment C

Calculation of FY 2003 Revenue Requirements and Pro-Rata Fees

Fee category	FY 2003 payment units	Years	FY 2002 revenue estimate	Pro-rated FY 2003 revenue requirement **	Computed new FY 2003 regulatory fee	Rounded new FY 2003 regulatory fee	Expected FY 2003 revenue
PLMRS (Exclusive Use)	3,300	10	204,239	251,148	8	10	330,000
PLMRS (Shared use)	53,300	10	2,166,927	2,664,616	5	5	2,665,000
Microwave	6,100	10	1,145,732	1,408,877	23	25	1,525,000
218–219 MHz (Formerly IVDS)	5	10	1,245	1,531	31	30	1,500
Marine (Ship)	4,400	10	518,070	637,058	14	15	660,000
GMRS	10,600	5	79,205	97,396	2	5	265,000
Aviation (Aircraft)	3,100	10	134,499	165,390	5	5	155,000
Marine (Coast)	1,000	10	89,666	110,260	11	10	100,000
Aviation (Ground)	1,700	5	99,629	122,511	14	15	127,500
Amateur Vanity Call Signs ...	9,800	10	130,016	159,877	1.63	1.63	159,877
AM Class A	78	1	159,008	195,528	2,507	2,500	195,000
AM Class B	2,168	1	1,957,308	2,406,853	1,110	1,100	2,384,800
AM Class C	1,004	1	675,633	830,809	827	825	828,300
AM Class D	2,021	1	2,214,699	2,723,360	1,348	1,350	2,728,350
FM Classes A, B1 & C3	3,168	1	4,531,717	5,572,539	1,759	1,750	5,544,000
FM Classes B, C, C1 & C2	3,022	1	5,595,554	6,880,713	2,277	2,275	6,875,050
AM Construction Permits	48	1	17,694	21,758	453	455	21,840
FM Construction Permits	202	1	301,875	371,209	1,838	1,850	373,700
Satellite TV	126	1	102,658	126,235	1,002	1,000	126,000
Satellite TV Construction Permit	5	1	2,092	2,573	515	515	2,575
VHF Markets 1–10	44	1	2,062,516	2,536,224	57,641	57,650	2,536,600
VHF Markets 11–25	60	1	2,108,844	2,593,192	43,220	43,225	2,593,500
VHF Markets 26–50	73	1	1,788,836	2,199,687	30,133	30,125	2,199,125
VHF Markets 51–100	117	1	1,720,690	2,115,889	18,085	18,075	2,114,775
VHF Remaining Markets	209	1	755,062	928,481	4,442	4,450	930,050
VHF Construction Permits ...	16	1	60,275	74,119	4,632	4,625	74,000
UHF Markets 1–10	96	1	1,236,992	1,521,098	15,845	15,850	1,521,600
UHF Markets 11–25	96	1	1,005,653	1,236,627	12,882	12,875	1,236,000
UHF Markets 26–50	129	1	848,240	1,043,059	8,086	8,075	1,041,675
UHF Markets 51–100	181	1	733,517	901,988	4,983	4,975	900,475
UHF Remaining Markets	190	1	220,628	271,301	1,428	1,425	270,750
UHF Construction Permits ...	45	1	304,192	374,057	8,312	8,300	373,500
Auxiliaries	25,000	1	239,109	294,027	12	10	250,000
International HF Broadcast ..	5	1	2,959	3,639	728	730	3,650
LPTV/Translators/Boos-ters	2,993	1	892,674	1,097,699	367	365	1,092,445
CARS	1,450	1	103,614	127,412	88	90	130,500
Cable Systems	67,500,000	1	36,405,378	44,766,781	0.66	0.66	44,766,781
Interstate Telecommunication Service Providers ..	63,000,000,000	1	101,693,547	125,050,006	0.00198	0.00198	125,050,006
CMRS Mobile Services (Cellular/Public Mobile)	140,000,000	1	29,841,965	36,695,916	0.26	0.26	36,695,916
CMRS Messaging Services	19,700,000	1	1,769,590	2,176,021	0.11	0.11	2,176,021
MDS/MMDS/LMDS	4,586	1	985,329	1,211,635	264	265	1,215,290
Internationa Bearer Circuits	2,600,000	1	5,638,992	6,934,127	2.67	2.67	6,934,127
International Public Fixed	1	1	1,395	1,715	1,715	1,725	1,725
Earth Stations	3,149	1	540,207	664,280	211	210	661,290
Space Stations (Geostationary)	75	1	7,052,426	8,672,192	115,629	115,625	8,671,875
Space Stations (Non-geostationary	7	1	616,902	758,589	108,370	108,375	758,625
Total Estimated Revenue to be Collected	.....	.....	218,757,000	269,000,000	.....	.....	269,268,794
Total Revenue Requirement	.....	.....	.....	269,000,000	.....	.....	269,000,000
Difference	.....	.....	.....	0	.....	.....	268,794

[164] 1.2297 factor applied based on the amount Congress designated for recovery through regulatory fees (Public Law 107–77 and 47 U.S.C. 159(a)(2)).

Attachment D

FY 2003 Schedule of Regulatory Fees
(Proposed)

Fee category	Annual regulatory fee (U.S. $'s)
PLMRS (per license) (Exclusive Use) (47 CFR part 90)	10
Microwave (per license) (47 CFR part 101)	25
218–219 MHz (Formerly Interactive Video Data Service) (per license) (47 CFR part 95)	30
Marine (Ship) (per station) (47 CFR part 80)	15
Marine (Coast) (per license) (47 CFR part 80)	10
General Mobile Radio Service (per license) (47 CFR part 95)	5
Rural Radio (47 CFR part 22) (previously listed under the Land Mobile category)	5
PLMRS (Shared Use) (per license) (47 CFR part 90)	5
Aviation (Aircraft) (per station) (47 CFR part 87)	5
Aviation (Ground) (per license) (47 CFR part 87)	15
Amateur Vanity Call Signs (per call sign) (47 CFR part 97)	1.63
CMRS Mobile/Cellular Services (per unit) (47 CFR parts 20, 22, 24, 27, 80 and 90)	.26
CMRS Messaging Services (per unit) (47 CFR parts 20, 22, 24 and 90)	.11
Multipoint Distribution Services (MMDS, LMDS & MDS) (per call sign) (47 CFR part 21)	265
AM Radio Construction Permits	455
FM Radio Construction Permits	1,850
TV (47 CFR part 73) VHF Commercial:	
Markets 1–10	57,650
Markets 11–25	43,225
Markets 26–50	30,125
Markets 51–100	18,075
Remaining Markets	4,450
Construction Permits	4,625
TV (47 CFR part 73) UHF Commercial:	
Markets 1–10	15,850
Markets 11–25	12,875
Markets 26–50	8,075
Markets 51–100	4,975
Remaining Markets	1,425
Construction Permits	8,300
Satellite Television Stations (All Markets)	1,000
Construction Permits—Satellite Television Stations	515
Low Power TV, TV/FM Translators & Boosters (47 CFR part 74)	365
Broadcast Auxiliary (47 CFR part 74)	10
CARS (47 CFR part 78)	90
Cable Television Systems (per subscriber) (47 CFR part 76)	.66
Interstate Telecommunication Service Providers (per revenue dollar)	.00198
Earth Stations (47 CFR part 25)	210
Space Stations (per operational station in geostationary orbit) (47 CFR part 25) also includes Direct Broadcast Satellite Service (per operational station) (47 CFR part 100)	115,625
Space Stations (per operational system in non-geostationary orbit) (47 CFR part 25)	108,375
International Bearer Circuits (per active 64KB circuit)	2.67
International Public Fixed (per call sign) (47 CFR part 23)	1,725
International (HF) Broadcast (47 CFR part 73)	730

FY 2002 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
<=20,000	500	375	275	325	375	500
20,001 to 50,000	925	725	375	525	725	925
50,001 to 125,000	1,500	975	525	775	975	1,500
125,001 to 400,000	2,250	1,575	800	950	1,575	2,250
400,001 to 1,000,000	3,125	2,525	1,425	1,700	2,525	3,125
>1,000,000	4,975	4,100	2,075	2,625	4,100	4,975

FY 2003 RADIO STATION REGULATORY FEES

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
<=25,000	600	450	325	400	475	625
25,001 to 75,000	1,200	900	475	600	950	1,100
75,001 to 150,000	1,800	1,125	650	1,000	1,300	2,025
150,001 to 500,000	2,700	1,925	975	1,200	2,025	2,650

FY 2003 RADIO STATION REGULATORY FEES—Continued

Population served	AM Class A	AM Class B	AM Class C	AM Class D	FM Classes A, B1 & C3	FM Classes B, C, C1 & C2
500,001 to 1,200,000	3,900	2,925	1,625	2,000	3,200	3,900
1,200,001 to 3,000,000	6,000	4,500	2,450	3,200	5,225	6,250
>3,000,000	7,200	5,400	3,100	4,000	6,650	8,125

Attachment E

Factors, Measurements and Calculations that Go into Determining Station Signal Contours and Associated Population Coverages

AM Stations

Specific information on each day tower, including field ratio, phasing, spacing and orientation was retrieved, as well as the theoretical pattern RMS figure (mV/m @ 1 km) for the antenna system. The standard, or modified standard if pertinent, horizontal plane radiation pattern was calculated using techniques and methods specified in section 73.150 and 73.152 of the Commission's rules.[165] Radiation values were calculated for each of 72 radials around the transmitter site (every 5 degrees of azimuth). Next, estimated soil conductivity data was retrieved from a database representing the information in FCC Figure M3. Using the calculated horizontal radiation values, and the retrieved soil conductivity data, the distance to the city grade (5 mV/m) contour was predicted for each of the 72 radials. The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 2000 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

FM Stations

The maximum of the horizontal and vertical HAAT (m) and ERP (kW) was used.

Where the antenna HAMSL was available, it was used in lieu of the overall HAAT figure to calculate specific HAAT figures for each of 72 radials under study. Any available directional pattern information was applied as well, to produce a radial-specific ERP figure. The HAAT and ERP figures were used in conjunction with the propagation curves specified in section 73.313 of the Commission's rules to predict the distance to the city grade (70 dBuV/m or 3.17 mV/m) contour for each of the 72 radials.[166] The resulting distance to city grade contours were used to form a geographical polygon. Population counting was accomplished by determining which 2000 block centroids were contained in the polygon. The sum of the population figures for all enclosed blocks represents the total population for the predicted city grade coverage area.

[FR Doc. 03–8574 Filed 4–9–03; 8:45 am]

BILLING CODE 6712–02–P

[165] 47 CFR 73.150 and 73.152.

[166] 47 CFR 73.313.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–816; MB Docket No. 03–77; RM–10660]

Radio Broadcasting Services; Ashland, AL, Atlanta, GA, Coaling, Cordova, Decatur, Dora, Hackleburg, Hobson City, Holly Pond, Midfield, Sylacauga, and Tuscaloosa, AL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This *Notice of Proposed Rule Making* requests comments on a petition for rule making filed jointly by Cox Radio, Inc. and its wholly-owned subsidiary CXR Holdings, Inc. Cox proposes to downgrade Station WBHJ(FM), Channel 239C1 to Channel 239C2 and move the station from Tuscaloosa, Alabama, to Midfield, Alabama, as Midfield's first local aural transmission service. To accommodate the foregoing changes, Cox proposes to (a) reallot Channel 238A, Station WFMH–FM, from Holly Pond, Alabama, to Hackleburg, Alabama, as Hackleburg's first local service; (b) replace the local service at Holly Pond by reallotting Channel 245C, Station WRSA(FM), from Decatur, Alabama, to Holly Pond; (c) reallot Channel 237A , Station WFFN(FM), from Cordova, Alabama, to Coaling, Alabama, as Coaling's first local service; (d) and replace the local service at Cordova by reallotting Channel 223A, Station WQOP–FM, from Dora, Alabama, to Cordova. Further, Cox proposes to (e) reallot Channel 238A, Station WASZ(FM), from Ashland, Alabama, to Hobson City, Alabama, as Hobson City's first local FM and second local aural transmission service; (f) replace the sole local operating service at Ashland by reallotting Channel 252A, Station WTRB–FM, from Sylacauga to Ashland; and (g) to accommodate the reallotment of Channel 252A to Ashland, to reclassify Channel 253C, Station WSB–FM, Atlanta, Georgia, to Channel 253C0. The licensee of Station WSB–FM, CXR Holdings, Inc. has agreed to the foregoing reclassification. *See* **SUPPLEMENTARY INFORMATION.**

DATES: Comments must be filed on or before May 12, 2003, and reply comments on or before May 27, 2003.

ADDRESSES: Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the Joint Petitioners' counsel, as follows: Kevin F. Reed, Esq., Elizabeth A. M. McFadden, Esq., and Nam E. Kim, Esq., Down Lohnes & Albertson, PLLC; 1200 New Hampshire Avenue, NW., Suite 800; Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: R. Barthen Gorman, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's notice of proposed rule making, MB Docket No. 03–77, adopted March 19, 2003, and released March 21, 2003. The full text of this Commission decision is available for inspection and copying during regular business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractors, Qualex International, Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.* The coordinates for requested Channel 239C2 at Midfield, Alabama are 33–24–50 NL and 87–01–05 WL, with a site restriction of 11.4 kilometers (7.1 miles) southwest of Midfield. The coordinates for requested Channel 238A at Hackleburg, Alabama, are 34–13–15 NL and 87–45–00 WL, with a site restriction of 9.5 kilometers (5.9 miles) southeast of Hackleburg. The coordinates for requested Channel 245C at Holly Pond are 34–29–23 NL and 86–37–38 WL, with a site restriction of 35.1 kilometers (21.8 miles) north of Holly Pond. The coordinates for requested Channel 237A at Coaling, Alabama, are 33–04–58 NL and 87–27–02 WL, with a site restriction of 13.4 kilometers (8.3 miles) southwest of Coaling. The coordinates for requested Channel 223A at Cordova are

33–38–55 NL and 87–09–19 WL, with a site restriction of 12.4 kilometers (7.7 miles) south of Cordova. The coordinates for requested Channel 238A at Hobson City are 33–29–30 NL and 85–52–55 WL, with a site restriction of 14.8 kilometers (9.2 miles) south of Hobson City. The coordinates for requested Channel 252A at Ashland are 33–15–45 NL and 85–54–00 WL, with a site restriction of 6.1 kilometers (3.8 miles) west of Ashland, Alabama.

Cox's reallotment proposals for Stations WBHJ, WFMH–FM, WRSA, WFFN, WQOP–FM, WASZ, and WTRB–FM comply with the provisions of Section 1.420(i) of the Commission's Rules, and therefore, the Commission will not accept competing expressions of interest in the use of Channel 239C2 at Midfield, the use of Channel 238A at Hackleburg, the use of Channel 245C at Holly Pond, the use of Channel 237A at Coaling, the use of Channel 223A at Cordova, the use of Channel 238A at Hobson City, or the use of Channel 252A at Ashland, or require Cox to demonstrate the availability of additional equivalent class channels for use by other parties.

The provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Alabama, is amended by removing Channel 238A and adding Channel 252A at Ashland; by adding Coaling, Channel 237A; by removing Channel 237A and adding Channel 223A at Cordova; by removing Channel 245C at Decatur; by removing Dora, Channel 223A; by adding Hackleburg, Channel 238A; by adding Hobson City, Channel 238A; by removing Channel 238A and adding Channel 245C at Holly Pond; by adding Midfield, Channel 239C2; by removing Sylacauga, Channel 252A; and by removing Channel 239C1 at Tuscaloosa.

3. Section 73.202(b), the Table of FM Allotments under Georgia, is amended by removing Channel 253C and adding Channel 253C0 at Atlanta.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8754 Filed 4–9–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 03–833, MB Docket No. 03–79, RM–10673]

Radio Broadcasting Services; Ridgecrest, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Dana J. Puoplo proposing the allotment of Channel 252A at Ridgecrest, CA, as that community's third FM commercial service. Channel 252A can be allotted to Ridgecrest, consistent with the minimum distance separation requirements of the Commission's rules, provided there is a site restriction of 12.5 kilometers (7.7 miles) west of the community. The reference coordinates for Channel 252A at Ridgecrest are 35–39–19 North Latitude and 117–48–06 West Longitude.

DATES: Comments must be filed on or before May 12, 2003, and reply comments on or before May 27, 2003.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, as follows: Dana J. Puopolo, 2134 Oak Street, Unit C, Santa Monica, CA 90405.

FOR FURTHER INFORMATION CONTACT: Rolanda F. Smith, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rule making, MB Docket No. 03–79, adopted March 19, 2003, and released March 21, 2003. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 Twelfth Street, SW., Washington, DC 20554. The complete text of this decision may also be purchased from the Commission's duplicating contractor, Qualex International Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 202–863–2893, facsimile 202–863–2898, or via e-mail *qualexint@aol.com.*

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. *See* 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, *see* 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under California, is amended by adding Channel 252A at Ridgecrest.

Federal Communications Commission.

John A. Karousos,

Assistant Chief, Audio Division, Media Bureau.

[FR Doc. 03–8753 Filed 4–9–03; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–00–7666; Notice 7]

RIN 2137–AD54

Pipeline Safety: Pipeline Integrity Management in High Consequence Areas (Gas Transmission Pipelines)

AGENCY: Office of Pipeline Safety (OPS), Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of public meeting.

SUMMARY: This notice announces a one-day public meeting to solicit comments on issues raised at a recent meeting of the Technical Pipeline Safety Standards Committee (TPSSC), at a public meeting OPS held on March 14, 2003, and at a public workshop held February 21–22, 2003, which was jointly organized by the Interstate Natural Gas Association of America (INGAA) Foundation and the American Gas Association (AGA). At this meeting we intend to present the issues for comment and to question further those offering comments to assure that we completely understand each issue.

ADDRESSES: The meeting is open to all. There is no cost to attend. This meeting will be held on Friday, April 25, 2003, from 8 a.m. to 4 p.m. at the Marriott at Washington Dulles Airport, 4520 Aviation Drive, Dulles, VA 20166. Tel: 703–471–9500; Web site: *http://www.marriott.com.* You may register electronically for this meeting at: *http://primis.rspa.dot.gov/meetings.* Please make your reservations as soon as possible as hotel rooms are limited. For other details on this meeting contact Juan Carlos at 202–366–1933.

You may submit written comments by mail or delivery to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The dockets facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays. You should submit the original and one copy. Anyone who wants confirmation of receipt of their comments must include a stamped, self-addressed postcard. You may also submit comments to the docket electronically. To do so, log on to the Internet Web address *http://dms.dot.gov.* And click on ''Help'' for instructions on electronic filing of comments. All written comments should identify the docket number RSPA–00–7666; Notice 7.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comments, if submitted on behalf of an association, business, labor union, etc.). You may review the U.S. Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000, (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Jean Milam at (202) 493–0967 or Jenny Donohue at (202) 366–4046, regarding this document. General information about RSPA/OPS programs may be obtained by accessing RSPA's Internet page at *http://rspa.dot.gov.*

Information on Services for Individuals With Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance, contact Juan Carlos, (202) 366–1933.

SUPPLEMENTARY INFORMATION:

Background

To better prevent pipeline failures that can imperil the health and safety of nearby residents and cause significant damage to their property, RSPA/OPS is promulgating a series of rules to require pipeline operators to develop integrity management programs. These programs are intended to identify the best methods for maintaining the structural soundness of pipelines operating across the United States. The programs operators develop are to include conducting baseline and periodic assessments of certain pipeline segments. RSPA/OPS has completed the integrity management program rules for hazardous liquid operators and is now addressing the requirements for natural gas transmission pipeline operators. RSPA/OPS proposed a rule on integrity management program requirements on January 28, 2003, (68 FR 4278).

The proposed rule has been discussed at a meeting of the Technical Pipeline Safety Standards Committee (TPSSC) on March 27, 2003, at a public meeting OPS held in Washington, DC, on March 14, 2003, and at a workshop jointly organized by the Interstate Natural Gas Association of America (INGAA) Foundation and the American Gas Association (AGA) held in Houston, TX, on February 21–22, 2003. Discussions from the public meeting and the workshop are in the docket. Several issues were raised during these discussions that OPS/RSPA would like to explore further. RSPA/OPS is holding the April public meeting to present the issues for comment and to question further those offering comments to assure that we completely understand each issue.

The preliminary agenda for the April meeting includes the following questions for discussion:

Assessment

Low Stress Pipelines

Should assessment requirements for low-stress pipeline (*i.e.,* operating at less than 30 percent SMYS) allow use of confirmatory direct assessment (CDA) for all assessments (baseline and reassessments)?

Pressure Testing

Should the requirement to pressure test pipelines to verify integrity against material and construction defects be limited to pipeline segments for which information suggests a potential vulnerability to such defects? If so, what information should be relied upon?

Direct Assessment Equivalency

Should the assessment intervals for direct assessment be revised to be the same as those applicable to in-line inspection or pressure testing? Are there opportunities to quickly schedule and assess research demonstrations to provide additional data on which to base judgments about validity?

Plastic Transmission Lines

What assessment requirements should be applicable to plastic transmission pipelines?

Repairs

Dents and Gouges

Should a repair criteria for constraint dents on the bottom of the pipe be different from that allowed for dents located on the top? Should the presence of stress risers, cracking or metal loss affect this decision?

Preventive and Mitigation Measures

Third Party Damage

Should additional third-party damage prevention methods be utilized instead of explicit assessments for third-party damage? What methods should be used in conjunction with other assessment methods to detect delayed third party damage?

Segments Outside HCAs

How can the requirements be clarified for the situations when an operator should look beyond the segment in a high consequence area, when segments outside the HCA are likely to have similar integrity concerns as those found inside an HCA?

Performance Measures

Should we require monthly electronic reporting of performance measures?

Definitions

High Consequence Area—Bifurcation Option

Should a rule allow two options: following the definition of high consequence areas defined by final rule on August 6, 2002; (67 FR 50824) or using potential impact circles along the entire length of the pipeline? Under either option, an operator would calculate the potential impact circles for each segment, but the use of those circles would differ depending on the option. If the operator used the class location component of the high consequence area definition, the operator would treat entire class 3 and 4 areas as high consequence areas and use the potential impact circles to determine population density beyond 660 feet using specified number of buildings intended for human occupancy. Under the potential impact circle option, operators would use the circles to identify areas where the density of buildings intended for human occupancy exceeds a specified number and then focus the integrity assessments, repairs and other protections in these areas.

Requirements for how an operator treats identified sites that are defined in the high consequence area would not change under either option.

Population Threshold

Should the criterion for determining the population density component of a high consequence area be based on 10 or 20 buildings intended for human occupancy within the impact circle?

Impact Radius Safety Margin

Should additional safety margin be applied to the potential impact circle radius calculated using the C–FER equation?

Extrapolation

Should a rule allow an operator to use data regarding the number of buildings within 660 feet of the pipeline (available now to operators because of the existing definition of class locations) to infer (extrapolate) the building density in potential impact circles larger than 660 feet? Should this be limited to an interim period of five years to allow operators to collect additional data on buildings beyond 660 feet?

Issued in Washington, DC, on April 7, 2003.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 03–8814 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 68, No. 69
Thursday, April 10, 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

Forest Service

USDA-Forest Service/Spalding Land Exchange and Special Use Permit Environmental Impact Statement and Lassen National Forest Plan Amendment, Lassen National Forest, Lassen County, CA

AGENCY: Forest Service, USDA.

ACTION: Notice of availability of draft environmental impact statement.

SUMMARY: The U.S. Department of Agriculture, Forest Service, Lassen National Forest, wishes to advise the public of availability of a DRAFT Environmental Impact Statement (DEIS) for a proposed land exchange between the Spalding Community Services District (SCDS) and the Lessen National Forest, Lassen County, CA. Approval would include the transfer of approximately 57.21 acres of Federal lands encompassing one 52.50 acre parcel and one 4.71 acres parcel, and also includes a non-significant minor amendment to the ''Lassen National Forest Land and Resource Management Plan'' (LRMP), and authorization of a special use of National Forest System Lands for water and sewer pipeline corridors, and an access road totaling approximately 2.7 acres. Details on the proposed action, location and areas of environmental concern addressed in the DEIS are provided in the **SUPPLEMENTARY INFORMATION** section.

DATES: Submit comments on or before close of business on May 27, 2003 at the address listed below.

The final EIS is scheduled for completion in June 2003.

ADDRESSES: You may submit comments to the responsible official: Edward C. Cole, Forest Supervisor, Lassen National Forest, 2550 Riverside Drive, Susanville, CA 96130.

To obtain a copy of the DEIS or for further information contact: Lois Charlton, Forest Lands Officer, Lassen National Forest, 2550 Riverside Drive, Susanville, CA 96130. Telephone (530) 257–2151.

SUPPLEMENTARY INFORMATION: Forest Service (lead agency) is proposing an equal value exchange of federal land with the SCSD for one SCSD parcel and third party private lands. If the values are unequal, either party may equalize the values by making a cash payment not to exceed 25 percent of the value of the lands transferred out of Federal ownership. The Forest Service is initiating this action in response to a request by SCSD to acquire lands to accommodate construction and operation of a wastewater collection and treatment facility. The federal lands are from the Lassen National Forest (57.21 acres). Lands the SCSD may potentially exchange include up to eleven parcels listed in order of priority for acquisition (Lassen County Assessor Parcel Numbers 077–303–21; 075–120–14, –15, 075–130–11, 075–080–17; and Plumas County Assessor Parcel Numbers 009–190–006; 010–010–029, –030; and 005–220–018, –019, –020). Acquisition of these parcels would improve access to National Forest System Lands, eliminate one or more in-holdings, and add wetland habitat to the Lassen National Forest. Approval of the land exchange would also include a non-significant minor amendment to the Lassen LRMP, and authorization of a special use of National Forest System Lands for water and sewer pipeline corridors and an access road totaling approximately 2.7 acres. The DEIS analyses the environmental impacts of this proposal as well as the ''no action'' alternative.

Comments received in response to this solicitation, including names and addresses of those who comment, will be considered part of the public record on this proposed action and will be available for public inspection. Comments submitted anonymously will be accepted and considered. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission to the public record by showing how the Freedom of Information (FOIA) permits such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address.

Reviewers should provide the Forest Service with their comments during the review period of the DEIS. This will enable the Forest Service to analyze and respond to the comments at one time and to use information acquired in the preparation of the final environmental impact statement, thus avoiding undue delay in the decision making process. Reviewers have an obligation to structure their participation in the National Environmental Policy Act process so that it is meaningful and alerts the agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon* v. *Hodel* (9th Circuit, 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Comments on the DEIS should be specific and should address the adequacy of the statement and the merits of the alternatives discussed (40 CFR 1503.3).

Dated: March 21, 2003.

Edward C. Cole,

Forest Supervisor, Lassen National Forest.

[FR Doc. 03–8804 Filed 4–9–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath National Forest, California, Horse Heli Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement on a proposal to treat vegetation using a variety of silvicultural methods on approximately 1,680 acres of National Forest System lands in the Horse Creek watershed near the towns of Horse Creek and Klamath River, in Siskiyou County, California. Approximately 1.9 miles of classified

and 1.6 miles of unclassified roads are proposed for decommissioning. Approximately 1.8 miles of unclassified roads would be added to the transportation system. Activities would likely take place within five years of the decision. An amendment to the Klamath National Forest Land and Resource Management Plan to modify an existing standard and guideline is also part of the proposal.

DATES: Comments concerning the scope of the analysis should be received within 14 days of the publication of this notice in the **Federal Register**. The draft environmental impact statement is expected by May 2003, and the final environmental impact statement is expected by September 2003.

ADDRESSES: Send written comments to Ray Haupt, District Ranger, Scott River Ranger District, 11263 N. Highway 3, Fort Jones, CA 96032.

FOR FURTHER INFORMATION CONTACT: Bill Bailey, Timber Management Officer, at the above address or call (530) 468–5351.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this proposed action is to protect the long-term hydrologic and aquatic health within the Horse Creek watershed and four 7th field subwatersheds (Horse/Middle, Buckhorn, Kohl, and Doggett Creeks). The Horse/Middle, Buckhorn, and Doggett Creek subwatersheds are considered impaired, as described in the Horse Creek Ecosystem Analysis (also known as a Watershed Analysis, November 2002). During the Horse Creek Ecosystem Analysis process, existing conditions were compared to the desired conditions in the Klamath National Forest Land and Resource Management Plan, and a need to reduce both stocking and fuel levels was identified. This would also reduce the risk of catastrophic fire and promote forest stand health and longevity. The need was further documented with a fuels inventory completed in the summer of 2002 that showed abnormally high fuel levels of 33 tons per acre in the project area.

The higher elevations of the project area are comprised of stands of Shasta red fir. These stands are heavily infested with dwarf mistletoe and *Cytospora* (a common and damaging canker in true fir) due to years of fire suppression, drought, and stress from overcrowded stands. Mortality and disease are highly evident. There are many visible dead trees, standing and on the ground, as well as infected trees with dead needles in large portions of the crowns. The lower elevations of the project area are comprised of mixed conifer timber stands. These stands vary in average tree size and stocking levels. Although they are not heavily infested with disease, they are at abnormal risk to wildfire. Fire risk modeling using existing fuel levels indicates that stands within the project area would burn with severe intensity in the event of a wildfire.

Proposed Action

The Scott River District of the Klamath National Forest proposes to treat vegetation on approximately 1,680 acres in the Horse Creek watershed using the following silvicultural prescriptions (acreages are approximate): 699 acres of thinning, 344 acres of group selection, 553 acres of sanitation/salvage, 72 acres of green tree retention, and 12 acres of overstory removal. Tractor, cable, and helicopter logging methods would be used, with helicopter as the predominant method.

Project-generated fuels would be treated through a combination of mastication (reducing vegetative matter to small pieces using machinery) and hand piling/burning. Mastication would occur on areas that are less than 45% slope gradient. Hand piling would occur on steeper slopes and any areas with machine entry exclusions.

All Shasta red fir, white fir, and hemlock stumps would be hand treated with the fungicide Sporax® to reduce the spread of fungus *Heterobasidion annosum (Fomes annosus).*

Openings created from group selection and green tree retention prescriptions would be planted and baiting for pocket gophers. Baiting application method would consist of probing and/or spooning method of below-ground application of strychnine.

There would be no new system road construction. Approximately 1.9 miles on seven classified road segments are proposed for decommissioning in this project design. Approximately 1.6 miles of eight unclassified roads and road segments are proposed for decommissioning. Approximately 1.8 miles of two existing unclassified roads are proposed for adding to the transportation system.

The areas proposed for treatment are within the General Forest, Retention, Partial Retention, Special Interest Area (Condrey Mountain Blueschist), and Riparian Reserve land allocations in the Klamath National Forest Land and Resource Management Plan. The legal description for the proposal is Township 47 North, Range 9 West, Sections 19, 20, and 30; Township 47 North, Range 10 West, Sections 11–15, 22, 24, and 26; Mount Diablo Meridian. All activities would likely be completed within five years of the decision being made.

Forestwide Standard and Guideline 11–4 of the Klamath National Forest Land and Resource Management Plan would be modified to state: ''Perpetuate the sustainable, aesthetically valued landscape character when implementing Forest programs and activities. Achieve Forest Visual Quality Objectives (VQOs) to help conserve that character's existing and potential valued attributes. If the character is seriously threatened due to current ecosystem conditions, individual corrective alterations may be permitted, even if inconsistent with the Forest VQO. When undertaking such corrective actions, the following provisions apply:

(a) Alterations must remain consistent with the Forest VQO in the cumulative sense, thereby meeting the VQO within the affected area's immediate viewshed and/or its linear viewing corridor;

(b) Public scenery interests of the affected area must be fully considered; and

(c) Alterations in excess of the Forest VQO would persist no longer than 10 years after project completion.''

Nature of Decision To Be Made

The Forest Service must decide whether it will implement this project, including a project-specific amendment to the Klamath National Forest Land and Resource Management Plan; implement an alternative that meets the purpose and need; or not implement any project at this time.

Responsible Official

Margaret Boland, Forest Supervisor, USDA Forest Service, 1312 Fairlane Road, Yreka, California 96097 is the Responsible Official.

Scoping Process

In October 2001, this project was included in the Klamath National Forest's Fall 2001 Schedule of Proposed Actions, which was posted on the Klamath National Forest's internet website and mailed to interested parties. In January 2003, a scoping letter was sent to potentially affected individuals and anyone who expressed interest in the proposal. This Notice of Intent invites additional public comment on this proposal and initiates the preparation of the environmental impact statement. Due to the extensive scoping effects already conducted, no scoping meeting is planned. The public is encouraged to take part in the planning process and to visit with Forest Service officials at any time during the analysis and prior to the decision.

While public participation in this analysis is welcome at any time, comments received within 14 days of the publication of this notice will be especially useful in the preparation of the draft environmental impact statement. The scoping process will include identifying potential issues, significant issues to be analyzed in depth, alternatives to the proposed action, and potential environmental effects of the proposal and alternatives.

Comment Requested

This notice of intent initiates the scoping process, which guides the development of the environmental impact statement.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements 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 environmental impact statement stage but that are not raised until after completion of the final environmental impact statement 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 them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the 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.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21).

Dated: April 4, 2002.

Margaret J. Boland,

Forest Supervisor, Klamath National Forest.

[FR Doc. 03–8755 Filed 4–9–03; 8:45 am]

BILLING CODE 3410–11–P

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 May 6, 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 May 6, 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: *lchapman@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The committee will hear revised public proposals and new proposals from the 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: April 4, 2003.

S.E. ''Lou'' Woltering,

Forest Supervisor.

[FR Doc. 03–8749 Filed 4–9–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Rural Business Enterprise Grant Program Preapplications for Technical Assistance for Rural Transportation Systems

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of two individual grants: one single $496,750 grant from the passenger transportation funds appropriated for the RBS Rural Business Enterprise Grant (RBEG) program and another single $248,375 grant from the Federally Recognized Native American Tribes funds appropriated for RBS under the RBEG Program for fiscal year (FY) 2003. Each grant is to be competitively awarded to a qualified national organization. These grants are to provide technical assistance for rural transportation.

DATES: The deadline for receipt of preapplications in the Rural Development State Office is May 15, 2003. Preapplications received at a Rural Development State Office after that date would not be considered for FY 2003 funding.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the pre-application package. A list of Rural Development State Offices follows:

District of Columbia

Rural Business-Cooperative Service, USDA
Specialty Lenders Division
1400 Independence Avenue, SW.
STOP 3225, Room 6867
Washington, DC 20250–3225
(202) 720–1400

Alabama

USDA Rural Development State Office
Sterling Center, Suite 601
4121 Carmichael Road
Montgomery, AL 36106–3683
(334) 279–3400

Alaska

USDA Rural Development State Office
800 West Evergreen, Suite 201
Palmer, AK 99645–6539

(907) 761–7705

Arizona

USDA Rural Development State Office
3003 North Central Avenue, Suite 900
Phoenix, AZ 85012–2906
(602) 280–8700

Arkansas

USDA Rural Development State Office
700 West Capitol Avenue, Room 3416
Little Rock, AR 72201–3225
(501) 301–3200

California

USDA Rural Development State Office
430 G Street, Agency 4169
Davis, CA 95616–4169
(530) 792–5800

Colorado

USDA Rural Development State Office
655 Parfet Street, Room E–100
Lakewood, CO 80215
(720) 544–2903

Delaware-Maryland

USDA Rural Development State Office
P.O. Box 400
4607 South DuPont Highway
Camden, DE 19934–9998
(302) 697–4300

Florida/Virgin Islands

USDA Rural Development State Office
P.O. Box 147010
4440 NW. 25th Place
Gainesville, FL 32606
(352) 338–3402

Georgia

USDA Rural Development State Office
Stephens Federal Building
355 E. Hancock Avenue
Athens, GA 30601–2768
(706) 546–2162

Hawaii

USDA Rural Development State Office
Federal Building, Room 311
154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–8380

Idaho

USDA Rural Development State Office
9173 West Barnes Dr., Suite A1
Boise, ID 83709
(208) 378–5600

Illinois

USDA Rural Development State Office
2118 West Park Court, Suite A
Champaign, IL 61821
(217) 403–6202

Indiana

USDA Rural Development State Office
5975 Lakeside Boulevard
Indianapolis, IN 46278
(317) 290–3100

Iowa

USDA Rural Development State Office
Federal Building, Room 873
210 Walnut Street
Des Moines, IA 50309–2196
(515) 284–4663

Kansas

USDA Rural Development State Office
Suite 100
1303 SW First American Place
Topeka, KS 66604
(785) 271–2700

Kentucky

USDA Rural Development State Office
771 Corporate Drive, Suite 200
Lexington, KY 40503
(859) 224–7300

Louisiana

USDA Rural Development State Office
3727 Government Street
Alexandria, LA 71302
(318) 473–7921

Maine

USDA Rural Development State Office
P. O. Box 405
967 Illinois Avenue, Suite 4
Bangor, ME 04402–0405
(207) 990–9106

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office
451 West Street, Suite 2
Amherst, MA 01002–2999
(413) 253–4300

Michigan

USDA Rural Development State Office
3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 324–5100

Minnesota

USDA Rural Development State Office
410 AgriBank Building 375 Jackson Street
St. Paul, MN 55101–1853
(651) 602–7800

Mississippi

USDA Rural Development State Office
Federal Building, Suite 831
100 West Capitol Street
Jackson, MS 39269
(601) 965–4316

Missouri

USDA Rural Development State Office
601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203
(573) 876–0976

Montana

USDA Rural Development State Office
P. O. Box 771
900 Technology Blvd., Unit 1, Suite B
Bozeman, MT 59715
(406) 585–2580

Nebraska

USDA Rural Development State Office
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508
(402) 437–5551

Nevada

USDA Rural Development State Office
1390 South Curry Street
Carson City, NV 89703–9910
(775) 887–1222

New Jersey

USDA Rural Development State Office
Tarnsfield Plaza, Suite 22
790 Woodlane Road
Mt. Holly, NJ 08060
(609) 265–3600

New Mexico

USDA Rural Development State Office
6200 Jefferson Street, NE.
Room 255
Albuquerque, NM 87109
(505) 761–4950

New York

USDA Rural Development State Office
The Galleries of Syracuse 441 South Salina Street, Suite 357
Syracuse, NY 13202–2541
(315) 477–6400

North Carolina

USDA Rural Development State Office
4405 Bland Road, Suite 260
Raleigh, NC 27609
(919) 873–2000

North Dakota

USDA Rural Development State Office
P. O. Box 1737
Federal Building, Room 208
220 East Rosser Avenue
Bismarck, ND 58502–1737
(701) 530–2037

Ohio

USDA Rural Development State Office
Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2418
(614) 255–2500

Oklahoma

USDA Rural Development State Office
SDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1000

Oregon

USDA Rural Development State Office
101 SW Main Street, Suite 1410
Portland, OR 97204–3222
(503) 414–3300

Pennsylvania

USDA Rural Development State Office
One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2299

Puerto Rico

USDA Rural Development State Office
654 Munoz Rivera Avenue
IBM Plaza, Suite 601
Hato Rey, Puerto Rico 00918–6106
(787) 766–5095

South Carolina

USDA Rural Development State Office
Strom Thurmond Federal Building 1835 Assembly Street, Room 1007
Columbia, SC 29201
(803) 765–5163

South Dakota

USDA Rural Development State Office
Federal Building, Room 210

200 4th Street, SW.
Huron, SD 57350
(605) 352–1100

Tennessee

USDA Rural Development State Office
3322 West End Avenue, Suite 300
Nashville, TN 37203–1084
(615) 783–1300

Texas

USDA Rural Development State Office
Federal Building, Suite 102
101 South Main Street
Temple, TX 76501
(254) 742–9700

Utah

USDA Rural Development State Office
Wallace F. Bennett Federal Building 125 South State Street, Room 4311
P. O. Box 11350
Salt Lake City, UT 84147–0350
(801) 524–4321

Vermont/New Hampshire

USDA Rural Development State Office
City Center, 3rd Floor
89 Main Street
Montpelier, VT 05602
(802) 828–6010

Virginia

USDA Rural Development State Office
Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229–5014
(804) 287–1550

Washington

USDA Rural Development State Office
1835 Black Lake Boulevard, SW.
Suite B
Olympia, WA 98512–5715
(360) 704–7740

West Virginia

USDA Rural Development State Office
Federal Building
75 High Street, Room 320
Morgantown, WV 26505–7500
(304) 284–4860

Wisconsin

USDA Rural Development State Office
4949 Kirschling Court
Stevens Point, WI 54481
(715) 345–7610

Wyoming

USDA Rural Development State Office
Federal Building, Room 1005
100 East B Street
P. O. Box 820
Casper, WY 82602
(307) 261–6300

SUPPLEMENTARY INFORMATION: The passenger transportation portion of the RBEG program is authorized by section 310B(c)(2) of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1932(c)(2)). The RBEG program is administered on behalf of RBS at the State level by the Rural Development State Offices. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include on-site technical assistance to local and regional governments, public transit agencies, and related nonprofit and for-profit organizations in rural areas; the development of training materials; and the provision of necessary training assistance to local officials and agencies in rural areas.

Awards under the RBEG passenger transportation program are made on a competitive basis using specific selection criteria contained in 7 CFR part 1942, subpart G, and in accordance with section 310B(c)(2) of the CONACT. That subpart also contains the information required to be in the preapplication package. For the $248,375 grant, at least 75 percent of the benefits of the project must be received by members of Federally Recognized Tribes. The project that scores the greatest number of points based on the selection criteria and Administrator's points will be selected for each grant. Preapplications will be tentatively scored by the State Offices and submitted to the National Office for review, final scoring, and selection.

To be considered ''national'', a qualified organization is required to provide evidence that it operates in multi-State areas. There is not a requirement to use the grant funds in a multi-State area. Under this notice, grants will be made to qualified, private, non-profit organizations for the provision of technical assistance and training to rural communities for the purpose of improving passenger transportation services or facilities. Public bodies are not eligible for passenger transportation RBEG grants.

The information collection requirements contained within this Notice have received approval by the Office of Management and Budget (OMB) under OMB Control Number 0570–0022 (7 CFR part 1942, subpart G).

Fiscal Year 2003 Preapplications Submission

Each preapplication received in a Rural Development State Office will be reviewed to determine if this preapplication is consistent with the eligible purposes contained in section 310B(c)(2) of the CONACT. Each selection priority criterion outlined in 7 CFR part 1942, subpart G, section 1942.305(b)(3), must be addressed in the preapplication. Failure to address any of the criteria will result in a zero-point score for that criterion and impact the overall evaluation of the preapplication. Copies of 7 CFR part 1942, subpart G, will be provided to any interested applicant making a request to a Rural Development State Office listed in this notice. All projects to receive technical assistance through these passenger transportation grant funds are to be identified when the preapplications are submitted to the Rural Development State Office. Multiple project preapplications must identify each individual project, indicate the amount of funding requested for each individual project, and address the criteria as stated above for each individual project. For multiple-project preapplications, the average of the individual project scores will be the score for that preapplication.

All eligible preapplications, along with tentative scoring sheets and the Rural Development State Director's recommendation, will be referred to the National Office no later than June 13, 2003, for final scoring and selection for award.

The National Office will score preapplications based on the grant selection criteria and weights contained in 7 CFR part 1942, subpart G and will select a grantee subject to the grantee's satisfactory submission of a formal application and related materials in the manner and time frame established by RBS in accordance with 7 CFR part 1942, subpart G. It is anticipated that the grantees will be selected by July 31, 2003. All applicants will be notified by RBS of the Agency's decision on the awards.

Dated: April 3, 2003.

John Rosso,

Administrator, Rural Business-Cooperative Service.

[FR Doc. 03–8818 Filed 4–9–03; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Rural Business Opportunity Grants

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: The Rural Business-Cooperative Service (RBS), an Agency within the Rural Development mission area, announces the availability of grants of up to $50,000 per application from the Rural Business Opportunity Grant (RBOG) Program for fiscal year (FY) 2003, to be competitively awarded. For multi-State projects, grant funds of up to $150,000 will be available on a competitive basis.

DATES: The deadline for the receipt of applications in the Rural Development State Office is June 2, 2003. Any applications received at a Rural Development State Office after that date would not be considered for FY 2003 funding.

ADDRESSES: For further information, entities wishing to apply for assistance should contact a Rural Development State Office to receive further information and copies of the application package. Potential applicants located in the District of Columbia must send their applications to the National Office at:

District of Columbia

Rural Business-Cooperative Service, USDA
Specialty Lenders Division
1400 Independence Avenue, SW.,
Room 6867, STOP 3225
Washington, DC 20250–3225
(202) 720–1400

A list of Rural Development State Offices follows:

Alabama

USDA Rural Development State Office
Sterling Center, Suite 601
4121 Carmichael Road
Montgomery, AL 36106–3683
(334) 279–3400

Alaska

USDA Rural Development State Office
800 West Evergreen, Suite 201
Palmer, AK 99645–6539
(907) 761–7705

Arizona

USDA Rural Development State Office
3003 North Central Avenue, Suite 900
Phoenix, AZ 85012–2906
(602) 280–8700

Arkansas

USDA Rural Development State Office
700 West Capitol Avenue, Room 3416
Little Rock, AR 72201–3225
(501) 301–3200

California

USDA Rural Development State Office
430 G Street, Agency 4169
Davis, CA 95616–4169
(530) 792–5800

Colorado

USDA Rural Development State Office
655 Parfet Street, Room E–100
Lakewood, CO 80215
(720) 544–2903

Delaware-Maryland

USDA Rural Development State Office
P. O. Box 400
4607 South DuPont Highway
Camden, DE 19934–9998
(302) 697–4300

Florida/Virgin Islands

USDA Rural Development State Office
P. O. Box 147010
4440 NW. 25th Place
Gainesville, FL 32606
(352) 338–3402

Georgia

USDA Rural Development State Office
Stephens Federal Building
355 E. Hancock Avenue
Athens, GA 30601–2768
(706) 546–2162

Hawaii

USDA Rural Development State Office
Federal Building, Room 311
154 Waianuenue Avenue
Hilo, HI 96720
(808) 933–8380

Idaho

USDA Rural Development State Office
9173 West Barnes Dr., Suite A1
Boise, ID 83709
(208) 378–5600

Illinois

USDA Rural Development State Office
2118 West Park Court, Suite A
Champaign, IL 61821
(217) 403–6202

Indiana

USDA Rural Development State Office
5975 Lakeside Boulevard
Indianapolis, IN 46278
(317) 290–3100

Iowa

USDA Rural Development State Office
Federal Building, Room 873
210 Walnut Street
Des Moines, IA 50309–2196
(515) 284–4663

Kansas

USDA Rural Development State Office
Suite 100
1303 SW First American Place
Topeka, KS 66604
(785) 271–2700

Kentucky

USDA Rural Development State Office
771 Corporate Drive, Suite 200
Lexington, KY 40503
(859) 224–7300

Louisiana

USDA Rural Development State Office
3727 Government Street
Alexandria, LA 71302
(318) 473–7921

Maine

USDA Rural Development State Office
P. O. Box 405
967 Illinois Avenue, Suite 4
Bangor, ME 04402–0405
(207) 990–9106

Massachusetts/Rhode Island/Connecticut

USDA Rural Development State Office
451 West Street, Suite 2
Amherst, MA 01002–2999
(413) 253–4300

Michigan

USDA Rural Development State Office
3001 Coolidge Road, Suite 200
East Lansing, MI 48823
(517) 324–5100

Minnesota

USDA Rural Development State Office
410 AgriBank Building 375 Jackson Street
St. Paul, MN 55101–1853
(651) 602–7800

Mississippi

USDA Rural Development State Office
Federal Building, Suite 831
100 West Capitol Street
Jackson, MS 39269
(601) 965–4316

Missouri

USDA Rural Development State Office
601 Business Loop 70 West
Parkade Center, Suite 235
Columbia, MO 65203
(573) 876–0976

Montana

USDA Rural Development State Office
P. O. Box 771
900 Technology Blvd., Unit 1, Suite B
Bozeman, MT 59715
(406) 585–2580

Nebraska

USDA Rural Development State Office
Federal Building, Room 152
100 Centennial Mall North
Lincoln, NE 68508
(402) 437–5551

Nevada

USDA Rural Development State Office
1390 South Curry Street
Carson City, NV 89703–9910
(775) 887–1222

New Jersey

USDA Rural Development State Office
Tarnsfield Plaza, Suite 22
790 Woodlane Road
Mt. Holly, NJ 08060
(609) 265–3600

New Mexico

USDA Rural Development State Office
6200 Jefferson Street, NE.
Room 255
Albuquerque, NM 87109
(505) 761–4950

New York

USDA Rural Development State Office
The Galleries of Syracuse
441 South Salina Street, Suite 357
Syracuse, NY 13202–2541
(315) 477–6400

North Carolina

USDA Rural Development State Office
4405 Bland Road, Suite 260
Raleigh, NC 27609
(919) 873–2000

North Dakota

USDA Rural Development State Office
P. O. Box 1737
Federal Building, Room 208
220 East Rosser Avenue
Bismarck, ND 58502–1737
(701) 530–2037

Ohio

USDA Rural Development State Office
Federal Building, Room 507
200 North High Street
Columbus, OH 43215–2418
(614) 255–2500

Oklahoma

USDA Rural Development State Office
100 USDA, Suite 108
Stillwater, OK 74074–2654
(405) 742–1000

Oregon

USDA Rural Development State Office
101 SW Main Street, Suite 1410
Portland, OR 97204–3222
(503) 414–3300

Pennsylvania

USDA Rural Development State Office
One Credit Union Place, Suite 330
Harrisburg, PA 17110–2996
(717) 237–2299

Puerto Rico

USDA Rural Development State Office
654 Munoz Rivera Avenue
IBM Plaza, Suite 601
Hato Rey, Puerto Rico 00918–6106
(787) 766–5095

South Carolina

USDA Rural Development State Office
Strom Thurmond Federal Building
1835 Assembly Street, Room 1007
Columbia, SC 29201
(803) 765–5163

South Dakota

USDA Rural Development State Office
Federal Building, Room 210
200 4th Street, SW.
Huron, SD 57350
(605) 352–1100

Tennessee

USDA Rural Development State Office
3322 West End Avenue, Suite 300
Nashville, TN 37203–1084
(615) 783–1300

Texas

USDA Rural Development State Office
Federal Building, Suite 102
101 South Main Street
Temple, TX 76501
(254) 742–9700

Utah

USDA Rural Development State Office
Wallace F. Bennett Federal Building
125 South State Street, Room 4311
P.O. Box 11350
Salt Lake City, UT 84147–0350
(801) 524–4321

Vermont/New Hampshire

USDA Rural Development State Office
City Center, 3rd Floor
89 Main Street
Montpelier, VT 05602
(802) 828–6010

Virginia

USDA Rural Development State Office
Culpeper Building, Suite 238
1606 Santa Rosa Road
Richmond, VA 23229–5014
(804) 287–1550

Washington

USDA Rural Development State Office
1835 Black Lake Boulevard, SW.
Suite B
Olympia, WA 98512–5715
(360) 704–7740

West Virginia

USDA Rural Development State Office
Federal Building
75 High Street, Room 320
Morgantown, WV 26505–7500
(304) 284–4860

Wisconsin

USDA Rural Development State Office
4949 Kirschling Court
Stevens Point, WI 54481
(715) 345–7610

Wyoming

USDA Rural Development State Office
Federal Building, Room 1005
100 East B Street
P.O. Box 820
Casper, WY 82602
(307) 261–6300

SUPPLEMENTARY INFORMATON: The RBOG program is authorized under section 306 of the Consolidated Farm and Rural Development Act (CONACT) (7 U.S.C. 1926(a)(11)). The Rural Development State Offices administer the RBOG program on behalf of RBS at the State level. The primary objective of the program is to improve the economic conditions of rural areas. Assistance provided to rural areas under this program may include technical assistance for business development and economic development planning. A total of $993,500 of non-earmarked funds is available for the RBOG program for FY 2003. To ensure that a broad range of communities have the opportunity to benefit from the available funds, no grant will exceed $50,000, unless it is a multi-State project where funds may not exceed $150,000. Pursuant to the Consolidated Appropriations Resolution Act for FY 2003 (Pub. L. 108–7), a total of $1,987,000 has been earmarked for Native Americans and Empowerment Zones, Enterprise Communities, and Rural Economic Area Partnerships. There is no project dollar amount limitation on applications for earmarked funds. Awards are made on a competitive basis using specific selection criteria contained in 7 CFR part 4284, subpart G. 7 CFR part 4284, subpart G, also contains the information required to be in the application package. The State Director may assign up to 15 discretionary points to an application, and the Agency Administrator may assign up to 20 additional discretionary points based on geographic distribution of funds, special importance for implementation of a strategic plan in partnership with other organizations, or extraordinary potential for success due to superior project plans or qualifications of the grantee. To ensure the equitable distribution of funds, three projects from each State that score the greatest number of points based on the selection criteria and discretionary points will be considered for funding. Applications will be tentatively scored by the State Offices and submitted to the National Office for final review and selection.

The National Office will review the scores based on the grant selection criteria and weights contained in 7 CFR part 4284, subpart G. All applicants will be notified by RBS of the Agency's decision on the awards.

In accordance with the Paperwork Reduction Act of 1995, the information collection requirement contained in to this Notice are approved by the Office of Management and Budget (MB) under OMB Control Number 0570–0024.

Dated: April 4, 2003.

John Rosso,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 03–8817 Filed 4–9–03; 8:45 am]

BILLING CODE 3410–XY–P

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

Sunshine Act Meeting

In connection with its investigation into the cause of chlorine gas release from a rail tank car unloading operation at DPC Enterprises, near Festus, Missouri on April 14, 2002, the United States Chemical Safety and Hazard Investigation Board announces that it will convene a Public Meeting beginning at 9 a.m. local time on May 1, 2003, at the Holiday Inn Express, 1200 Gannon Drive, Festus, MO 63028.

On the morning of August 14, 2002, 48,000 pounds of chlorine—a toxic gas—was released from a rail tank car unloading operation at DPC Enterprises, near Festus, Missouri. The facility repackages bulk dry liquid chlorine into one-ton containers and 150-pound cylinders for commercial, industrial, and municipal use in the St. Louis metropolitan area. Key issues involved in the investigation concern mechanical integrity, emergency management, and chlorine transfer hose supply.

At the meeting CSB staff will present to the Board the results of their investigation into this incident,

including an analysis of the incident together with a discussion of the key findings, root and contributing causes, and draft recommendations.

Recommendations are issued by a vote of the Board and address an identified safety deficiency uncovered during the investigation, and specify how to correct the situation. Safety recommendations are the primary tool used by the Board to motivate implementation of safety improvements and prevent future incidents. The CSB uses its unique independent accident investigation perspective to identify trends or issues that might otherwise be overlooked. CSB recommendations may be directed to corporations, trade associations, government entities, safety organizations, labor unions and others.

After the staff presentation, the Board will allow a time for public comment. Following the conclusion of the public comment period, the Board will consider whether to vote to approve the final report and recommendations. When a report and its recommendations are approved, this will begin CSB's process for disseminating the findings and recommendations of the report not only to the recipients of recommendations but also to other public and industry sectors. The CSB believes that this process will ultimately lead to the adoption of recommendations and the growing body of safety knowledge in the industry, which, in turn, should save future lives and property.

All staff presentations are preliminary and are intended solely to allow the Board to consider in a public forum the issues and factors involved in this case. No factual analyses, conclusions or findings should be considered final. Only after the Board has considered the staff presentation and approved the staff report will there be an approved final record of this incident.

The meeting will be open to the public. Please notify CSB if a translator or interpreter is needed, at least 5 business days prior to the public meeting. For more information, please contact the Chemical Safety and Hazard Investigation Board at (202)–261–7600, or visit our Web site at: *http://www.csb.gov*.

Christopher W. Warner,

General Counsel.

[FR Doc. 03–8918 Filed 4–8–03; 11:31 am]

BILLING CODE 6350–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Delaware Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a conference call of the Delaware Advisory Committee to the Commission will convene at 1 p.m. and adjourn at 5 p.m. on Wednesday, April 10, 2003. The purpose of the conference call is to Develop strategy for update and new edition of the Committee's published report entitled Delaware Citizens Guide to Civil Rights and Supporting Services, and continues planning for a new project proposal based on the Committee's project concept for a series of forums.

This conference call is available to the public through the following call-in number: 1–800–497–7709, contact name: Ed Darden. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls not initiated using the supplied call-in number or over wireless lines and the Commission will not refund any incurred charges. Callers will incur no charge for calls using the call-in number over land-line connections. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and contact name.

To ensure that the Commission secures an appropriate number of lines for the public, persons are asked to register by contacting Ed Darden of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116), by 4 p.m. on Tuesday, April 9, 2003.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated in Washington, DC, March 19, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–8757 Filed 4–9–03; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Notice of Cancellation of Public Meeting of the Hawaii Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Hawaii Advisory Committee to the Commission which was to have convened at 1 p.m. and adjourned at 4 p.m. on Friday, April 11, 2003, at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, Hawaii 96814, has been canceled.

The original notice for the meeting was announced in the **Federal Register** on February 11, 2003, FR Doc. 03–3409, vol. 68, page 6876.

Persons desiring additional information should contact Phillip Montez, Director of the Western Regional Office, 213–894–3437 (TDD 213–894–3435).

Dated in Washington, DC, April 4, 2003.

Ivy L. Davis,

Chief, Regional Programs Coordination Unit.

[FR Doc. 03–8758 Filed 4–9–03; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

[I.D. 030703B]

Submission for OMB Review; Comment Request

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

SUPPLEMENTARY INFORMATION: Agency: National Oceanic and Atmospheric Administration.

Title: Large Pelagic Fishing Survey.

Form Number(s): None.

OMB Approval Number: 0648–0380.

Type of Request: Regular submission.

Burden Hours: 5,218.

Number of Respondents: 22,500.

Average Hours Per Response: 2 minutes for a pre-screen phone contact; 8 minutes per telephone survey response; 5 minutes per dockside interview response; 1.5 minutes per interviewer evaluation response; 3 minutes per socio-economic response; 15 minutes per charter clientele response; 1 minute per biological sampling response; 8 minutes per headboat survey response; and 6 minutes for a North Carolina Winter Bluefin Tuna Dockside Survey.

Needs and Uses: The Large Pelagic Fishing Survey consists of dockside and telephone surveys of recreational anglers for large pelagic fish (tunas, sharks, and billfish) in the Atlantic Ocean. The survey provides NMFS with information to monitor catch of bluefin tuna and marlin. Catch monitoring in these fisheries and collection of catch and effort statistics for all pelagic fish is required under the Atlantic Tunas

Convention Act and the Magnuson-Stevens Fishery Conservation and Management Act. The information collected is essential for the U.S. to meet its reporting obligations to the International Commission for the Conservation of Atlantic Tuna.

Affected Public: Individuals or households, business or other for-profit organizations.

Frequency: On occasion, weekly, annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

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

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: April 3, 2003.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 03–8820 Filed 4–9–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–580–835]

Stainless Steel Sheet and Strip in Coils From the Republic of Korea: Extension of Preliminary Results of Countervailing Duty Administrative Review

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

ACTION: Notice of extension of time limit for preliminary results of Countervailing Duty Administrative Review.

EFFECTIVE DATE: April 10, 2003.

FOR FURTHER INFORMATION CONTACT: Carrie Farley or Darla Brown, Office of AD/CVD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230; telephone: 202–482–0395 or 202–482–2849, respectively.

Statutory Time Limits

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department to make a preliminary determination within 245 days after the last day of the anniversary month of an order/finding for which a review is requested and a final determination within 120 days after the date on which the preliminary determination is published. However, if it is not practicable to complete the review within the time period, section 751(a)(3)(A) of the Act allows the Department to extend these deadlines to a maximum of 365 days and 180 days, respectively.

Background

On September 20, 2002, the Department published a notice of initiation of administrative review of the countervailing duty order on stainless steel sheet and strip from the Republic of Korea, covering the period January 1, 2001, through December 31, 2001 (*see* 67 FR 60210). The preliminary results are currently due no later than May 5, 2003.

Extension of Preliminary Results of Review

In this administrative review, we are analyzing whether one of the programs we found countervailable in the original investigation has ended. The termination of this program involves the change of ownership of one of the respondent companies. In addition, several new programs are being examined in this review. As a result of these issues, additional information, and possible verification of this information, is required. Due to these considerations, we determine that it is not practicable to complete the preliminary results of this review within the original time limit. Therefore, the Department is extending the time limits for completion of the preliminary results until no later than September 2, 2003.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: March 27, 2003.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–8839 Filed 4–9–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Seats for the Olympic Coast National Marine Sanctuary Advisory Council

AGENCY: National Marine Sanctuary Program (NMSP), National Ocean Service (NOS), National Oceanic and Atmospheric Administration, Department of Commerce (DOC).

ACTION: Notice and request for applications.

SUMMARY: The Olympic Coast National Marine Sanctuary (OCNMS or Sanctuary) is seeking applicants for the following vacant seats on its Sanctuary Advisory Council (Council): alternates for the Tourism/Chamber of Commerce/Recreation seat and the Marine Business/Ports/Industry seat. Applicants are chosen based upon their particular expertise and experience in relation to the seat for which they are applying; community and professional affiliations; philosophy regarding the conservation and management of marine resources; and possibly the length of residence in the area affected by the Sanctuary. Applicants who are chosen as members should expect to serve three-year terms, pursuant to the Council's Charter. Applicants for the alternates' positions will serve terms that expire at the end of the current members' terms.

DATES: Applications are due by April 30, 2003.

ADDRESSES: Application kits may be obtained from Andrew Palmer, OCNMS, 115 East Railroad Ave., Suite 301, Port Angeles, WA 98362. Completed applications should be sent to the same address.

FOR FURTHER INFORMATION CONTACT: Andrew Palmer at (360) 457–6622 x15 or *andrew.palmer@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Sanctuary Advisory Council provides NOAA with advice on the management of the Sanctuary. Members provide advice to the Olympic Coast Sanctuary Superintendent on Sanctuary issues. The Council, through its members, also serves as a liaison to the community regarding Sanctuary issues and acts as a conduit, relaying the community's interests, concerns, and management needs to the Sanctuary.

The Sanctuary Advisory Council members represent public interest groups, local industry, commercial and recreational user groups, academia, conservation groups, government agencies, and the general public.

Authority: 16 U.S.C. Section 1431 et seq. (Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program).

Dated: March 27, 2003.

Jamison S. Hawkins,

Acting Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 03–8799 Filed 4–9–03; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040703F]

Caribbean Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings.

SUMMARY: The Caribbean Fishery Management Council's (CFMC) Habitat Advisory Panel (HAP), and the Scientific and Statistical Committee (SSC) will hold a meeting.

DATES: The HAP/SSC meeting will be held on April 24–25, 2003.

ADDRESSES: The meeting will be held at the Best Western Pierre Hotel, 105 De Diego Avenue, San Juan, Puerto Rico.

FOR FURTHER INFORMATION CONTACT: Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico 00918–1920, telephone: 787–766–5926.

SUPPLEMENTARY INFORMATION: The HAP, and the SSC will meet to discuss the items contained in the following agenda on the Draft Essential Fish Habitat/ Environmental Impact Statement for the CFMC:

1. Review Methodology (Sect. 2.1)

2. Review revised Human Environment (Sect. 3.3)

3. Fishing impact alternatives

-Review list of alternatives (Sect. 2.5)
-Discuss rationale (Sect. 2.5)
- Discuss consequences (Sect. 4.5)

4. HAPC alternatives

- Review list of alternatives (Sect. 2.4)
- Discuss rationale (Sect. 2.4)
- Discuss consequences (Sect. 4.4)

5. EFH alternatives

- Review list of alternatives (Sect. 2.3)
- Discuss rationale (Sect. 2.3)
- Discuss consequences (Sect. 4.3)

6. Consequences section (Sect. 4)

- Missing information (Sect. 4.1)
- Cumulative impacts (Sect. 4.6)

7. Affected Environment (Sect. 3)

- Previously discussed - additional comments?

8. Other

The HAP/SSC will convene on Thursday, April 24, 2003, from 10 a.m. until 5 p.m., and will continue on Friday, April 25, 2003, from 9 a.m. to 4 p.m.

The meetings are open to the public, and will be conducted in English. Fishers and other interested persons are invited to attend and participate with oral or written statements regarding agenda issues.

Although nonemergency issues not contained in this agenda may come before the Committees for discussion, those issues may not be the subject of formal Committee action during these meetings. Committee 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 Panel's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. For more information or request for sign language interpretation and/other auxiliary aids, please contact Mr. Miguel A. Rolon, Executive Director, Caribbean Fishery Management Council, 268 Munoz Rivera Avenue, Suite 1108, San Juan, Puerto Rico, 00918–1920, telephone 787–766–5926, at least 5 days prior to the meeting date.

Dated: April 7, 2003.

Theophilus R. Brainerd,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–8823 Filed 4–9–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 040303B]

Pacific Fishery Management Council; Public Meeting

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) Highly Migratory Species Plan Development Team (HMSPDT), Highly Migratory Species Advisory Subpanel, and Highly Migratory Species Subcommittee of the Science and Statistical Committee will hold a joint work session, which is open to the public.

DATES: The work session will be Tuesday, April 29, 2003 from 9 a.m. until 4 p.m.; and Wednesday, April 30, 2003 from 9 a.m. until business for the day is completed.

ADDRESSES: The work session will be held at the Hubbs-Sea World Research Institute, 2595 Ingraham Street, San Diego, CA 92109; telephone: (619) 226–3870.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Dan Waldeck, Pacific Fishery Management Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: At this joint meeting, NMFS analysts will present information on potential impacts on sea turtles from high seas longline fishing east of 150° W longitude. Recent information from longline fishing operations east of 150° W longitude has been reviewed by NMFS. Based on their initial review, NMFS is concerned that longline vessels targeting swordfish could have interactions with sea turtles at rates similar to rates in waters west of 150° W longitude. These latter rates were the basis for total turtle take and mortality estimates that resulted in a jeopardy determination and the prohibition of swordfish targeting by Hawaii-based longline vessels. A similar conclusion for West Coast-based fishing under the FMP could result in partial disapproval of the fishery management plan (FMP). Therefore, in March 2003, NMFS requested and the Council agreed to delay submission of the HMS FMP to provide time for NMFS to complete scientific review of the new data and present the results to the Council HMS advisory committees. At the June 2003 Council meeting, the Council will review the new information and, based on the advice of its advisors and the public, could act to modify a motion previously adopted. That is, at the June 2003 Council meeting, the Council could modify the preferred alternative for pelagic longline fisheries outside of the U.S. Exclusive Economic Zone.

Although nonemergency issues not contained in the meeting agenda may be discussed, those issues may not be the

subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document 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

The meeting is 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: April 3, 2003.

Theophilus R. Brainerd,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–8824 Filed 4–9–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Notice to add a record system.

SUMMARY: The Department of the Air Force proposes to add a system of records notice to its inventory of records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The actions will be effective on May 12, 2003 unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force FOIA/Privacy Manager, AF–CIO/P, 1155 Air Force Pentagon, Washington, DC 20330–1155.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne P. Rollins at (703) 601–4043.

SUPPLEMENTARY INFORMATION: The Department of the Air Force's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed system report, as required by 5 U.S.C. 522a(r) of the Privacy Act of 1974, as amended, was submitted on April 1, 2003, to the House Committee on Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records About Individuals,' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: April 2, 2003.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F090 SAFLL A

SYSTEM NAME:

Congressional and Key Contacts.

SYSTEM LOCATION:

Office of Legislative Liaison, Office of the Secretary of the Air Force, 1160 Air Force, Pentagon, Washington, DC 20330–1160.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current members of the U.S. Congress and key Congressional staff members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information on members of Congress and key staff members, mailing addresses, committee memberships, contact reports, and related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force.

PURPOSE(S):

To provide information on members of Congress and their staffs before whom Air Force representatives may be testifying or for whom escorts may be provided so that more effective communications can be achieved when providing Air Force information and services to members of Congress and their staffs and to promote the timely delivery of information for Department of Defense related events and materials.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained on computers and computer output products.

RETRIEVABILITY:

By Congress member's or staff member's last name and committee membership.

SAFEGUARDS:

Records are maintained in password-protected network accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Disposition pending. No records will be destroyed until the National Archives and Records Administration has approved the retention and disposal of the records.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Legislative Liaison, Office of the Secretary of the Air Force, 1160 Air Force Pentagon, Washington, DC 20330–1160.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Chief, Legislative Liaison, Office of the Secretary of the Air Force, 1160 Air Force Pentagon, Washington, DC 20330–1160.

RECORD ACCESS PROCEDURES:

Individuals seeking to access information contained in this system of records should address written inquiries to the Chief, Legislative Liaison, Office of the Secretary of the Air Force, 1160 Air Force Pentagon, Washington, DC 20330–1160.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Congress members and key Congressional staff members. Official public records such as the Congressional Record, Congressional Quarterly Weekly Report, official transcripts of unclassified committee hearings, and the Congressional Staff Directory.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 03–8622 Filed 4–9–03; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Visitors of Marine Corps University

AGENCY: Department of the Navy, DOD.

ACTION: Notice of open meeting.

SUMMARY: The Board of Visitors of the Marine Corps University (BOV MCU) will meet to review, develop and provide recommendations on all aspects of the academic and administrative policies of the University; examine all aspects of professional military education operations; and provide such oversight and advice as is necessary to facilitate high educational standards and cost effective operations. The Board will be discussing the 2005 accreditation process and the quality enhancement plan, the University's Institutional Research program, the status of Academic Chairs, and Camp Lejeune's Education Consortium. All sessions of the meeting will be open to the public.

DATES: The meeting will be held on Thursday, May 8, 2003, from 8 a.m. to 4 p.m. and on Friday, May 9, 2003, from 8 a.m. to 11:30 a.m.

ADDRESSES: The meeting will be held at Camp Lejeune's Paradise Point Officer Club, the Division Room, 2615 Seth Williams Boulevard, Marine Corps Base Camp Lejeune, North Carolina 28547–2539.

FOR FURTHER INFORMATION CONTACT: Mary Lanzillotta, Executive Secretary, Marine Corps University Board of Visitors, 2076 South Street, Quantico, Virginia 22134, telephone number (703) 784–4037.

Dated: March 31, 2003.

R.E. Vincent II,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 03–8805 Filed 4–9–03; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of public forum.

SUMMARY: The National Assessment Governing Board is announcing a public forum on May 1, 2003 to obtain comment on the draft Background Information Framework for the National Assessment of Educational Progress. Public and private parties and organizations are invited to present written and/or oral testimony. The forum will be held at the Washington Court Hotel, 525 New Jersey Avenue NW., Washington, DC from 9 a.m. to 1 p.m.

Background

The framework, subject to approval by the Governing Board, presents a plan to guide the collection and reporting of the noncognitive or background information needed for the fair and accurate presentation of student achievement data, as measured in the surveys of the National Assessment of Educational Progress (NAEP).

The framework will define the purpose and scope of NAEP's non-cognitive questionnaires and describe other sources of background data that NAEP may collect. It will establish criteria for reporting background question results and also create a system for asking various groups of questions to various samples of students at various times.

Under Public Law 107–110, the Governing Board has final authority over all cognitive and non-cognitive questions on the National Assessment. The background information is obtained from student, teacher, and school questionnaires, as well as from school records and other reliable data sources.

The draft framework is available on the Web site of the Governing Board at *http://www.nagb.org.* Other related material on the Governing Board and the National Assessment may be found at this Web site and at *http://www.nces.ed.gov/nationsreportcard.*

The Board is seeking comment from teachers, education researchers, state and local school administrators, assessment specialists, parents of children in elementary and secondary schools, and interested members of the public. Members of the NAGB Ad Hoc Committee on NAEP Background Questions, chaired by John H. Stevens, will conduct the forum to receive testimony and to ask clarifying questions and respond to presentations. Oral presentations should not exceed ten minutes. Testimony will become part of the public record.

All views will be considered by the Ad Hoc Committee in developing its recommendations to the Governing Board and by the full Board when it takes final action on the Background Information Framework, which is anticipated at its meeting of August 1–2, 2003.

To register to present oral testimony on May 1, 2003 at the Washington Court Hotel, please call Tessa Regis, of the NAGB staff, at 202–357–7500 by Tuesday, April 29. Written testimony should be sent by mail, fax or e-mail for receipt in the Board office by May 1. Written materials received by noon on April 30 will be duplicated for distribution at the forum.

Testimony should be sent to: National Assessment Governing Board, 800 North Capitol Street, NW., Suite 825, Washington, DC 20002, Attn: Lawrence Feinberg, FAX: (202) 357–6945, E-mail: *larry.feinberg@ed.gov.*

For further information, please contact Lawrence Feinberg at (202) 357–6942.

This document is intended to notify the general public of their opportunity to attend. Individuals who will need accommodations for a disability in order to attend the meeting (*i.e.*, interpreting services, assistive listening devices, materials in alternative format) should notify Munira Mwalimu at 202–357–6938 or at *Munira.Mwalimu@ed.gov* no later than April 25, 2003. We will attempt to meet requests after this date, but cannot guarantee availability of the requested accommodation. The meeting site is accessible to individuals with disabilities.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994, as amended.

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress (NAEP). The Board's responsibilities include selecting subject areas to be assessed, developing assessment objectives, developing appropriate student achievement levels for each grade and subject tested, developing guidelines for reporting and disseminating results, and developing standards and procedures for interstate and national comparisons.

Summaries of the forum, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b(c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW., Washington, DC, from 9 a.m. to 5 p.m. Eastern Standard Time.

Dated: April 4, 2003.

Charles Smith,

Executive Director, National Assessment Governing Board.

[FR Doc. 03–8728 Filed 4–9–03; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement for the Gilberton Coal-to-Clean Fuels and Power Project, Gilberton, PA

AGENCY: Department of Energy.

ACTION: Notice of intent.

SUMMARY: The U.S. Department of Energy (DOE) announces its intent to prepare an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act (NEPA), the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500–1508), and the DOE NEPA regulations (10 CFR part 1021), to assess the potential environmental impacts of a proposed project by WMPI PTY, LLC, to design, construct, and operate a demonstration plant near Gilberton, Schuylkill County, Pennsylvania. The proposed Gilberton Coal-to-Clean Fuels and Power Project, selected under the Clean Coal Power Initiative competitive solicitation, would produce electricity, clean hydrocarbon liquids, and steam from coal waste that exists in legacy piles from old mining practices. The proposed project would be the first commercial-scale demonstration of coal waste gasification and Fischer-Tropsch (F–T) synthesis of liquid hydrocarbon fuels in the United States. The proposed project would involve construction and operation of a plant to produce about 5,000 barrels-per-day of ultra-clean liquid hydrocarbon fuels and approximately 41 MW (megawatts) of electricity for the local electrical grid. The quantity of feed material for the plant could be up to approximately 4,700 dry tons-per-day of coal waste from prior and current anthracite mining. An estimated 300 million tons of this coal waste exists throughout Pennsylvania. The EIS will evaluate the proposed project and reasonable alternatives.

The EIS will help DOE decide whether to provide 16 percent (approximately $100 million as a repayable loan) of the total estimated funding of $612 million for the proposed project. The purpose of this Notice of Intent is to inform the public about the proposed project; invite public participation in the EIS process; announce the plans for a public scoping meeting and explain the EIS scoping process; and solicit public comments for consideration in establishing the proposed scope and content of the EIS.

DATES: To ensure that all of the issues related to this proposal are addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Comments must be received by May 19, 2003, to ensure consideration. Late comments will be considered to the extent practicable. In addition to receiving comments in writing and by telephone (*see* **ADDRESSES** below), DOE will conduct a public scoping meeting in which agencies, organizations, and the general public are invited to present oral comments or suggestions with regard to the range of actions, alternatives, and impacts to be considered in the EIS. The scoping meeting will be held at D.H.H. Lengel Middle School, 1541 West Laurel Boulevard, Pottsville, PA, on May 5, 2003, beginning at 7 p.m. (*see* Public Scoping Process). The public is invited to an informal session at this location beginning at 4 p.m. to learn more about the proposed action.

Displays and other forms of information about the proposed agency action and the demonstration plant will be available, and DOE personnel will be present at the informal session to discuss the proposed project and the EIS process.

ADDRESSES: Written comments on the proposed EIS scope and requests to participate in the public scoping meeting should be addressed to the NEPA Document Manager for the Gilberton Coal-to-Clean Fuels and Power Project: Mr. Lloyd Lorenzi, National Energy Technology Laboratory, U.S. Department of Energy, P.O. Box 10940, Pittsburgh, PA 15236–0940.

Individuals who would like to otherwise participate in the public scoping process should contact Mr. Lloyd Lorenzi directly by telephone: 412–386–6159; toll free number: 1–800–276–9851; fax: 412–386–4604; or electronic mail: *lorenzi@netl.doe.gov.*

FOR FURTHER INFORMATION, CONTACT: For information regarding the Gilberton Coal-to-Clean Fuels and Power Project or to receive a copy of the draft EIS for review when it is issued, contact Mr. Lloyd Lorenzi as described above. Those seeking general information on the DOE NEPA process, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Policy and Compliance (EH–42), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585–0119. Telephone: (202) 586–4600. Facsimile: (202) 586–7031, or leave a toll-free message at 1–800–472–2756.

SUPPLEMENTARY INFORMATION:

Background and Need for Agency Action

Since the early 1970s, DOE and its predecessor agencies have pursued research and development programs that include long-term, high-risk activities that support the development of innovative concepts for a wide variety of coal technologies through the proof-of-concept stage. However, the availability of a technology at the proof-of-concept stage is not sufficient to ensure continued development and subsequent commercialization. Before any technology can be considered seriously for commercialization, it must be demonstrated. The financial risk associated with technology demonstration is, in general, too high for the private sector to assume in the absence of strong incentives. The Clean Coal Power Initiative (CCPI) was established in 2002 as a government/industry partnership to implement the President's National Energy Policy recommendation to increase investment in clean coal technology. This recommendation addresses a national challenge of ensuring the reliability of electric supply while simultaneously protecting the environment.

The goal of the CCPI program is to accelerate commercial deployment of advanced coal technologies that provide the United States with clean, reliable, and affordable energy. Through cooperative agreements established pursuant to the CCPI program, DOE would accelerate deployment of innovative technologies to meet near-term energy and environmental goals; to reduce technological risk to the business community to an acceptable level; and to provide private sector incentives required for continued activity in innovative research and development directed at providing solutions to long-range energy supply problems.

Proposed Action

The proposed action is for DOE to provide, through a cooperative agreement with WMPI, financial assistance for the proposed Gilberton Coal-to-Clean Fuels and Power Project (hereafter termed the ''Gilberton Project''). The Gilberton Project would be designed for long-term commercial operation following completion of an approximately 27-month demonstration period under a 6-year cooperative agreement with DOE, and would cost a total of approximately $612 million; DOE's share would be approximately $100 million (16%) in the form of a repayable loan.

The Gilberton Project would result in design, construction, and operation of a new plant to co-produce approximately 41 MW of electricity for export to the local grid at extremely high environmental performance, about 5,000 barrels-per-day of high quality, ultra-clean liquid hydrocarbon products, and

steam near Gilberton, Schuylkill County, Pennsylvania.

The liquid hydrocarbon products would include clean diesel fuel and naphtha. The new plant would use four major technology systems: (1) Gasification technology from Shell, which would be particularly suitable for processing the high ash (40%), low cost, anthracite coal waste that would provide the primary feed to the plant. The gasification process would produce raw synthesis gas consisting primarily of carbon monoxide and hydrogen; (2) raw synthesis gas treatment and cleaning technology systems to remove solid particulate matter and gaseous contaminants to trace concentrations; (3) indirect liquefaction for converting cleaned synthesis gas into synthetic hydrocarbon liquids using Fischer-Tropsch (F-T) technology from SASOL Technology, Ltd., and (4) combustion of cleaned, unconverted synthesis gas in a gas turbine/combined cycle power plant to produce electricity and steam.

The Gilberton Project would be located on an approximately 50-acre site near Gilberton, PA, north of Interstate 81 and east of Pennsylvania State Highway 61, off Morea Road. The site for the Gilberton Project would be adjacent to the eastern boundary of the existing 80 MW Gilberton Power Plant, which has been operating continuously since 1986 using circulating fluidized-bed combustion technology to process anthracite coal waste. Site preparation would require grading, clearing of vegetation, and addition of infrastructure improvements, such as roads, fencing, and drainage. Construction preparations would include installation of concrete piers and foundations for the plant equipment and structures.

The primary feed material for the Gilberton Project would be up to approximately 4,700 dry tons-per-day of anthracite coal waste, which is abundant locally in legacy waste piles from old mining practices. These anthracite tailings, which are potential sources of soil and water contamination, would be reclaimed for the Gilberton Project from the surrounding area, although the plant would also be capable of processing feed containing a blend of anthracite waste with petroleum coke, other coals, or biomass.

Air separation would be used to produce a high purity oxygen stream for the Shell gasification process. The anthracite waste, combined with about 400 tons-per-day of a fluxing agent such as limestone to assist with maintaining ash in a molten form, would be processed through a Shell gasifier to produce a raw synthesis gas that would be cleaned to produce approximately 200 million standard cubic-feet-per-day blend of primarily hydrogen and carbon monoxide. The mineral content of the anthracite waste and the fluxing agent fed to the Shell gasifier would produce about 2,000 tons-per-day of molten slag and 160 tons-per-day of collected dry particulate that could be used as construction materials.

Cleaning of gas from the Shell gasifier would be achieved using a combination of initial quenching to remove any entrained molten slag, filtration to remove dry particulate, scrubbing to remove any residual solid particles and alkali salts, catalytic removal of sulfur compounds, and treatment in a Rectisol unit to remove carbon dioxide. The gas cleaning processes would remove impurities and produce a carbon dioxide stream that could be used for future sequestration if economics permit, although sequestration is not part of the proposed project.

The cleaned synthesis gas would be processed through a low-temperature F-T unit and downstream product treatment units to produce about 5,000 barrels-per-day of ultra-clean diesel fuel and naphtha, which would be virtually free of sulfur, nitrogen, and aromatic compounds and superior in both end-use and environmental properties compared with liquid hydrocarbon products produced from petroleum refining. Operations could be altered to change the distribution of products, including kerosene that would service specialty jet fuel markets, and to produce alcohols and liquefied petroleum gas. The F-T liquid products would be readily marketable to the refining industry. Diesel product from F-T synthesis possesses a high Cetane value and has demonstrated significantly reduced engine emissions of particulate matter, nitrogen oxides, hydrocarbons, and carbon monoxide, while meeting all current fuel specifications and the expected future (2006) Environmental Protection Agency specification for low sulfur fuels. Naphtha product can either be readily upgraded to a high-octane, clean reformulated gasoline or used as an on-board, sulfur-free feed to a reformer to produce hydrogen for fuel-cell-powered vehicle applications.

Unconverted, cleaned synthesis gas from the F-T unit would be combusted in a gas turbine/combined-cycle power plant to produce electricity for the Gilberton Project and for export to the local power grid. High pressure and medium pressure steam produced in the plant would be used to produce additional power using steam turbo-generators. Excess steam from the power plant system would be marketed to local customers. Other potentially marketable byproducts from the plant would include elemental sulfur and a vitrified material resembling coarse sand that could be used in the construction and building industries.

Wastewater, including contaminated runoff from the project site, would be handled using a combination of storm water retention, wastewater treatment, oil recovery, biological treatment and solids removal, and disposal. Water treatments would include equalization, API separator treatment for oil removal and recovery, dissolved air flotation for additional oil removal, and biological treatment.

Construction of the proposed plant would be expected to require approximately 30 months. Plant start-up, system and feedstock testing, and long-term performance and reliability demonstration under the cooperative agreement with DOE would require approximately 27 months, after which the plant could continue in commercial operation.

Successful demonstration of technology in the Gilberton Project would generate opportunities for a broad range of commercial applications, especially in coal producing and consuming regions of the United States. Commercial applications would result in substantial socioeconomic benefits to the coal regions, including direct and indirect job stimulation and the related benefits of enhanced productivity and tax revenues; environmental benefits of abandoned mine land reclamation as coal waste is converted into high value products; and increasing energy independence.

Alternatives

NEPA requires that agencies evaluate the reasonable alternatives to the proposed action in an EIS. The purpose for agency action determines the range of reasonable alternatives.

The Clean Coal Power Initiative (CCPI) was established to help implement the President's National Energy Policy (NEP) recommendation to increase investment in clean coal technology by addressing national challenges of ensuring the reliability of domestic electric and energy supplies while simultaneously protecting the environment. The CCPI program was structured to achieve NEP goals by promoting private sector initiatives to invest in demonstrations of advanced technologies that could be widely deployed commercially to ensure that the United States has clean, reliable, and affordable energy. Private sector investments and deployment of energy

systems in the United States places DOE in a much more limited role than if the Federal government were the owner and operator of the energy systems. In the latter situation, DOE would be responsible for a comprehensive review of reasonable alternatives for siting the system. However, in dealing with applicants under the CCPI solicitation, the scope of alternatives is necessarily more restricted because DOE must focus on alternative ways to accomplish its purpose that reflect both the application before it and the functions that DOE plays in the decisional process. In such cases DOE must give substantial consideration to the applicant's needs in establishing a project's reasonable alternatives.

The range of reasonable options to be considered in the EIS for the proposed Gilberton Project is determined in accordance with the overall NEPA strategy. Because of DOE's limited role of providing cost-shared funding for the proposed Gilberton Project, DOE currently plans to give primary emphasis to the proposed action and the no-action alternative. Under the no-action alternative, DOE would not provide partial funding for the design, construction, and operation of the project.

In the absence of DOE funding, the Gilberton Project probably would not be constructed. Alternatives considered by WMPI, in developing the proposal for the Gilberton Project, including alternative sites and technologies for the proposed project also will be presented in the EIS. DOE will consider other reasonable alternatives that may be suggested during the public scoping period.

Under the proposed action, project activities would include equipment design and fabrication, process engineering, plant permitting and construction, and testing and demonstration of the technology. DOE plans to complete the EIS within 15 months following publication of this Notice of Intent and to subsequently issue a Record of Decision. Upon completing the demonstration effort for DOE, WMPI could continue commercial operation of the plant constructed under the Gilberton Project.

Preliminary Identification of Environmental Issues

The following environmental issues have been tentatively identified for analysis in the EIS. This list, which was developed from analyses of the proposed technology, the scope of the proposed project, and similar projects, and which is presented to facilitate public comment on the planned scope of the EIS, is neither intended to be all-inclusive nor a predetermined set of potential impacts. Additions to or deletions from this list may occur as a result of the public scoping process.

The environmental issues include:

(1) *Atmospheric resources:* Potential air quality impacts resulting from emissions during construction and operation of the proposed Gilberton Project, including odor impacts;

(2) *Water usage:* Potential effects on surface and groundwater resources, including impacts from withdrawals of groundwater and mine pool water from the Susquehanna River and Delaware River watersheds;

(3) *Water quality:* Potential impacts resulting from wastewater treatment and discharge, from water usage, and from reclaiming abandoned anthracite waste;

(4) *Infrastructure and land use, including potential environmental and socioeconomic effects resulting from:* Plant construction; delivery of feed materials; recovery of coal waste and mine pool water; steam and heat distribution; electric power generation and transmission; product hydrocarbon liquids transportation, distribution, and use; measures to prevent soil erosion and degradation; and site restoration;

(5) *Solid Waste:* Pollution prevention and waste management, including, ash, slag, waste water treatment facility sludge;

(6) *Noise:* Potential impacts resulting from construction and operation of the proposed plant and from transportation of feed materials and plant products;

(7) *Construction:* Potential impacts associated with traffic patterns, construction-related emissions, and involvement of floodplains and wetlands;

(8) Safety and health impacts, including construction-related safety, process safety, and management of chemicals and catalysts;

(9) *Ecological:* Potential on-site and off-site impacts to vegetation, terrestrial wildlife, aquatic wildlife, threatened and endangered species, and ecologically sensitive habitats;

(10) Community impacts, including potential impacts from local traffic patterns, socioeconomic impacts on public services and infrastructure, and environmental justice;

(11) Visual impacts associated with plant structures and plant operations;

(12) *Reclamation impacts:* Potential impacts resulting from recovery of coal waste from disposal and reclamation sites;

(13) Cumulative effects that result from the incremental impacts of the proposed project when added to the other past, present, and reasonably foreseeable future projects, including the existing 80 MW Gilberton power plant;

(14) Connected actions, including processing of gasifier slag into aggregate for use in construction applications, use of heat and energy from the plant, and both processing and use of liquid hydrocarbon products;

(15) Compliance with regulatory requirements and environmental permitting; and

(16) Environmental monitoring.

Public Scoping Process

To ensure that all issues related to this proposal are addressed, DOE will conduct an open process to define the scope of the EIS. The public scoping period will end on May 19, 2003. Interested agencies, organizations, and the general public are encouraged to submit comments or suggestions concerning the content of the EIS, issues and impacts to be addressed in the EIS, and alternatives that should be considered. Scoping comments should identify specific issues or topics that the EIS should address in order to assist DOE in identifying significant issues. Written, e-mailed, or faxed comments should be communicated by May 19, 2003 (see **ADDRESSES**).

DOE will conduct a public scoping meeting at D.H.H. Lengel Middle School, 1541 West Laurel Boulevard, in Pottsville, PA, on May 5, 2003, at 7 p.m. In addition, the public is invited to an informal session at this location beginning at 4 p.m., to learn more about the proposed action. Displays and other information about the proposed agency action and the demonstration plant will be available, and DOE personnel will be present to discuss the proposed action and the NEPA process.

The formal scoping meeting will begin on May 5, 2003, at 7 p.m. DOE asks people who wish to speak at this public scoping meeting to contact Mr. Lloyd Lorenzi, either by phone, fax, computer, or in writing (*see* **ADDRESSES** in this notice).

People who do not arrange in advance to speak may register at the meeting (preferably at the beginning of the meeting) and will be provided opportunities to speak following previously scheduled speakers. Speakers who need more than five minutes should indicate the length of time desired in their request. Depending on the number of speakers, DOE may need to limit speakers to five-minutes initially but will provide additional opportunities as time permits. Speakers may also provide written materials to supplement their presentations. Oral

and written comments will be given equal consideration.

DOE will begin the meeting with an overview of the proposed Gilberton Project. The meeting will not be conducted as an evidentiary hearing, and speakers will not be cross-examined. However, speakers may be asked questions to help ensure that DOE fully understands their comments or suggestions. A presiding officer will establish the order of speakers and provide any additional procedures necessary to conduct the meeting.

Issued in Washington, DC, on this 4th day of April, 2003.

Beverly A. Cook,

Assistant Secretary, Environment, Safety and Health.

[FR Doc. 03–8837 Filed 4–9–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–319–000]

ANR Pipeline Company; Notice of Tariff Filing

April 3, 2003.

Take notice that on March 28, 2002, ANR Pipeline Company (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Fifth Revised Sheet No. 161A.02, with an effective date of April 30, 2003.

ANR states that it is tendering the revised tariff sheet in order to clarify its rights to allow contractual rights of first refusal pursuant to Section 22.2.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 9, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8775 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12387–000.

c. Date filed: October 7, 2002.

d. *Applicant:* Dierks Hydro, LLC.

e. *Name and Location of Project:* The Dierks Dam Project would be located on the Saline River in Sevier County, Arkansas. The proposed project would be located on an existing dam administered by the U.S. Corps of Engineers (Corps).

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 91a—825r.

g. *Applicant contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Tom Papsidero, (202) 502–6002.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would utilize the Corps' existing Dierks Dam and Reservoir and would consist of: (1) A proposed 200-foot-long, 6-foot-diameter steel penstock, (2) a proposed powerhouse containing one generating unit with an installed capacity of 2 megawatts, (3) a proposed 5-mile-long, 25-kv transmission line, and (4) appurtenant facilities. The project would operate in a run-of-river mode and would have an average annual generation of 18 GWh.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at Dierks Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit

application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8785 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–072]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 3, 2003.

Take notice that on March 31, 2003, ANR Pipeline Company (ANR) tendered for filing and approval an amendment to a Service Agreement between ANR and CoEnergy Trading Company, which adds additional secondary points at which the negotiated rate shall be charged. ANR requests that the Commission accept and approve the amendment to be effective April 1, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8795 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–073]

ANR Pipeline Company; Notice of Negotiated Rate Filing

April 3, 2003.

Take notice that on March 31, 2003, ANR Pipeline Company (ANR) tendered for filing and approval amendments to two Service Agreements between ANR and PCS Nitrogen Ohio, L.P. ANR states that these amendments effectuate an increase in the Maximum Daily Quantity under one agreement, and a decrease in the Maximum Daily Quantity under the other agreement. ANR requests that the Commission accept and approve the amendments to be effective April 1, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8796 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–299–001]

Dominion Cove Point LNG, LP.; Notice of Filing

April 3, 2003.

Take notice that on March 31, 2003, Dominion Cove Point LNG, LP (Cove Point) tendered for filing workpapers supporting the calculation of Cove Point's retention percentages for the annual period beginning May 1,2003.

Cove Point states that the tariff sheet sets forth the restatement and adjustment to its retainage percentages for both the peaking services and transportation services, to go into effect May 1, 2003.

Cove Point states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 10, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8774 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–326–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

April 3, 2003.

Take notice that on March 31, 2003, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, Volume No. 1, the following tariff sheets proposed to become effective May 15, 2003:

First Revised Sheet No. 3
Sixth Revised Sheet No. 27
Fourth Revised Sheet No. 34
Second Revised Sheet No. 54
Fifth Revised Sheet No. 55
Seventh Revised Sheet No. 57
Sixth Revised Sheet No. 57A
Second Revised Sheet No. 70
First Revised Sheet No. 71
First Revised Sheet No. 72
Second Revised Sheet No. 141
First Revised Sheet No. 148
Second Revised Sheet No. 149
Second Revised Sheet No. 150
Fourth Revised Sheet No. 153
First Revised Sheet No. 155
First Revised Sheet No. 158
Third Revised Sheet No. 159
Third Revised Sheet No. 160
Fourth Revised Sheet No. 164
Second Revised Sheet No. 166
Third Revised Sheet No. 171
First Revised Sheet No. 176A
Fifth Revised Sheet No. 181
Fourth Revised Sheet No. 182
Fifth Revised Sheet No. 183
Sixth Revised Sheet No. 184
Sixth Revised Sheet No. 185
Fifth Revised Sheet No. 186
Second Revised Sheet No. 190
Second Revised Sheet No. 192

Iroquois asserts that the purpose of this filing is to correct and update minor inconsistencies in the tariff including, various grammatical errors, removal of obsolete language associated with the Pro Forma contracts, update changes to technical terms to reflect new industry technologies, updates to the reference of industry standards boards, time extensions for contract acceptance for ITS and PALS contracts, an updated system map and other non substantive syntax and format revisions.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies and all parties to the proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8782 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–157–011]

Kern River Gas Transmission Company; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 31, 2003, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective April 1, 2003.

Fifth Revised Sheet No. 495.
Second Revised Sheet No. 496.
First Revised Sheet No. 497.

Kern River states that the purpose of this filing is to implement a negotiated rate transaction between Kern River and Sempra Energy Trading Corporation, in accordance with the Commission's

Policy Statement on alternatives to Traditional Cost of Service Ratemaking for Natural Gas Pipelines, and to reference the agreement in Kern River's tariff.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8773 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–320–000]

Kern River Gas Transmission Company; Notice of Report of Gas Compressor Fuel and Lost and Unaccounted-for Gas Factors for 2002

April 3, 2003.

Take notice that on March 31, 2003, Kern River Gas Transmission Company (Kern River) tendered for filing a report supporting its gas compressor fuel and lost and unaccounted-for gas factors for 2002.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 10, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8776 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–14–014]

Midwestern Gas Transmission Company; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 28, 2003, Midwestern Gas Transmission Company (Midwestern) tendered for filing to become part of Midwestern's FERC Gas Tariff, Third Revised Volume No. 1, Sixth Revised Sheet No. 273, to become effective April 1, 2003.

Midwestern states that it has entered into a Negotiated Rate Agreement with Northern Illinois Gas Company, d/b/a Nicor Gas (Nicor). Contract No. FA0166 provides the following information: (1) The exact legal name of the shipper; (2) the total charges (the negotiated rate and all applicable charges); (3) the receipt and delivery points; (4) the volume of gas to be transported; and (5) the applicable rate schedule for the service. In addition, Midwestern states that it is filing Sheet No. 273 to reflect that the Negotiated Rate contains non-conforming terms.

Midwestern further states that the information set forth in this negotiated rate agreement fully discloses the essential conditions involved in the negotiated rate transaction, including a specification of all consideration. In addition, in accordance with the orders approving Midwestern's negotiated rate option, Midwestern will keep its negotiated rate information in such form that it can be filed, separately identified, and separately totaled as part of and in the format of Statements G, I, and J in Midwestern's future section 4 rate case filings.

Midwestern states that copies of this filing have been sent to all of Midwestern's contracted shippers and interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8791 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–322–000]

Natural Gas Pipeline Company of America; Notice of Proposed Changes in FERC Gas Tariff

April 3, 2003.

Take notice that on March 31, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective April 1, 2003.

Natural states that the purpose of this filing is to revise Natural's Tariff by providing the incremental Storage Expansion 2003 recourse rates under Rate Schedule NSS pursuant to orders issued in Docket No. CP02–391–000.

Natural states that copies of the filing are being mailed to its customers and state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8778 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–080]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 31, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets, to be effective April 1, 2003.

Natural states that the purpose of this filing is to implement six (6) new negotiated rate transactions entered into by Natural and various shippers under Natural's Rate Schedule NSS pursuant to Section 49 of the General Terms and Conditions of Natural's Tariff. Natural states that these negotiated rate agreements support the expansion of the North Lansing Storage Field as authorized by the Commission in Docket No. CP02–391–000.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8793 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–081]

Natural Gas Pipeline Company of America; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 31, 2003, Natural Gas Pipeline Company of America (Natural) tendered for filing to become part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective April 1, 2003.

Natural states that the purpose of this filing is to implement a new negotiated rate transactions between Natural and Occidental Energy Marketing, Inc. under Rate Schedule FTS pursuant to section 49 of the General Terms and Conditions of Natural's Tariff.

Natural states that copies of the filing are being mailed to all parties set out on the Commission's official service list in Docket No. RP99–176.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8794 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–363–006]

North Baja Pipeline, LLC; Notice Compliance Filing

April 3, 2003.

Take notice that on March 31, 2003, North Baja Pipeline, LLC (NBP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix A to the filing, with an effective date of February 28, 2003.

NBP states that the tariff sheets are being filed to comply with the Commission's February 28, 2003, Order Granting Rehearing and Modifying Prior Order in the instant docket.

NBP further states that a copy of this filing has been served on NBP's jurisdictional customers and interested state regulatory agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8786 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–048]

Northern Natural Gas Company; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 31, 2003, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1, 29 Revised Sheet No. 66 and 25 Revised Sheet No. 66A, proposed to be effective on April 1, 2003.

Northern states that the above sheets are being filed to implement specific negotiated rate transactions with Occidental Energy Marketing, Inc. and WPS Energy Services, Inc. in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its 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 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8787 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–272–049]

Northern Natural Gas Company; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 31, 2003, Northern Natural Gas Company (Northern) tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, 30 Revised Sheet No. 66 and 26 Revised Sheet No. 66A, to be effective on April 1, 2003.

Northern states that the above sheets are being filed to implement specific negotiated rate transaction with United Energy Trading, LLC in accordance with the Commission's Policy Statement on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines.

Northern further states that copies of the filing have been mailed to each of its 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 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8788 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–325–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

April 3, 2003.

Take notice that on March 31, 2003, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A attached to the filing to become effective May 1, 2003.

Panhandle states that this filing is made in accordance with Section 25.1 (Flow Through of Cash-Out Revenues in Excess of Costs) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1.

Panhandle further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8781 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–328–000]

Panhandle Eastern Pipe Line Company; Notice of Annual Report of Flow Through of Penalty Revenues

April 3, 2003.

Take notice that on March 31, 2003, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing its Annual Report of Flow Through of Penalty Revenues.

Panhandle states that this filing is made in accordance with section 25.2(c)(i) of the General Terms and Conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1.

Panhandle further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 10, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8784 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–327–000]

Pine Needle LNG Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

April 3, 2003.

Take notice that on March 31, 2003, Pine Needle LNG Company, LLC (Pine Needle) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Third Revised Tariff Sheet No. 4, with an effective date of May 1, 2003.

Pine Needle states that the instant filing is being submitted pursuant to section 18 and section 19 of the General Terms and Conditions (GT&C) of Pine Needle's FERC Gas Tariff.

Pine Needle states that it is serving copies of the instant filing to its affected customers, interested State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8783 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–324–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Tariff Filing

April 3, 2003.

Take notice that on March 31, 2003, Southern Star Central Gas Pipeline, Inc. (Southern Star) tendered for filing as part of its FERC Gas Tariff, Original Volume No.1, Original Sheet No. 0 through Original Sheet No. 514, to become effective April 30, 2003.

Southern Star states that the purpose of this filing is to restate Southern Star's FERC Gas Tariff, Original Volume No. 1 to reflect its name change to Southern Star Central Gas Pipeline, LLC rather than Williams Gas Pipelines Central, Inc. as currently on file with the Commission. Southern Star states that the instant filing reflects the change to Southern Star, the repagination of tariff sheets and minor modifications to the text of various tariff sheets to reflect the repagination. Southern Star also states that the instant filing makes no changes to the Rates, Rate Schedules, General Terms and Conditions or Form of Service Agreements.

Southern Star further states that copies of the transmittal letter and appendices (excluding Appendix C) are being mailed to Southern Star's 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 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8780 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–119]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Tariff Filing

April 3, 2003.

Take notice that on March 31, 2003, Tennessee Gas Pipeline Company (Tennessee), tendered for filing its Negotiated Rate Tariff Filing.

Tennessee requests that the Commission approve a March 17, 2003, negotiated rate arrangement between Tennessee and Kerr McGee Corporation. Tennessee requests that the Commission grant such approval effective May 1, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8789 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–321–000]

Trailblazer Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 3, 2003.

Take notice that on March 31, 2003, Trailblazer Pipeline Company (Trailblazer) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1 (Tariff), First Revised Sheet No. 8, to be effective May 1, 2003.

Trailblazer states that the purpose of this filing is to make a periodic adjustment under Section 41 of the General Terms and Conditions of its Tariff which revises the level of the Expansion Fuel Adjustment Percentage in Trailblazer's Tariff.

Trailblazer states that copies of the filing are being mailed to its 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 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online

Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8777 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–255–058]

TransColorado Gas Transmission Company; Notice of Compliance Filing

April 3, 2003.

Take notice that on March 31, 2003, TransColorado Gas Transmission Company (TransColorado) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Revised Sheet No. 21, First Revised Sheet No. 22 and Second Revised Sheet No. 22A, to be effective April 1, 2003.

TransColorado states that the filing is being made in compliance with the Commission's letter order issued March 20, 1997, in Docket No. RP97–255–000.

TransColorado states that the tendered tariff sheets propose to revise TransColorado's Tariff to reflect an amended negotiated-rate contract with ChevronTexaco Natural Gas, a division of Chevron USA, Inc.

TransColorado further states that a copy of this filing has been served upon all parties to this proceeding, TransColorado's customers, the Colorado Public Utilities Commission and the New Mexico Public Utilities Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Protest Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8792 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–359–014]

Transcontinental Gas Pipe Line Corporation; Notice of Negotiated Rates

April 3, 2003.

Take notice that on March 31, 2003, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing executed service agreements that contain negotiated rates under Transco's Rate Schedule FT between Transco and the following Customers: Cardinal FG Company; Cargill Inc.; Chattahoochee EMC (successor to Oglethorpe Power Corporation under the Precedent Agreement); City of Buford, Georgia; City of Covington, Georgia; City of Elberton, Georgia; City of Lawrenceville, Georgia; City of Madison, Georgia; City of Sugar Hill, Georgia; City of Winder, Georgia; Clinton-Newberry Natural Gas Authority; Exelon Generation Company, LLC; Fort Hill Natural Gas Authority; Progress Ventures (successor to Carolina Power & Light Company under the Precedent Agreement); and Sylacauga Utilities Board.

Transco states that the purpose of the instant filing is to comply with requirements specified in the Commission's Order issued February 14, 2002, ''Order Issuing Certificate,'' which required Transco, among other things, to file 30 to 60 days prior to the commencement of service of the Momentum Expansion Project, the negotiated rate agreements or tariff sheets reflecting the essential elements of its negotiated rate agreements. Transco states that the effective date of these negotiated rate transactions is May 1, 2003, which is the anticipated in-service date of Phase I of the Momentum Expansion Project.

Transco states that copies of the filing are being mailed to its affected 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 385.314 or 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8790 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–323–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

April 3, 2003.

Take notice that on March 31, 2003, Williston Basin Interstate Pipeline Company (Williston Basin or Company), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, with a proposed effective date of May 1, 2003.

Williston Basin states that the revised tariff sheets will give Williston Basin

the ability to negotiate rates as provided in the Commission's January 31, 1996 Statement of Policy in Docket Nos. RM95–6–000 and RM96–7–000.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.314 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: April 14, 2003.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8779 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER992948–002, et al.]

Baltimore Gas and Electric Company, et al.; Electric Rate and Corporate Filings

April 2, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Baltimore Gas and Electric Company

[Docket No. ER99–2948–002]

Constellation Power Source Generation, Inc.

[Docket No. ER00–2918–002]

Calvert Cliffs Nuclear Power Plant, Inc.

[Docket No. ER00–2917–002]

Constellation Power Source, Inc.

[Docket No. ER00–607–002]

Oleander Power Project, Limited Partnership

[Docket No. ER00–3240–001]

Holland Energy, LLC

[Docket No. ER01–558–001]

University Park Energy, LLC

[Docket No. ER01–557–001]

Wolf Hills Energy, LLC

[Docket No. ER01–559–001]

Big Sandy Peaker Plant, LLC

[Docket No. ER01–560–001]

Handsome Lake Energy, LLC

[Docket No. ER01–556–001]

Nine Mile Point Nuclear Station, LLC

[Docket No. ER01–1654–002]

High Desert Power Project, LLC

[Docket No. ER01–2641–002]

Constellation New Energy, Inc.

[Docket No. ER02–2567–002]

Constellation Power Source Maine, LLC

[Docket No. ER02–699–001]

Power Provider LLC

[Docket No. ER01–1949–002]

Take notice that on March 28, 2003, the above-referenced entities, collectively the ''Constellation Entities,'' submitted for filing with the Federal Energy Regulatory Commission (Commission) a triennial market power update pursuant to the Commission orders granting them market-based rate authorizations.

Comment Date: April 18, 2003.

2. Bayswater Peaking Facility, LLC

[Docket No. ER02–669–001]

Take notice that on March 28, 2003, Bayswater Peaking Facility, LLC (Bayswater), with its principal office at 700 Universe Blvd., Juno Beach, Florida 33408, filed with the Federal Energy Regulatory Commission (the Commission) a Change of Status regarding its Market-based Rate application.

Comment Date: April 18, 2003.

3. Nevada Power Company

[Docket No. ER03–340–001]

Take notice that on March 25, 2003, Nevada Power Company (Nevada Power) tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a Notice of Cancellation of Service Agreement No. 101, Long-Term Firm Point-to-Point Transmission Service between Nevada Power Company and Reliant Energy Services, Inc. Nevada Power has requested an effective date for the cancellation of September 17, 2002.

Nevada Power states that this Notice of Cancellation is filed pursuant to the Commission's February 21, 2003 order in Docket No. ER03–340–000, and appropriate to Service Agreement No. 101 and the termination notice given by Reliant Energy Services, Inc. Nevada Power also states that copies of the filing were served upon Reliant Energy Services, Inc., and the Public Utilities Commission of Nevada.

Comment Date: April 15, 2003.

4. Nevada Power Company

[Docket No. ER03–340–002]

Take notice that on March 25, 2003, Nevada Power Company (Nevada Power) tendered for filing with the Federal Energy Regulatory Commission (Commission) in accordance with 18 CFR part 35 of the Commission's Rules and Regulations, a Notice of Cancellation of Service Agreement No. 100, Long-Term Firm Point-to-Point Transmission Service between Nevada Power Company and Pinnacle West Energy Corporation. Nevada Power has requested an effective date for the cancellation of September 17, 2002.

Nevada Power states that this Notice of Cancellation is filed pursuant to the Commission's February 21, 2003 Order in Docket No. ER03–340–000, and appropriate to Service Agreement No. 100 and the termination notice given by Pinnacle West Energy Corporation. Nevada Power also states that copies of the filing were served upon Pinnacle West Energy Corporation and the Public Utilities Commission of Nevada.

Comment Date: April 15, 2003.

5. Midwest Independent Transmission System Operator, Inc.

[Docket Nos. ER03–402–002]

Take notice that on March 28, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) tendered for filing proposed revisions to the Midwest ISO Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 1, in

compliance with the Commission's Order in Midwest Independent Transmission System Operator Inc., 102 FERC ¶ 61,210 (2003). The Midwest ISO has requested an effective date of March 1, 2003 consistent with the Commission's Order on compliance.

The Midwest ISO states that it has electronically served a copy of this filing, without attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, Midwest ISO states that the filing has been electronically posted on the Midwest ISO's Web site at www.midwestiso.org under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: April 18, 2003.

6. Jamaica Bay Peaking Facility, LLC

[Docket No. ER03–623–001]

Take notice that on March 28, 2003, Jamaica Bay Peaking Facility, LLC (Jamaica Bay) tendered for filing an amendment to its application for authorization to sell wholesale power at market-based rates, and certain ancillary services at market-based rates into the New York market.

Jamaica Bay states that copies of this filing have been served on the New York State Public Service Commission, the Long Island Power Authority, and the Florida Public Service Commission.

Comment Date: April 18, 2003.

7. Entergy Services, Inc.

[Docket No. ER03–667–000]

Take notice that on March 28, 2003, Entergy Services, Inc. (Entergy), on behalf of Entergy Arkansas, Inc. (Entergy Arkansas), tendered for filing with the Federal Energy Regulatory Commission (Commission) a Notice of Termination of the Interconnection and Operating Agreement and Generator Imbalance Agreement between Entergy Arkansas and AES River Mountain L.P.

Comment Date: April 18, 2003.

8. Southwest Power Pool, Inc.

[Docket No. ER03–668–000]

Take notice that on March 28, 2003, Southwest Power Pool, Inc. (SPP) submitted for filing with the Federal Energy Regulatory Commission (Commission) an unexecuted Network Integration Transmission Service Agreement and an unexecuted Network Operating Agreement with Kansas Electric Power Cooperative, Inc. (KEPCO). SPP seeks an effective date of March 1, 2003 for these agreements. SPP states that the parties have agreed to all the terms and conditions for the underlying service, and SPP will submit executed signature pages to the Commission when obtained.

SPP states that KEPCO and Western Resources, the host transmission owner, were served with a copy of this filing.

Comment Date: April 18, 2003.

9. New York State Electric & Gas Corporation

[Docket Nos. ER03–669–000]

Take notice that on March 28, 2003, New York State Electric & Gas Corporation (NYSEG) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection Agreement between NYSEG and Innovative Energy Systems, Inc. (Innovative) that sets forth the terms and conditions governing the interconnection between Innovative's generating facility in Seneca County, New York and NYSEG's transmission system.

NYSEG states that copies of this filing have been served upon Innovative, the New York State Public Service Commission, and the New York Independent System Operator, Inc.

Comment Date: April 18, 2003.

10. New York State Electric & Gas Corporation

[Docket Nos. ER03–670–000]

Take notice that on March 28, 2003, New York State Electric & Gas Corporation (NYSEG) tendered for filing with the Federal Energy Regulatory Commission (Commission) an executed Interconnection Agreement between NYSEG and Seneca Energy II, LLC (Seneca), that sets forth the terms and conditions governing the interconnection between the Seneca 11.2 MW generating plant and appurtenant facilities located in Seneca County, NY (the Plant) and NYSEG's transmission system.

NYSEG states that copies of this filing have been served upon Seneca, the New York State Public Service Commission, and the New York Independent System Operator, Inc.

Comment Date: April 18, 2003.

11. Southwest Power Pool, Inc.

[Docket No. ER03–671–000]

Take notice that on March 28, 2003, Southwest Power Pool, Inc. (SPP) submitted for filing an executed service agreement for Firm Point-to-Point Transmission Service with Western Resources d.b.a. Westar Energy (Western Resources). SPP seeks an effective date of March 1, 2003 for this service agreement.

SPP states that Western Resources was served with a copy of this filing.

Comment Date: April 18, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8763 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG03–53–000, et al.]

Reliant Energy Bighorn, LLC, et al.; Electric Rate and Corporate Filings

March 31, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Reliant Energy Bighorn, LLC

[Docket No. EG03–53–000]

Take notice that on March 27, 2003, Reliant Energy Bighorn, LLC (Reliant Bighorn) tendered for filing with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act (PUHCA).

Comment Date: April 17, 2003.

2. Midwest Independent Transmission

[Docket Nos. ER02–111–007 and ER02–652–004]

Take notice that on March 26, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) submitted for filing proposed revisions to Schedule 10 (ISO Cost Recovery Adder) and Schedule 10-A (Alternative Administrative Cost Adder) of the Midwest ISO Open Access Transmission Tariff (OATT), FERC Electric Tariff, Second Revised Volume No. 1, pursuant to Order of the Federal Energy Regulatory Commission, Midwest Independent Transmission System Operator Inc., 102 FERC ¶ 61,193.

Pursuant to the Settlement reached in these proceedings, the Midwest ISO requests an effective date of March 1, 2003.

The Midwest ISO has requested waiver of the service requirements set forth in 18 CFR 385.2010. The Midwest ISO states it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, Midwest ISO states that the filing has been electronically posted on the Midwest ISO's Web site at *http://www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter.

Comment Date: April 16, 2003.

3. American Electric Power Service Corporation

[Docket No. ER02–913–002]

Take notice that on March 27, 2003, the American Electric Power Service Corporation, on behalf of the operating companies of the American Electric Power System (collectively AEP) filed proposed amendments to the Network Integration Transmission Service Agreement originally filed in Docket No. ER02–913–000 on January 30, 2002. AEP states that the proposed amendments are intended to implement a Settlement Agreement also filed by AEP on March 27, 2003.

AEP requests an effective date of January 1, 2002. AEP states that copies of the AEP Companies' filing were served upon the parties to Docket No. ER02–913–000 and State Commissions.

Comment Date: April 17, 2003.

4. Southwestern Electric Power Company

[Docket No. ER02–2313–001]

Take notice that on March 27, 2003, Southwestern Electric Power Company (SWEPCO) submitted for filing, in compliance with the requirements of the Commission's February 25, 2003, Letter Order in Docket No. ER02–2313–000, revised sheets to its First Revised FERC Rate Schedule No. 72.

SWEPCO states that a copy of this filing has been served on each person designated on the official service list compiled by the Secretary in this proceeding.

Comment Date: April 17, 2003.

5. ISO New England Inc.

[Docket No. ER02–2330–012]

Take notice that on March 25, 2003, ISO New England Inc., (the ISO) tendered an Errata Filing to correct a Compliance Report filed on March 20, 2003. The ISO states that copies of the Errata Filing have been served upon the parties in Docket No. ER02–2330–012.

Comment Date: April 10, 2003.

6. Southern Company Services, Inc.

[Docket No. ER03–379–001]

Take notice that on March 27, 2003, Southern Company Services, Inc. (SCS), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company, and Savannah Electric and Power Company (collectively, Southern Companies), resubmitted First Revised Service Agreement No. 451 for long-term firm point-to-point transmission service under the Open Access Transmission Tariff of Southern Companies (FERC Electric Tariff, Fourth Revised Volume No. 5) (Tariff) in compliance with the Commission's Order in this proceeding dated February 25, 2003.

Comment Date: April 17, 2003.

7. Southern California Edison Company

[Docket No. ER03–549–001]

Take notice that on March 27, 2003, Southern California Edison Company (SCE) tendered for filing with the Federal Energy Regulatory Commission (Commission) an amendment to its February 20, 2003 filing by submitting revised tariff sheets to the unexecuted wholesale distribution service agreements of SCE.

Comment Date: April 10, 2003.

8. Jersey Central Power & Light Company

[Docket No. ER03–650–001]

Take notice that on March 27, 2003, Jersey Central Power & Light Company (Jersey Central) tendered for filing an amendment to the Interconnection Agreement between Jersey Central and Atlantic City Electric Company (Atlantic City), which corrects the effective date listed on the agreement.

Jersey Central states that a copy of this filing has been served upon the service list maintained by the Secretary for this proceeding, the New Jersey Board of Public Utilities and Atlantic City.

Comment Date: April 15, 2003.

9. Kansas Gas & Electric Company

[Docket ER03–652–000]

Take notice that on March 27, 2003, Kansas Gas & Electric Company (KGE) (d/b/a Westar Energy) tendered for filing a change in its Federal Power Commission Electric Service Tariff No. 93. KGE states that the change is to reflect the amount of transmission capacity requirements required by Westar Energy, Inc., (WE) under Service Schedule M to FPC Rate Schedule No. 93 for the period from June 1, 2003 through May 31, 2004. KGE requests an effective date of June 1, 2003.

KGE states that notice of the filing has been served upon the Kansas Corporation Commission.

Comment Date: April 17, 2003.

10. LMP Capital, LLC

[Docket No. ER03–653–000]

Take notice that on March 27, 2003, LMP Capital, LLC (LMP Capital) petitioned the Federal Energy Regulatory Commission (Commission) for acceptance of LMP Capital's Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

LMP Capital intends to engage in wholesale electric power and energy purchases and sales as a marketer. LMP Capital states that it is not in the business of generating or transmitting electric power. LMP Capital states that it is an independent electricity marketer with a sole purpose of buying and selling electricity in the wholesale electricity market.

Comment Date: April 17, 2003.

11. DB Energy Trading LLC

[Docket No. ER03–657–000]

Take notice that on March 27, 2003, DB Energy Trading LLC (DB Energy) tendered for filing an application for an order accepting its rate schedule to permit sales of power and capacity at market-based rates and granting certain waivers and blanket approvals. DB Energy requests waiver of the 60-day prior notice rule and requests that its rate schedule become effective April 1, 2003.

Comment Date: April 17, 2003.

12. Black Rock Group, LLC

[Docket No. ER03–658–000]

Take notice that on March 27, Black Rock Group, LLC (Black Rock) petitioned the Federal Energy Regulatory Commission (Commission) for acceptance of Black Rock Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

Black Rock states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. Black Rock states that it is not in the business of generating or transmitting electric power. Black Rock also states that it is a limited liability company in Nebraska with no current affiliates or subsidiaries.

Comment Date: April 17, 2003.

13. American Electric Power Service Corporation

[Docket No. ER03–659–000]

Take notice that on March 27, 2003, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Lawrence Energy Center LLC (First Revision to Service Agreement 433). AEPSC states that the agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Third Revised Volume No. 6, effective July 31, 2001. AEPSC requests an effective date of May 25, 2003.

AEPSC states that a copy of the filing was served upon Lawrence Energy Center and the Public Utilities Commission of Ohio.

Comment Date: April 17, 2003.

14. American Electric Power Service Corporation

[Docket No. ER03–660–000]

Take notice that on March 27, 2003, the American Electric Power Service Corporation (AEPSC) tendered for filing an executed Interconnection and Operation Agreement between Ohio Power Company and Lawrence Energy Center LLC (First Revision to Service Agreement 516). AEPSC states that the agreement is pursuant to the AEP Companies' Open Access Transmission Service Tariff (OATT) that has been designated as the Operating Companies of the American Electric Power System FERC Electric Tariff Third Revised Volume No. 6, effective July 31, 2001. AEP requests an effective date of May 25, 2003.

AEPSC states that a copy of the filing was served upon Lawrence Energy Center and the Public Utilities Commission of Ohio.

Comment Date: April 17, 2003.

15. Indianapolis Power & Light Company

[Docket No. ER03–661–000]

Take notice that on March 27, 2003, Indianapolis Power & Light Company (IPL), tendered for filing with the Federal Energy Regulatory Commission (Commission) the Modification to the Interconnection Agreement, dated December 2, 1968, between IPL and the Southern Indiana Gas & Electric Company (SIGECO) and the restated Interconnection Agreement in conformance with Order No. 614.

IPL requests an effective date for the tendered Modification of sixty (60) days from the date of filing. IPL states that a copy of the filing was served upon SIGECO.

Comment Date: April 17, 2003.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, 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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8762 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12195–000 .

c. *Date filed:* June 10, 2002, as revised February 4, 2003.

d. *Applicant:* McCloud Hydro, LLC.

e. *Name and Location of Project:* The McCloud Dam Project would be located on an existing dam on the McCloud River in Shasta County, California. The existing dam is owned by Pacific Gas and Electric (PG&E) and the project would be partially located on lands administered by PG&E. The Applicant states that the proposed project would not involve the physical alteration to PG&E's McCloud-Pitt Hydroelectric Project No. 2106.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant contact:* Mr. Brent L. Smith, President, Northwest Power Services, Inc., P.O. Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Tom Papsidero, (202) 502–6002.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would include: (1) The existing McCloud Reservoir, impounded by an existing 660-foot-long, 240-foot-high earthfill dam, having a surface area of 520 acres and a storage capacity of 35,300 acre-feet at normal maximum water surface elevation 2,680 feet msl, (2) a proposed powerhouse with a total installed capacity of 3.5 megawatts, (3) a proposed 400-foot-long, 4.5-foot-diameter penstock, (4) a proposed 6-mile-long, 15 kv transmission line, and (5) appurtenant facilities. The project would operate in a run-of-river mode and would have an average annual generation of 23 GWh.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the applicant's address in item g above.

l. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8764 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Protests, and Motions To Intervene

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12387–000.

c. *Date filed:* October 7, 2002.

d. *Applicant:* Dierks Hydro, LLC.

e. *Name and Location of Project:* The Dierks Dam Project would be located on the Saline River in Sevier County, Arkansas. The proposed project would be located on an existing dam administered by the U.S. Corps of Engineers (Corps).

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 91a—825r.

g. *Applicant contact:* Mr. Brent L. Smith, Northwest Power Services, Inc., PO Box 535, Rigby, ID 83442, (208) 745–0834.

h. *FERC Contact:* Tom Papsidero, (202) 502–6002.

i. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

j. *Description of Project:* The proposed project would utilize the Corps' existing Dierks Dam and Reservoir and would consist of: (1) A proposed 200-foot-long, 6-foot-diameter steel penstock, (2) a proposed powerhouse containing one generating unit with an installed capacity of 2 megawatts, (3) a proposed 5-mile-long, 25–kv transmission line, and (4) appurtenant facilities. The project would operate in a run-of-river mode and would have an average annual generation of 18 GWh.

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at Dierks Hydro, LLC, 975 South State Highway, Logan, UT 84321, (435) 752–2580.

l. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

m. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

n. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8765 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12441–000.

c. *Date Filed:* February 6, 2003.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Mississippi L&D #16 Hydroelectric Project.

f. *Location:* The proposed project would be located on an existing dam owned by the U.S. Army Corps of Engineers (Corps), on the Mississippi River in Rock Island County, Illinois.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Raymond Helter, Universal Electric Power Corporation, 1145 Highbrook Street, Akron, OH 44301, (330) 535–7115.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 502–8763.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed run-of-river project using the Corps' existing dam would consist of: (1) Seven 9-foot-diameter, 80-foot-long steel penstocks, (2) a powerhouse containing seven generating units with a total installed capacity of 14 MWs, (3) a 14.7–kv transmission line approximately 1.5 miles long, and (4) appurtenant facilities. The project would have an annual generation of 86 GWh.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8766 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12446–000.

c. *Date filed:* February 19, 2003.

d. *Applicant:* The Green Power Company of Kentucky.

e. *Name of Project:* Green River Lake Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Green River Lake Dam on the Green River, near the Towns of Campbellsville, Columbia, and Elkhorn, Taylor County, Kentucky.

g. *Filed pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* David Brown Kinloch, Soft Energy Associates, 414 S.Wenzel Street, Louisville, Kentucky 40204, (502) 589–0975.

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

k. *Competing Application:* Project No. 12353–000, *Date Filed:* August 21, 2002, Due Date: February 24, 2003.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Green River Lake Dam, and would consist of: (1) Three proposed 63-inch HDPE siphoning penstocks, about 1500 feet in length; (2) twelve proposed 600 mm crossflow turbines placed at the end of the penstocks (four turbines per penstock); (3) a proposed powerhouse containing twelve 350 kW generator units having a total installed capacity of 4.2 MW, and (4) appurtenant facilities. The project would have an estimated annual generation of 18,000 MWh.

m. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h.

n. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications or notices of intent. Any competing preliminary permit or development application or notice of intent to file a competing preliminary permit or development application must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests, and motions to intervene 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.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8767 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No:* 12447–000.

c. *Date Filed:* February 19, 2003.

d. *Applicant:* Fort Dodge Hydroelectric Development Company.

e. *Name of Project:* Fort Dodge Mill Dam Hydro Power Project.

f. *Location:* The proposed project would be located on an existing dam owned by the City of Fort Dodge, on the Des Moines River in Webster County, Iowa.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

h. *Applicant Contact:* Mr. Thomas J. Wilkinson, Jr., Fort Dodge Hydroelectric Development Company, 1910 Alliant Tower, 200 1st St. SE., Cedar Rapids, Iowa 52401, (319) 364–0171.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Lynn R. Miles, Sr. at (202) 502–8763.

j. *Deadline for filing motions to intervene, protests and comments:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed facility is a run-of-river installation consisting of: (1) A 342-foot-long and 18-foot-high concrete dam, (2) a 230-foot-long overflow spillway with

30-inch flashboards and five 15 foot electrically operated tainter gates with a hydraulic height of 15 feet, (3) an impoundment having a service area of 90 acres and storage capacity of 450 acre-feet and a normal water surface elevation of 990 feet msl, (4) a powerhouse containing two generating units with a total installed capacity of 1,260 MW, (5) a 13.8-kv transmission line approximately 2,400-feet-long, and (6) appurtenant facilities. The project would have an annual generation of 7.5 GWh.

l. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Competing Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (*see* 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

n. Competing Development Application—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

o. Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

p. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

q. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

r. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. An additional copy must be sent to Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

s. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8768 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedures for Relicensing and a Deadline for Submission of Final Amendments

April 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* New License—Major Project.

b. *Project No.:* 2174–012.

c. *Date Filed:* March 27, 2003.

d. *Applicant:* Southern California Edison.

e. *Name of Project:* Portal Project.

f. *Location:* On Rancheria Creek in Fresno County, near Big Creek, California. The project affects federal lands in the Sierra National Forest, covering a total of 77.67 acres.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)-825(r).

h. *Applicant Contact:* R. W. Krieger, Vice President, Power Production, Southern California Edison Company, 300 N. Lone Hill Ave., San Dimas, California 91773, (909) 394–8667.

i. *FERC Contact:* Jim Fargo, (202) 502–6095 or *James.Fargo@FERC.gov*.

j. *Deadline for filing additional study requests:* May 27, 2003.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project.

Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

Additional study requests may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filing.*See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link. After logging into the e-Filing system, select ''Comment on Filing'' from the Filing Type Selection screen and continue with the filing process.''

k. This application is not ready for environmental analysis at this time.

l. The existing Portal Project consists of: (1) A 795-foot-long compacted earth and rock-fill dam; (2) Portal Forebay, with a 325 acre-foot useable storage capacity at elevation 7,185 feet; (3) an open channel spillway at the left abutment of the dam, discharging into Camp 61 Creek; (4) an outlet channel consisting of (a) the Adit 2 tunnel and shaft between Portal Forebay and Ward Tunnel, (b) Ward Tunnel for a distance of about 32,000 feet from Adit 2 to the base of the surge chamber on the tunnel, (c) a rock trap immediately downstream of the surge chamber, and (d) a 1,180-foot-long penstock from the rock trap to where it bifurcates just upstream of the Portal Powerhouse; (5) a 10.8-MW turbine located in the concrete powerhouse; and (6) a 2.5-mile-long 480 kV transmission line.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. With this notice, we are initiating consultation with the California State Historic Preservation Officer (SHPO), as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

o. *Procedural schedule and final amendments:* The application will be processed according to the following milestones, some of which may be combined to expedite processing:

Notice of application has been accepted for filing.
Notice of NEPA Scoping.
Notice of application is ready for environmental analysis.
Notice of the availability of the NEPA document.
Order issuing the Commission's decision on the application.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8769 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 3, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Recreation Plan.

b. *Project No:* 2496–070.

c. *Date Filed:* February 20, 2003.

d. *Applicant:* Eugene Water and Electric Board (EWEB).

e. *Name of Project:* Leaburg-Walterville Project.

f. *Location:* The project is located on the Mckenzie River in Lane County, Oregon.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Mr Gale Banry, Energy Resource Project Manager, Eugene Water and Electric Board, (541) 484–2411.

i. *FERC Contact:* Any questions on this notice should be addressed to Mrs. Heather Campbell at (202) 502–6182, or e-mail address: *heather.campbell@ferc.gov*.

j. *Deadline for filing comments and or motions:* May 5, 2003.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P–2496–070) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* The licensee filed a recreation plan pursuant to article 432 of its license. The plan addresses recreational enhancements at the project, including a boat launch take out facility, trails, day-use facilities and signage.

l. *Location of the Application:* This filing is available for review at the Commission in the Public Reference Room 888 First Street, NE., Room 2A, Washington, DC 20426 or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for

filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8770 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Amendment of License and Soliciting Comments, Motions to Intervene, and Protests

April 3, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of License to Change Project Boundary.

b. *Project No:* 2663–026.

c. *Date Filed:* March 6, 2003.

d. *Applicant:* Minnesota Power, Inc.

e. *Name of Project:* Pillager Hydroelectric Project.

f. *Location:* The project is located on the Crow Wing River in Cass and Morrison County, Minnesota.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Thomas E. Castle, Minnesota Power, Inc., 30 West Superior Street, Duluth, Minnesota 55802–2093, (218) 722–5642, extension 3595.

i. *FERC Contact:* Any questions on this notice should be addressed to Mr. Jake Tung at (202) 502–8757, or e-mail address: *hong.tung@ferc.gov*.

j. *Deadline for filing comments and or motions:* May 5, 2003.

k. *Description of Request*: The licensee proposes: (1) To extend the project boundary from 1199 feet National Geodetic Vertical Datum (NGVD) to 1203.85 feet NGVD; (2) to acquire approximately 75 acres of additional flowage rights to operate and maintain the project; and (3) to remove from the project boundary approximately 315 acres of private property.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8771 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 3, 2003.

Take notice the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type*: Amendment of License.

b. *Project No.:* 4656–016.

c. *Date Filed:* March 18, 2003.

d. *Applicants:* Boise-Kuna Irrigation District, Nampa & Meridian Irrigation District, New York Irrigation District, Wilder Irrigation District, and Big Bend Irrigation District (the Districts).

e. *Name of Project:* Arrowrock Dam.

f. *Location:* At the U.S. Bureau of Reclamation's (Reclamation) existing Arrowrock Dam and Reservoir on the South Fork of the Boise River, in Elmore and Ada Counties, Idaho. Parts of the project would occupy lands managed by Reclamation and the U. S. Corps of Engineers and lands managed by the U.S. Forest Service within the Boise National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Albert P. Barker, Barker Rosholt & Simpson LLP, 205 North 10th Street, Suite 520, Boise, ID 83701, (208) 336–0700.

i. *FERC Contact:* Regina Saizan, (202) 502–8765.

j. *Deadline for filing motions to intervene, protests, comments:* May 5, 2003.

The Commission's Rules of Practice and Procedure require all interveners filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

k. *Description of Amendment:* The Districts request, among other things, pursuant to sections 4.200(c) and 4.202(a) of the Commission's regulations and Public Law No. 106–343, that the license be amended to extend the deadline for commencement of construction to March 26, 2005. The Districts also request that the deadline for completion of construction be extended to March 26, 2007.

l. The 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.fed.gov* using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—-Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—-Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing an original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests, and motions to intervene 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.

p. Agency Comments—-Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. 03–8772 Filed 4–9–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OEI–2003–0003, FRL–7479–7]

Agency Information Collection Activities: Continuing Collection; Comment Request; Confidentiality Rules

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following continuing Information Collection Request (ICR) to the Office of Management and Budget (OMB): Confidentiality Rules, EPA ICR No. 1665.06, OMB Control No. 2020–0003, expiration date September 30, 2003. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before June 9, 2003.

ADDRESSES: Follow the detailed instructions in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Alan D. Margolis, Collection Stategies Division, Office of Information Collection (2822T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: 202–566–1644; fax number: 202–566–1639; e-mail address: *margolis.alan@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has established a public docket for this ICR under Docket ID number OEI–2003–0003, which is available for public viewing at the OEI Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752; FAX (202) 566–1753. An electronic version of the public docket is available through EPA Dockets (EDOCKET) at *http://www.epa.gov/edocket.* Use EDOCKET to obtain a copy of the draft collection of information, submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA within 60 days of this notice, and according to the following detailed instructions: submit your comments to EPA online using EDOCKET (our preferred method), by e-mail to *oei.docket@epa.gov*, or by mail to: EPA Docket Center, Environmental Protection Agency, OEI Docket, (28221T), 1200 Pennsylvania Ave., NW., Washington, DC 20460.

EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EDOCKET as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EDOCKET. The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing in EDOCKET. For further information about the electronic docket, *see* EPA's **Federal Register** notice describing the electronic docket at 67 FR 38102 (May 31, 2002), or go to *http://www.epa.gov/edocket.*

Affected entities: Entities potentially affected by this action are those who characterize the information they provide to EPA as CBI.

Title: Confidentiality Rules, OMB Control Number 2020–0003; EPA ICR Number 1665.06, expiring 9/30/2003.

Abstract: EPA administers a number of environmental protection statutes (*e.g.*, the Clean Water Act; the Clean Air Act; the Toxic Substances Control Act; the Resource Conservation and Recovery Act; and the Comprehensive Environmental Response, Compensation, and Liability Act), under which the Agency collects information from thousands of facilities in many economic sectors. In addition, businesses submit information to EPA without the Agency requesting it. The information addresses topics such as toxic chemicals, industrial processes, waste streams, and regulatory compliance. In many cases, businesses that submit information claim it as CBI. EPA established the procedures described in 40 CFR part 2, subparts A and B, to protect the confidentiality of information as well as the rights of the public to obtain access to information under the Freedom of Information Act (FOIA). In accordance with these regulations, when EPA finds it necessary to make a final confidentiality determination (*e.g.*, in response to a FOIA request or in the course of rulemaking or litigation) or an advance confidentiality determination, it notifies the affected business by sending a letter requesting substantiation of the confidentiality claim. This letter provides the affected business with an opportunity to submit comments (*i.e.*, a substantiation). This ICR relates to the collection of information that will assist EPA in determining whether previously submitted information is entitled to confidential treatment.

EPA is proposing to use an updated Request for Substantiation letter (''proposed letter''). The proposed letter consists of two samples to address separate factual situations: Sample Letter A and Sample Letter B. The use of two letters is a clarification of existing EPA procedures. Some of the information requested differs slightly from the current Request for Substantiation letter, concerning the possible voluntary nature of the submission and the issue of substantial competitive harm, and takes into account the vast amount of information now available electronically. Nevertheless, EPA estimates that the overall burden is the same. The proposed letter would apply to any context where a final confidentiality determination is needed, either in response to FOIA requests or in other situations (*e.g.*, where EPA is making information public to support rulemakings), or in the case of an advance confidentiality determination.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

EPA is soliciting comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Current Burden Statement: EPA estimates that in response to the procedures outlined in 40 CFR part 2, subpart B, the Agency would notify 543 businesses annually and provide them with an opportunity to submit comments explaining why previously submitted information should be treated as confidential. Of the 543 businesses, EPA estimates that approximately 443 industries would respond by submitting substantiations. The Agency estimates that it takes industry approximately 14 hours and $464.43 in labor costs to prepare and submit each substantiation; or a total of 6,202 hours at a cost of $205,742.49 in labor for all 443 substantiations. For those 100 businesses that do not submit substantiations, they are still likely to spend approximately 1 hour at a cost of $32.04 in labor to review EPA's notice, examine the information in question, and make a decision not to respond; or a total of 100 hours at a cost of $3,204.00 in labor costs for reviewing and deciding not to respond in 100 cases. The total burden on industry to review and, if desired, respond to 543 EPA substantiation requests is 6,302 hours at a cost of $208,946.49 in labor.

In addition, when EPA utilizes the services of contractors/subcontractors under the authority of 40 CFR part 2, subpart B, all contractor/subcontractor employees who may be given access to confidential information must first sign confidentiality agreements stating that they will honor the terms of the contract/subcontract which requires the protection of CBI. Contractor/subcontractor businesses must maintain a file of all such agreements. EPA estimates that there are about 129 contractor/subcontractor businesses that handle CBI in connection with their work for EPA each year. These 129 contractor/subcontractor businesses together have a total of approximately 658 employees who must sign confidentiality agreements each year. Each employee would need approximately 0.1 hour to review and sign an agreement, at a cost of $3.34 in labor; employees' review and signature of all agreements would require approximately 65.8 hours at a cost of $2,197.72 in labor per year. In addition, each subcontractor/contractor business would need approximately 0.5 hour at a cost of $8.07 in labor per year to maintain a file of employee confidentiality agreements; the 129 contractor/subcontractor businesses together would require a total of 64.5 hours at a labor cost of $1,041.03 to maintain a file of confidentiality agreements. The total burden for signing and maintaining confidentiality agreements would thus be 130.3 hours at a cost of $3,238.75.

The overall burden for handling confidentiality claims—including the substantiation process and the signing and maintaining of confidentiality agreements—would be 6,432.3 hours at a total labor cost of $212,185.24 per year. EPA estimates that no capital costs or operation and maintenance costs would be incurred as a result of this information collection.

EPA is soliciting the following additional information to assist in its assessment of the Agency's burden statement:

1. How many substantiation requests do you receive from EPA per year? How many CBI substantiations do you submit per year in response?

2. What is the average number, type, and level of staff involved in preparing a substantiation of CBI claims?

3. What is the average number of hours per staff type and level required to prepare a substantiation of CBI claims? How does this hour estimate breakdown by the following activities:

a. Read/review EPA's substantiation request.

b. Review information claimed confidential.

c. Prepare substantiation.

4. What is the average wage per hour for each staff type and level involved in preparing substantiations?

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Dated: April 2, 2003.

Mark Luttner,

Director, Office of Information Collection.

[FR Doc. 03–8827 Filed 4–9–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–638]

ITFS, MDS, and MMDS Pending Legal Matters

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Wireless Telecommunications Bureau (WTB) has released two lists, the first contains legal matters with a filing date prior to March 25, 2002 where the applicant/licensee (or petitioner, if the petitioner is not the applicant or licensee) did not respond to the October Public Notice. Accordingly, any items on the first list are dismissed with prejudice. The second list contains all the current pending legal matters that are in WTB's records in the Instructional Television Fixed Service (ITFS), the Multipoint Distribution Service (MDS), and the Multichannel Multipoint Distribution Service (MMDS). This Public Notice ensures that the WTB has a complete and accurate listing of all pending legal matters in the ITFS, the MDS, and the MMDS, which will enable the WTB to act on these pending legal matters.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Gregory Vadas, Esq., Policy and Rules Branch, at (202) 418–0680.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Public Notice,* DA 03–638, released on March 18, 2002. The full text of this document is available for inspection and copying during normal business hours in the Federal Communications Commission Reference Center, 445 12th Street, SW., Washington, DC 20554. The complete text may be purchased from the Federal Communications Commission's copy contractor, Qualex International, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. The full text may also be downloaded at: *http://www.fcc.gov.* Alternative formats are available to persons with disabilities by contacting Brian Millin at (202) 418–7426 or TTY (202) 418–7365 or at *bmillin@fcc.gov.*

1. On October 18, 2002, the Wireless Telecommunications Bureau (WTB) released a Public Notice (*October Public Notice*) in which it sought to ensure that it had a complete and accurate listing of all pending legal matters in the Instructional Television Fixed Service (ITFS), the Multipoint Distribution Service (MDS), and the Multichannel Multipoint Distribution Service (MMDS). An Appendix (*October Appendix*) containing a list of all of the pending ITFS, MDS, and MMDS cases was attached to the *October Public Notice.* The *October Appendix* indicated the name of the applicant/licensee, the file number/call sign, the pleading type and filing date, the name of the petitioner, if not the applicant, and whether the file was complete. WTB required that all ITFS, MDS, and MMDS licensees, applicants, and other parties with pending pleadings relating to these services review and verify the information contained in the *October Appendix.* For legal matters with a filing date before March 25, 2002, WTB required that licensees, applicants, and other parties with pending pleadings respond in writing by December 17, 2002 if they desired that WTB continue processing these matters.

2. Appendix A to this Public Notice contains a list of those legal matters with a filing date prior to March 25, 2002 where the applicant/licensee (or petitioner, if the petitioner is not the applicant or licensee) did not respond to the *October Public Notice.* In the *October Public Notice,* WTB indicated, ''For any legal matter for which written affirmations requesting further processing have not been received, those legal matters will be dismissed with prejudice.'' Accordingly, *it is ordered,* pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and sections 21.28(d) and 73.3568(a)(1) of the Commission's Rules, 47 CFR 21.28 (d), 73.3568(a)(1), the legal matters listed in Appendix A to this Public Notice *are hereby dismissed with prejudice.*

3. WTB also requested petitioners of legal matters pending before the Bureau to review the list of pending matters in the *October Appendix.* If a pending matter was omitted from the *October Appendix,* WTB required petitioners to submit two date-stamped copies of the omitted petition or filing by December 17, 2002 if the petitioner desired to continue prosecuting the filing. After our review of these files, we have determined that the cases listed in Appendix B to this Public Notice are all the valid pending legal matters that are contained in WTB's records.

4. With respect to other requests to add legal matters to its list of pending legal matters, the WTB notes that in many instances, the respondent, but not the petitioner, submitted legal matters. In those cases, we are not adding those matters to our list of pending legal matters because the petitioner did not express interest in prosecuting the matter.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Applicant/licensee	File No./call sign	Petitioner (if not applicant)	Filing date	Pleading type
Alda Gold, Inc	BPMD–9551382		3/28/97	Petition for Reconsideration.
Alda Gold, Inc	BPMD–9551384		3/28/97	Petition for Reconsideration.
Alda Gold, Inc	BPMD–9551386		3/28/97	Petition for Reconsideration.
Alda Gold, Inc	WHJ902		3/28/97	Petition for Reconsideration.
Alda Gold, Inc	WHK656		3/28/97	Petition for Reconsideration.
Alda Gold, Inc	WNTL436		3/28/97	Petition for Reconsideration.
Atlantic MicroSystems, Inc	BMDP960510FG		6/17/96	Petition to Deny.
Bookcliff Christian School	951020TS		6/16/97	Informal Complaint.
Bridgewater College	BPLIF–93123OEX		2/26/96	Petition for Reconsideration.
Burlington College	911008DX	Ascutney Associates, Inc	1/3/92	Petition to Deny.

Applicant/licensee	File No./call sign	Petitioner (if not applicant)	Filing date	Pleading type
Burlington College	920110DE	Ascutney Associates, Inc	4/16/92	Petition to Deny.
Century Microwave Corp	BALMD–20000421AAC	Sprint Corp	4/21/00	Petition to Deny.
Century Microwave Corp	WMH689	Sprint Corp	4/21/00	Petition to Deny.
Champion Industries, Inc	BPMD–9551406		3/28/97	Petition for Reconsideration.
Champion Industries, Inc	WNTK634		3/28/97	Petition for Reconsideration.
Champlain College, Shoreham, Vermont.	BPLIF–911010DS	Champlain College, Shoreham, Vermont.	1/13/92	Petition to Deny.
Creighton Univ	931230DU	ABG Foundation NE Chapter, Inc.	5/31/94	Petition to Deny.
CS Wireless Systems, Inc	9750418	Dallas MDS Partners	3/4/97	Petition to Deny.
CS Wireless Systems, Inc	WHT789	Dallas MDS Partners	3/4/97	Petition to Deny.
Dennis R. Long	BALMD–20011106AAE	Wireless Cable Television of Pennsylvania, Inc and Wireless Telecommunications, Inc.	9/11/95	Petition to Deny.
Dennis R. Long	BALMD–955197	Wireless Cable Television of Pennsylvania, Inc and Wireless Telecommunications, Inc.	9/11/95	Petition to Deny.
Dennis R. Long	WMI836	Wireless Cable Television of Pennsylvania, Inc and Wireless Telecommunications, Inc.	9/11/95	Petition to Deny.
Gould Communications	WNTF307	Sprint Corp	7/21/00	Informal Complaint.
Heartland Wireless Commercial Channels, Inc.	980518LF		6/30/98	Petition to Deny.
Hubbard Trust (San Marcos, CA).	BRMD–9157898		4/2/97	Petition for Clarification.
Hubbard Trust (San Marcos, CA).	WPX85		4/2/97	Petition for Clarification.
Iberville Parish School and LA State Institute Alumni Associates.	931228DI	Louisiana Art	5/31/94	Petition to Deny.
Iberville Parish School and LA State Alumni Associates.	931230HE	Lousiana Art Institute	5/31/94	Petition to Deny.
Ivan Nachman; Blake Twedt; John Dudek (Burlington, VT).	BLMD–9350608	Vermont Wireless	4/14/93	Informal Complaint Cooperative.
Ivan Nachman; Blake Twedt; John Dudek (Burlington, VT).	BLMD–9350609	Vermont Wireless Cooperative.	4/14/93	Informal Complaint.
Ivan Nachman; Blake Twedt; John Dudek (Burlington, VT).	BLMD–9350610	Vermont Wireless Cooperative.	4/14/93	Informal Complaint.
Ivan Nachman; Blake Twedt; John Dudek (Burlington, VT).	WNTH842	Vermont Wireless Cooperative.	4/14/93	Informal Complaint.
Ivan Nachman; Blake Twedt; John Dudek (Burlington, VT).	WNTI675	Vermont Wireless Cooperative.	4/14/93	Informal Complaint.
Ivan Nachman; Blake Twedt; John Dudek (Burlington, VT).	WNTI680	Vermont Wireless Cooperative.	4/14/93	Informal Complaint.
JMP Telecom Systems, Inc	51022–CM–P–92		8/10/95	Petition for Reconsideration.
KNRW Wireless, L.P.	55137–CM–P–90		6/27/95	Petition for Reconsideration.
Libmot Communications	BALMD–20000721AAE		7/21/00	Informal Complaint.
Libmot Communications	WNTG452		7/21/00	Informal Complaint.
Line of Site, Inc; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	BLMD–9253087	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	BLMD–9350403	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc; Young Communications; Libmot Communications Partnership; Gould (Omaha, NE).	BLMD–9350428	Ad Hoc Committee of Wireless Development Partners I and Communications Skycable of Omaha, LLC.	9/8/94	Informal Complaint.

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Line of Site, Inc; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	BPMD–7705208	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc.; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	BPMD–8950226	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc.; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	WHT777	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc.; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	WLW992	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc.; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	WNTF307	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Line of Site, Inc.; Young Communications; Libmot Communications Partnership; Gould Communications (Omaha, NE).	WNTF452	Ad Hoc Committee of Wireless Development Partners I and Skycable of Omaha, LLC.	9/8/94	Informal Complaint.
Multi Micro, Inc	BTCMD–20010815AAJ	WinBeam, Inc	11/5/01	Informal Complaint.
Multi Micro, Inc	WMH661	WinBeam, Inc	11/5/01	Informal Complaint.
Multi Micro, Inc	WMI413	WinBeam, Inc	11/5/01	Informal Complaint.
Multi Micro, Inc	WMI970	WinBeam, Inc	11/5/01	Informal Complaint.
Multi Micro, Inc	WMX703	WinBeam, Inc	11/5/01	Informal Complaint.
Multi Micro, Inc	WMX704	WinBeam, Inc	11/5/01	Informal Complaint.
Multi Micro, Inc	WNTJ462	WinBeam, Inc	11/5/01	Informal Complaint.
Multichannel Distribution of America (Myrtle Beach, SC).	BMPMD–9550321		5/6/96	Petition for Reconsideration.
Multichannel Distribution of America (Myrtle Beach, SC).	WLK351		5/6/96	Petition for Reconsideration.
MultiMicro, Inc	BRMD–20010323ABE	WinBeam, Inc	8/30/01	Petition to Deny.
MultiMicro, Inc	BRMD–20010323ABF	WinBeam, Inc	8/30/01	Petition to Deny.
Multi-Micro, Inc., Channels F1–F4 in Parkersburg, WV.	BPMDH–20000818ACZ		4/2/01	Petition to Deny.
Multi-Micro, Inc., Channels F1–F4 in Parkersburg, WV.	BPMDH–20000818ADX		4/2/01	Petition to Deny.
Multi-Micro, Inc., Channels F1–F4 in Parkersburg, WV.	BPMDH–20000818DIK		4/2/01	Petition to Deny.
Myrtle Beach E Partnership (Myrtle Beach, SC).	BPMD–9053281		8/8/94	Petition for Reconsideration.
Northern Rural Cable TV Cooperative, Inc. (Bath/Aberdeen, SD).	BPMD–9212856		9/11/98	Informal Complaint.
Northern Rural Cable TV Cooperative, Inc. (Bath/Aberdeen, SD).	WMY463		9/11/98	Informal Complaint.
Ouachita Academy of Arts and Science Rayville, Louisiana.	BPLIF–920309DA		1/18/95	Petition for Reconsideration.
Ouachita Academy of Arts and Science Rayville, Louisiana.	BPLIF–930219DN		1/18/95	Petition for Reconsideration.
Ouachita Academy of Arts and Science Rayville, Louisiana.	BPLIF–930219DP		1/18/95	Petition for Reconsideration.
Paging Systems, Inc	BMPMD–9551420		11/3/95	Petition to Deny.
Paging Systems, Inc	WNTF895		11/3/95	Petition to Deny.
Richard Levy	52898–CM–P–90		11/23/96	Petition for Reconsideration.
School Board of Dade County, Florida.	BMPLIF–950915HW		11/1/96	Petition to Deny.
Senvista General Partnership Inc.	9750738	Paradise Cable	8/8/97	Petition to Deny.

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Senvista General Partnership Inc.	WNTK634	Paradise Cable	8/8/97	Petition to Deny.
Senvista General Partnership Inc. (Bradenton, FL).	BMPMD–9750738	Paradise Cable	7/5/96	Petition for Reconsideration.
Senvista General Partnership Inc. (Bradenton, FL).	BMPMD–9551406	Paradise Cable	7/5/96	Petition for Reconsideration.
Senvista General Partnership Inc. (Bradenton, FL).	WNTK634	Paradise Cable	7/5/96	Petition for Reconsideration.
Tattnall County Board	BPLIF951020T6	Armstrong State College	7/30/98	Petition to Deny.
The School Board of Miami-Dade County, Florida.	BMPLIF–19950915HW		1/31/01	Waiver Request.
The School Board of Miami-Dade County, Florida.	KTB85		1/31/01	Waiver Request.
Tide Microcable II Partnership	53025–CM–P–91		5/26/95	Petition for Reconsideration.
United Management Services-Eugene, Oregon F.	54302–CM–P–90		8/7/95	Petition for Reconsideration.
United/JCL Eureka, CA F Grand Alliance.	54855–CM–P–90		3/2/95	Petition for Reconsideration.
Victor Elementary School District.	BPLIF941201DA		11/1/96	Petition for Relief.
Walter Communications	BALMD–5159695	Wireless Cable Television of Pennsylvania, Inc. and Wireless Telecommunications, Inc..	9/11/95	Petition to Deny.
Walter Communications	WMH648	Wireless Cable Television of Pennsylvania, Inc. and Wireless Telecommunications, Inc..	9/11/95	Petition to Deny.
Wireless One of Augusta, Inc.	BMDP960510OY	Bonnie D. O'Connell	6/17/96	Petition to Deny.
Wireless One of Augusta, Inc	BMDP960510OZ	Bonnie D. O'Connell	6/17/96	Petition to Deny.
WTB, Inc	BALMD–20000927AAA		9/27/01	Waiver Request.
WTB, Inc	BALMD–20010129AEH		9/27/01	Waiver Request.
WTB, Inc	BTA342		9/27/01	Waiver Request.
WTB, Inc	KNSC260		9/27/01	Waiver Request.
WTB, Inc	KNSC303		9/27/01	Waiver Request.
WTB, Inc	KNSD413		9/27/01	Waiver Request.

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ABG Foundation, Nebraska Chapter, Inc.	BPLIF–19920925DE	Petition to Deny	USA Wireless Cable, Inc	12/30/93
AIG Radio Holding Co., Inc. (Bremerton, WA).	BRMD–20010330AGU	Petition for Reconsideration		9/25/01
AIG Radio Holding Co., Inc. (Bremerton, WA).	WMI890	Petition for Reconsideration		9/25/01
Alaska Wireless Cable, Inc.	WPY44	Waiver Request		12/6/02
Albion Community Development Corporation.	BPLIF–951017AB	Petition for Reconsideration		4/16/02
Albion Community Development Corporation.	BALIF–20010214AAD	Petition for Reconsideration		4/18/02
Albion Community Development Corporation.	BALIF–20010214AAE	Petition for Reconsideration		4/18/02
Albion Community Development Corporation.	BALIF–20010214AAF	Petition for Reconsideration		4/18/02
Albion Community Development Corporation.	BALIF–20010214AAG	Petition for Reconsideration		4/18/02
Albion Community Development Corporation.	BALIF–20010214AAH	Petition for Reconsideration		4/18/02
Albion Community Development Corporation.	BALIF–20010214AAI	Petition for Reconsideration		4/18/02
Albion Community Development Corporation.	WLX531	Petition for Reconsideration		4/18/02
Albion/Jackson, Michigan Petitions.	BPLIF–920402DL	Petition to Deny		2/19/93
Albion/Jackson, Michigan Petitions.	BPLIF–920402DM	Petition to Deny		2/19/93
Albion/Jackson, Michigan Petitions.	BPLIF–920717DB	Petition to Deny		2/19/93
Allan Leeds	KNSC404	Petition for Reconsideration		3/15/02
Allan Leeds	20000818BTQ	Petition for Reconsideration		3/15/02
Alliance for Higher Education	50423–CM–P–98	Petition to Deny	Dallas MDS Partners	5/18/98
Alliance for Higher Education	KWU29	Petition to Deny	Dallas MDS Partners	5/18/98
Alliance for Higher Education	KWU30	Petition to Deny	Dallas MDS Partners	5/18/98

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Alma College, Mount Pleasant Baptist Academy, Mount Pleasant Public Schools, & Central Michigan Univ.	WNC270	Waiver Request		6/22/98
Alma College, Mount Pleasant Baptist Academy, Mount Pleasant Public Schools, & Central Michigan Univ.	WNC271	Waiver Request		6/22/98
Alma College, Mount Pleasant Baptist Academy, Mount Pleasant Public Schools, & Central Michigan Univ.	WNC272	Waiver Request		6/22/98
Alma College, Mount Pleasant Baptist Academy, Mount Pleasant Public Schools, & Central Michigan Univ.	WNC273	Waiver Request		6/22/98
Amarillo Independent School District.	BPLIF–19910722DD	Petition to Deny	United States Wireless Cable, Inc.	9/20/91
Amarillo Independent School District.	BPLIF–19910722DE	Informal objection	United States Wireless Cable, Inc.	9/2/92
American Telecasting of Portland.	20000818BHL	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BHX	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BID	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BTC	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BUC	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BUJ	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BVQ	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BVY	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	20000818BWD	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland.	WHT647	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	4/2/01
American Telecasting of Portland, Inc.	BPMD–20000104AAG	Petition to Deny		4/2/01
Aquas Buenas, Puerto Rico Settlement.	BMPLIF–19940317DJ	Petition for Relief		5/29/98
Aquas Buenas, Puerto Rico Settlement.	BMPLIF–19950914MD	Petition for Relief		5/29/98
Aquas Buenas, Puerto Rico Settlement.	BPLIF–19941201DB	Petition for Relief		5/29/98
Aquas Buenas, Puerto Rico Settlement.	BPLIF–19950515EZ	Petition for Relief		5/29/98
Aquas Buenas, Puerto Rico Settlement.	BPLIF–19950915EY	Petition for Relief		5/29/98
Armstrong State College	BPLIF951020VB	Petition to Deny	Wireless One, Inc	1/8/97
ASC Communications, Inc	14693–CM–P–83	Petition for Declaratory Ruling		7/25/94
ASC Communications, Inc	WMH541	Petition for Declaratory Ruling		7/25/94
ASC Communications, Inc	BMPMD–9650762	Petition for Relief	Pacific Telesis Enterprises	1/17/96
ASC Communications, Inc	WMH541	Petition for Relief	Pacific Telesis Enterprises	1/17/96
ASC Communications, Inc	19991202AAE	Waiver Request		12/2/99
ASC Communications, Inc	WMH541	Waiver Request		12/2/99
Ball State University	BPLIF–95102OHU	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	9/21/98
Barry University	BPLIF–951020PU	Petition to Deny	School Board of Dade County	11/1/96
Barry University	KTZ22	Petition to Deny	School Board of Dade County	11/1/96

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Bartlesville Public Schools	BPLIF–19951020B8	Petition for Reconsideration ..	.....	8/7/97
Baypoint TV, Inc	1192–CM–P–83	Petition for Reconsideration ..	.....	9/10/01
Belwen, Inc. (Wilmington, NC)	BLMD–9450421	Petition for Relief	.....	8/28/96
Belwen, Inc. (Wilmington, NC)	WMI297	Petition for Relief	.....	8/28/96
BOCES Sole Supervisory District Oneida, Herkimer, and Madison Counties.	BPLIF–19931230FU	Petition for Reconsideration ..	Albion Community Development Corp.	5/25/95
Bonanza Partners, Inc	51067–CM–MP–96	Petition to Deny	American Telecasting Development, Inc.	8/6/96
Bonanza Partners, Inc	WNTM679	Petition to Deny	American Telecasting Development, Inc.	8/6/96
Borough of Point Pleasant Beach.	BPLIF–19951020RN	Petition to Deny	CAI Wireless Systems, Inc	5/6/98
California State University, San Bernardino.	BMPLIF–19951020L6	Petition for Relief	.....	12/31/01
California State University, San Bernardino.	BMPLIF–19951020M5	Petition for Relief	.....	12/31/01
California State University, San Bernardino.	BMPLIF–951020KI	Petition for Relief	.....	12/31/01
California State University, San Bernardino.	BPLIF–19951020LF	Petition for Relief	.....	12/31/01
Carbon Lehigh Intermediate Unit 21.	BPLIF–19951019AI	Petition to Deny	WorldCom Broadband Solutions, Inc.	8/8/97
Caribbean MMDS Partnership	50870–CM–P–97	Petition to Deny	Grand Wireless Company	10/24/97
Caribbean MMDS Partnership	WNTK992	Petition to Deny	Grand Wireless Company	10/24/97
Catholic Diocese of Caguas ..	BPLIF–951020WN	Petition to Deny	The Catholic Archdiocese of San Juan and WHTV Broadcasting Corp.	7/14/98
Catholic Diocese of Caguas ..	WLX321	Petition to Deny	The Catholic Archdiocese of San Juan and WHTV Broadcasting Corp.	7/14/98
Central Dakota TV, Inc	BALMD–19990930AAY	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	BALMD–19990930AAZ	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	BALMD–19990930ABA	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	WLW751	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	WLW752	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	WNTB718	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	WNTE464	Petition for Reconsideration ..	.....	1/6/03
Central Dakota TV, Inc	WNTF478	Petition for Reconsideration ..	.....	1/6/03
Centre Unified School District #397.	BPLIF–19911213DG	Petition for Reconsideration ..	.....	12/21/92
Champion Industries, Inc	BMDC–9201294	Application for Review	.....	9/13/01
Champion Industries, Inc	BPMDC–9201297	Application for Review	.....	9/13/01
Champion Industries, Inc	50123–CM–P–92	Petition for Reconsideration ..	.....	9/20/01
Champlain College	BPLIF–911010DS	Petition to Deny	Satellite Signals of New England, Inc.	1/13/92
Chicago Instructional Technology Foundation, Inc.	BPLIF–951020KF	Petition to Deny	Saint Bede Academy and Heartland Wireless Communications, Inc.	4/15/98
City University, Channels B1–B4, Olympia, WA.	BMAMDIH–20010129ADF	Petition to Deny	KCTS Television, Inc	4/2/01
Clarendon Foundation	BPLIF–19951020NC	Application for Review	.....	8/23/99
Clark County School District ..	BPIFH–20000818DLB	Petition to Deny	North American Catholic Educational Programming Foundation, Inc.	4/2/01
Clark County School District ..	WNC851	Petition to Deny	North American Catholic Educational Programming Foundation, Inc.	4/2/01
Clark County School District ..	BLPLIF–931230HK	Application for Review	North American Catholic Educational Programming Foundation, Inc.	4/17/02
Clearwire Technologies, Inc ...	BPMDV–20010928AAH	Petition to Deny	Nucentrix Spectrum Resources, Inc.	12/7/01
Clearwire Technologies, Inc ...	WMI306	Petition to Deny	Nucentrix Spectrum Resources, Inc.	12/7/01
Coleman County Telephone Cooperative, Inc. Santa Anna, TX).	BPIFH–20010420ABJ	Petition to Deny	Central Texas Communications, Inc.	6/25/01
Coleman County Telephone Cooperative, Inc. (Santa Anna, TX).	BRMD–20011113AAC	Petition to Deny	Central Texas Communications, Inc.	12/27/01
Coleman County Telephone Cooperative, Inc. (Santa Anna, TX).	BRMD–20011113AAB	Petition to Deny	Central Texas Communications, Inc.	12/27/01

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Coleman County Telephone Cooperative, Inc (Santa Anna, TX).	WMY236	Petition to Deny	Central Texas Communications, Inc.	12/27/01
Coleman County Telephone Cooperative, Inc. (Santa Anna, TX).	WMY240	Petition to Deny	Central Texas Communications, Inc.	12/27/01
Concord Community School	92071DB	Petition to Deny	Jones Community School	6/13/93
Counterpoint Communications, Inc.	BPLIF–19951020CF	Petition for Reconsideration		9/2/97
Department of Education Archdiocese of New York.	BPIFH–20000818AYB	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	KNZ69	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	KRS81	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818CFI	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPLIF–20000818CJQ	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPLIFH–20000818AYC	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818AZJ	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818AVB	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818AXZ	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIF–20000818CJO	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818BXG	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818BXH	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818CEF	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818CEK	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818CFN	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818BZV	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818CEM	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818CEO	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFH–20000818COL	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BIFH–20000818CON	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdiocese of New York.	BPIFB–20000818CEY	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education Archdioxese of New York.	BPIFB–20000818CEV	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Department of Education, Archdiocese of New York.	BPIFB2000818AXZ	Petition to Deny	Roman Catholic Diocese of Rockville Centre.	4/2/01
Diocese of Savannah and Savannah College of Art and Design.	BPLIF–951020AN	Application for Review		3/8/99
Diocese of Savannah and Savannah College of Art and Design.	BPLIF–95102OBZ	Application for Review		3/8/99
Eagleview Technologies, Inc	WMH805	Petition to Deny	Bell South Wireless Cable, Inc.	1/30/01
Eagleview Technologies, Inc	WDU502	Application for Review		4/18/02
Eagleview Technologies, Inc	57875–CM–R–91	Application for Review		4/18/02
Eagleview Technologies, Inc. (Jacksonville, FL).	BRMD–20010316ABB	Petition to Deny	Bell South Wireless Cable, Inc.	8/1/01
Educational Television Association of Metropolitan Cleveland.	BPLIF–19951020JJ	Application for Review		5/13/00
Emerson College	BPLIF–960919AB	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	3/14/97

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Emerson College	WHR758	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	3/14/97
Emerson College	BPLIF–951020EI	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	10/9/97
Estate of Wireless Telecommunications, Inc.	B227	Waiver Request		8/31/01
Estate of Wireless Telecommunications, Inc.	B249	Waiver Request		8/31/01
Estate of Wireless Telecommunications, Inc.	KNSE289	Waiver Request		8/31/01
Estate of Wireless Telecommunications, Inc.	BALMD–20010321ABN	Waiver Request		8/31/01
Estate of Wireless Telecommunications, Inc.	KNSE288	Waiver Request		8/31/01
Evans County School System	BMPLIF–980114DP	Petition to Deny	Wireless Cable of Florida, Inc	2/23/98
Evans County School System	WLX698	Petition to Deny	Wireless Cable of Florida, Inc	2/23/98
Florida Atlantic University	BMPLIF–950524DD	Petition to Deny	School Board of Dade County	11/1/96
Florida Atlantic University	WHR901	Petition to Deny	School Board of Dade County	11/1/96
Fresno MMDS Associates	60636–CM–P–91	Application for Review		6/23/00
Gary Golden (Longview, TX)	BRMD–20010530AAA	Petition to Deny	Nucentrix Spectrum Resources, Inc.	8/2/01
Gary Golden (Longview, TX)	BRMD–20010530AAC	Petition to Deny	Nucentrix Spectrum Resources, Inc.	8/2/01
Gary Golden (Longview, TX)	WMH477	Petition to Deny	Nucentrix Spectrum Resources, Inc.	8/2/01
Gary Golden (Longview, TX)	WMI306	Petition to Deny	Nucentrix Spectrum Resources, Inc.	8/2/01
Georgia College—Macon Campus.	BPLIF–951020PT	Petition for Reconsideration		8/19/98
Grand MMDS Alliance New York F/P Partnership.	WMY467	Informal Objection	Trans Video Communications, Inc and CAI Wireless Systems, Inc.	11/14/97
Grand Wireless Company, Inc	BMDP–980721ND	Petition to Deny		10/13/98
Grand Wireless Company, Inc	BMDP–980721NE	Petition to Deny		10/13/98
Grand Wireless Company, Inc	BMDP–980721NF	Petition to Deny		10/13/98
Guadalupe Valley Elec. Coop	BPMD–9051310	Application for Review		7/25/96
Harrisburg, PA Settlement	BPLIF–19951016B1	Petition for Relief		1/2/01
Harrisburg, PA Settlement	BPLIF–19951020GX	Petition for Relief		1/2/01
Heartland Wireless Commercial Channels, Inc.	BMDP980303FW	Petition to Deny	Tex-Star Wireless Communications Gamma.	5/7/98
Heartland Wireless Commercial Channels, Inc.	BMDP980303FX	Petition to Deny	Tex-Star Wireless Communications Gamma.	5/7/98
Heartland Wireless Commercial Channels, Inc.	BMDP980303FY	Petition to Deny	Tex-Star Wireless Communications Gamma.	5/7/98
Heartland Wireless Commercial Channels, Inc.	BMDP970411OM	Petition to Deny	Tex-Star Wireless Communications Alpha and Beta.	5/30/97
Heartland Wireless Commercial Channels, Inc.	BMDP970411ON	Petition to Deny	Tex-Star Wireless Communications Alpha and Beta.	5/30/97
Hispanic Information and Telecommunications Network, Inc.	BPIFH–20010420AEK	Petition to Deny	BCTV, Inc	6/25/01
Hispanic Information and Telecommunications Network, Inc.	WLX690	Petition to Deny	BCTV, Inc	6/25/01
Hispanic Information and Telecommunications Network, Inc (Anderson, IN).	BPLIF–19951016BR	Petition for Reconsideration		12/30/98
Hispanic Information and Telecommunications Network, Inc (Binghamton, NY).	BPLIF–19951020FT	Petition for Reconsideration		10/22/97
Hispanic Information and Telecommunications Network, Inc (Indianapolis, Indiana).	BPLIF–951016BM	Petition for Reconsideration		1/19/99
Hispanic Information and Telecommunications Network, Inc. (Jajuya, PR).	BPLIF–950215DQ	Petition to Deny	The University System of the Ana G. Mendez Educational Foundation.	7/7/95
Hispanic Information and Telecommunications Network, Inc. (Jajuya, PR).	BPLIF–950215DR	Petition to Deny	The University System of the Ana G. Mendez Educational Foundation.	7/7/95

Applicant/licensee	File No./call sign	Pleading type	Petitioner (if not applicant)	Filing date
Hispanic Information and Telecommunications Network, Inc. (Jajuya, PR).	BPLIF–950315DF	Petition to Deny	The University System of the Ana G. Mendez Educational Foundation.	7/7/95
Hispanic Information and Telecommunications Network, Inc. (Jajuya, PR).	BPLIF–950322DY	Petition to Deny	The University System of the Ana G. Mendez Educational Foundation.	7/7/95
Hispanic Information and Telecommunications Network, Inc. (Jajuya, PR).	WLX661	Petition to Deny	The University System of the Ana G. Mendez Educational Foundation.	7/7/95
Hispanic Information and Telecommunications Network, Inc. (Jajuya, PR).	WLX663	Petition to Deny	The University System of the Ana G. Mendez Educational Foundation.	7/7/95
Hispanic Information and Telecommunications Network, Inc. (Luquillo, PR B group).	BPLIF–19959215DS	Petition for Reconsideration		4/17/02
Hispanic Information and Telecommunications Network, Inc. (Portland, OR).	BMPLIF–19980129DE	Application for Review		8/21/98
Hispanic Information and Telecommunications Network, Inc. (Portland, OR).	WLX681	Application for Review		8/21/98
Hispanic Information and Telecommunications Network, Inc. (Portland, OR).	BPIFH–20000818DEB	Petition to Deny	Molalla High School	4/2/01
Hispanic Information and Telecommunications Network, Inc. (Portland, OR).	WLX681	Petition to Deny	Molalla High School	4/2/01
Hispanic Information and Telecommunications Network, Inc. (Santa Fe, New Mexico).	BPLIF–930107DA	Petition for Reconsideration		5/21/97
Hispanic Information and Telecommunications Network, Inc. (Seattle, WA).	BPIF–19950523DT	Petition for Reconsideration		1/23/97
Hispanic Information and Telecommunications Network, Inc. (Seattle, WA).	WLX546	Petition for Reconsideration		1/23/97
Hispanic Information and Telecommunications Network, Inc. (Springfield, MA).	BPIF–19951016AW	Application for Review		11/14/97
Hispanic Information and Telecommunications Network, Inc. (Tiverton, RI).	BPIFH20000818AJO	Petition to Deny	Eastern New England Licensee, Inc.	3/30/01
Hispanic Information and Telecommunications Network, Inc. (Tiverton, RI).	WLX690	Petition to Deny	Eastern New England Licensee, Inc.	3/30/01
Hispanic Information and Telecommunications Network, Inc. (Tiverton, RI).	BPIFH–20000818AJO	Petition to Deny	Northeastern University	4/2/01
Hispanic Information and Telecommunications Network, Inc (Tiverton, RI).	BPIFH–20000818AJO	Petition to Deny	BCTV, Inc	6/25/01
Hispanic Information and Telecommunications Network, Inc. (Trenton, NJ).	BPLIF–19951016AT	Application for Review		11/17/97
Hispanic Information and Telecommunications Network, Inc. (Winston Salem, NC).	BPLIF–19951016BH	Petition for Reconsideration		5/11/98
Hispanic Information and Telecommunications Network, Inc., (Memphis, TN).	BPLIF–950523DV	Application for Review		1/6/97
Hispanic Information and Telecommunications Network, Inc., (Memphis, TN).	WLX557	Application for Review		1/6/97
Hydra Communications	BRMD–9157865	Petition for Reconsideration		4/12/02
Inforum Communications		Waiver Request		10/30/01
Inforum Communications, Inc. and TDI Acquisition Corp. (Sarasota, FL).	BALMD–20010718AAC	Petition to Deny	Paradise Cable, Inc	8/31/01
Inforum Communications, Inc. and TDI Acquisition Corp. (Sarasota, FL).	B408	Petition to Deny	Paradise Cable, Inc	8/31/01

Applicant/licensee	File No./call sign	Pleading type	Petitioner (if not applicant)	Filing date
Inforum Communications, Inc. and TDI Acquisition Corp. (Sarasota, FL).	KNSC300	Petition to Deny	Paradise Cable, Inc	8/31/01
Inforum Communications, Inc. and TDI Acquisition Corp. (Sarasota, FL).	KNSC798	Petition to Deny	Paradise Cable, Inc	8/31/01
Inforum Communications, Inc. and TDI Acquisition Corp. (Sarasota, FL).	WMI303	Petition to Deny	Paradise Cable, Inc	8/31/01
Instructional Telecommunications Foundation, Inc.	BPIFH–20000818AKD	Petition to Deny	Sprint Corp	4/2/01
Instructional Telecommunications Foundation, Inc.	BLNPNIF–20020618AAC	Petition to Deny	WorldCom Broadband Solutions, Inc.; Northwest Communications, Inc.	8/22/02
Instructional Telecommunications Foundation, Inc.	WHR527	Petition to Deny	WorldCom Broadband Solutions, Inc.; Northwest Communications, Inc.	8/22/02
Iowa Rural TV, Inc	WLW851	Waiver Request		12/16/02
Iowa Rural TV, Inc	WMX648	Waiver Request		12/16/02
Iowa Rural TV, Inc	WMX649	Waiver Request		12/16/02
JCL El Dorado AR F Grand Alliance.	54408–CM–P–91	Petition for Reconsideration		5/14/99
JCL El Dorado AR F Grand Alliance.	WMY298	Petition for Reconsideration		5/14/99
John Mester d/b/a Mester's TV.	BPMD–9200312	Application for Review		2/22/00
John Mester d/b/a Mester's TV.	BPMD–9200313	Application for Review		2/22/00
Judith K. Vega	50444–CM–P–92	Petition for Reconsideration		3/1/93
Kannew Broadcast Technologies (Augusta, ME).	BRMD–20010329AGA	Petition to Deny	Pegasus Communications Portfolio Holdings, Inc..	8/2/01
Kannew Broadcast Technologies (Augusta, ME).	WMI878	Petition to Deny	Pegasus Communications Portfolio Holdings, Inc..	8/2/01
Lehigh Valley Mobile Telephone Company.	59659–CM–AL–91	Application for Review		3/20/92
Line of Site, Inc	CIP–92–00221	Application for Review		7/17/00
Line of Site, Inc	CIP–92–00414	Application for Review		7/17/00
Line of Site, Inc	WHT721	Informal objection	Clark County School District	10/16/01
Lois Hubbard	BMAMDIH–20010129ADM	Petition to Deny		3/30/01
Lynchburg MDS, LLC (Lynchburg, VA).	BLMPD–9650880	Waiver Request		8/30/01
Lynchburg MDS, LLC (Lynchburg, VA).	WMI288	Waiver Request		8/30/01
MDS Digital Network, Inc. (Los Angeles, CA).	BRMD–20010330ADO	Petition to Deny	Southern Wireless Video, Inc	8/1/01
MDS Digital Network, Inc. (Los Angeles, CA).	BRMD–20010330AHV	Petition to Deny	Southern Wireless Video, Inc	8/1/01
MDS Digital Network, Inc. (Los Angeles, CA).	BRMD–20010330AHW	Petition to Deny	Southern Wireless Video, Inc	8/1/01
MDS Digital Network, Inc. (Los Angeles, CA).	KF179	Petition to Deny	Southern Wireless Video, Inc	8/1/01
MDS Digital Network, Inc. (Los Angeles, CA).	KFF79	Petition to Deny	Southern Wireless Video, Inc	8/1/01
MDS Digital Network, Inc. (Los Angeles, CA).	WPY40	Petition to Deny	Southern Wireless Video, Inc	8/1/01
Mesa Unified School District #4.	BPLIF–19951020QF	Petition to Deny	Instructional Telecommunications Foundation, Inc.	9/8/97
Michael Reed, Joseph Hemenway, and James Larsen.	53346–CM–P–92	Application for Review		6/12/00
Michael Reed, Joseph Hemenway, and James Larsen.	53347–CM–P–92	Application for Review		6/12/00
Michael Reed, Joseph Hemenway, and James Larsen.	53348–CM–P–92	Application for Review		6/12/00
Michigan Center School District.	920717DA	Informal Objection	Hillside Community College	2/5/92
Microband Corp. of America (Portland, OR).	BRMD–9157851	Informal objection		9/29/99
Microband Corp. of America (Portland, OR).	BRMD–20010402AEM	Informal objection		9/29/99
Microband Corp. of America (Portland, OR).	WPY39	Informal objection		9/29/99

Applicant/licensee	File No./call sign	Pleading type	Petitioner (if not applicant)	Filing date
Microband Corp. of America (Portland, OR).	BRMD–20010402AEM	Petition to Deny		12/20/01
Microband Corp. of America (Portland, OR).	BRMD–9157851	Petition to Deny		12/20/01
Microband Corp. of America (Portland, OR).	WPY39	Petition to Deny		12/20/01
MMDS, Inc	2497–CM–P–83	Application for Review		9/8/93
Morningstar Educational Network.	BPLIF–19951020EI	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	9/5/97
Mount Pleasant Partners (Alpha and Beta).	BPMD–9161246	Application for Review		2/22/00
Mount Pleasant Partners (Alpha and Beta).	BPMD–9161247	Application for Review		2/22/00
MWTV, Inc	WMH652	Petition for Relief	Philip C. Merrill	12/12/97
MWTV, Inc	WLW938	Petition for Reconsideration		9/17/01
MWTV, Inc	BPMD–8310238	Petition for Reconsideration		9/17/01
MWTV, Inc	BMPMD–9253169	Petition for Reconsideration		9/17/01
National Television Co	WHT664	Waiver Request		8/30/02
National Television Co. (Jacksonville, NC).	BEMD–9650559	Petition for Relief	Wireless One of North Carolina, Inc.	8/4/01
National Television Co. (Jacksonville, NC).	WMH601	Petition for Relief	Wireless One of North Carolina, Inc.	8/4/01
NDW, Inc	50803–CM–P–93	Petition for Reconsideration		5/31/96
North American Catholic Educational Programming Foundation, Inc.	BPLIF–19951020LE	Petition for Relief		5/30/00
North American Catholic Educational Programming Foundation, Inc.	BPLIF–19951020RL	Petition for Relief		5/30/00
North American Catholic Educational Programming Foundation, Inc.	BPIFH–20000818DLA	Petition to Deny	Sprint Corp	4/2/01
North American Catholic Educational Programming Foundation, Inc.	BPIFH–20010420AER	Petition to Deny England Licensee, Inc.	Eastern New	4/10/02
North American Catholic Educational Programming Foundation, Inc.	WNC521	Petition to Deny	Eastern New England Licensee, Inc.	4/10/02
Norwich University	BPLIF–911008DD	Petition to Deny	Satellite Signals of New England, Inc.	1/13/92
Nucentrix Spectrum Resources, Inc.	50905–CM–MP–96	Petition for Reconsideration		12/4/00
Nucentrix Spectrum Resources, Inc.	WMX716	Petition for Reconsideration		12/4/00
Nucentrix Spectrum Resources, Inc. (Longview, TX).	BPMD–20010802AAA	Petition to Deny	Gary Golden	9/7/01
Nucentrix Spectrum Resources, Inc. (Longview, TX).	BPMD–20010802AAB	Petition to Deny	Gary Golden	9/7/01
Nucentrix Spectrum Resources, Inc. (Woodward, OK B Group).	51618–CM–MP–96	Petition for Reconsideration		12/4/00
Nucentrix Spectrum Resources, Inc. (Woodward, OK B Group).	WMX712	Petition for Reconsideration		12/4/00
Oklahoma State Regents for Higher Education.	BPLIF–19951020JM	Petition for Reconsideration		8/8/97
Oklahoma Western Telephone Co.	BPMD–9201637	Application for Review		5/21/98
Oregon State University	BMPLIF–19961223FN	Petition for Reconsideration		3/5/98
Oregon State University	WNC718	Petition for Reconsideration		3/5/98
Provo School District	BPLIF–19951020SN	Petition to Deny	Instructional Telecommunications Foundation, Inc.	7/11/97
Raleigh, North Carolina D Group Settlement.	BPLIF–19951020BD	Petition for Relief		6/30/00
Raleigh, North Carolina D Group Settlement.	BPLIF–19951020HD	Petition for Relief		6/30/00
Raleigh, North Carolina G Group Settlement.	BPLIF–19981028DY	Petition for Relief		1/12/99
Reid Institute	BPLIF–19951020HN	Petition to Deny	Instructional Telecommunications Foundation, Inc.	7/11/97

Applicant/licensee	File No./call sign	Pleading type	Petitioner (if not applicant)	Filing date
Richmond Hill Christian Academy.	BPLIF–951020PH	Petition to Deny	The Board of Public Education for the City of Savannah and County of Chatham and Wireless Cable of Florida, Inc.	8/6/98
Robert Walser	50054–CM–P–98	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	5/15/98
Ronald Abboud	WLW992	Petition for Relief	Wireless Entertainment Network, Inc. and Line of Site, Inc.	7/30/92
San Diego MDS Company	57950–CM–R–91	Petition for Reconsideration		7/1/96
San Diego MDS Company	WHT559	Petition for Reconsideration		7/1/96
Satellite Signals of New England, Inc.		Waiver Request		4/26/99
School Board of Dade County, *et al*.	BMPLIF–19930616DV	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	BMPLIF–19950407DG	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	BMPLIF–19950515DA	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	BMPLIF–19950515DL	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	BMPLIF–19950515DM	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	BMPLIF–19950707FA	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	KTB84	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	WHA956	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	WHG230	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	WHR790	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Dade County, *et al*.	WHR866	Informal objection	Wireless Broadcasting Systems of America, Inc.	7/14/95
School Board of Palm Beach County FL.	BALIF–9550758	Waiver Request		5/24/95
School Board of Palm Beach County FL.	KZB30	Waiver Request		5/24/95
Shekinah Network	BPLIF–951018AA	Petition to Deny	Unified School District #273	6/11/98
Shekinah Network	BPIF–19951019BJ	Petition to Deny	CAI Wireless Systems, Inc	12/8/98
Shekinah Network	BPIF–19951020QR	Application for Review		8/23/99
Skagit Valley College	BPLIF–951020XD	Petition to Deny		7/10/97
Southern Wireless Video, Inc	9950144	Petition to Deny	DCT Los Angeles, LLC	2/19/99
Southern Wireless Video, Inc	WPW94	Petition to Deny	DCT Los Angeles, LLC	2/19/99
Southland C–9 School District	BMPLIF–920228DD	Petition for Reconsideration		12/17/02
Stephanie Engstrom	BMAMDIH–20010129ADI	Petition to Deny	Sherry Rullman and American Telecasting of Seattle, Inc.	3/30/01
Technical Trade Institute	9501020SH	Informal Objection	Hispanic Information and Telecommunications Network, Inc.	6/16/97
Tekkom, Inc	50301–CM–P–83	Petition for Reconsideration		1/16/96
Tel-Com Wireless		Waiver Request		4/29/99
Tex-Star Wireless Communications.	BLMD–9350779	Petition for Relief	Heartland Wireless Commercial.	2/25/97
Tex-Star Wireless Communications.	BLMD–9350780	Petition for Relief	Heartland Wireless Commercial Channels, Inc.	2/25/97
Tex-Star Wireless Communications.	BLMD–9450245	Petition for Relief	Heartland Wireless Commercial Channels, Inc.	2/25/97
Tex-Star Wireless Communications.	WMI373	Petition for Relief	Heartland Wireless Commercial Channels, Inc.	2/25/97
Tex-Star Wireless Communications.	WMI377	Petition for Relief	Heartland Wireless Commercial Channels, Inc.	2/25/97
Tex-Star Wireless Communications.	WNTK882	Petition for Relief	Heartland Wireless Commercial Channels, Inc.	2/25/97
Tex-Star Wireless Communications.	BRMD–20010430AAE	Petition to Deny	Heartland Wireless Commercial Channels, Inc.	8/2/01
Tex-Star Wireless Communications.	BRMD–20010430AAF	Petition to Deny	Heartland Wireless Commercial Channels, Inc.	8/2/01
Tex-Star Wireless Communications.	BRMD–20010430AAD	Petition to Deny	Heartland Wireless Commercial Channels, Inc.	8/2/01

Applicant/licensee	File No./call sign	Pleading type	Petitioner (if not applicant)	Filing date
Tex-Star Wireless Communications.	WMI373	Petition to Deny	Heartland Wireless Commercial Channels, Inc.	8/2/01
Tex-Star Wireless Communications.	WMI377	Petition to Deny	Heartland Wireless Commercial Channels, Inc.	8/2/01
Tex-Star Wireless Communications.	WNTK882	Petition to Deny	Heartland Wireless Commercial Channels, Inc.	8/2/01
The School Board of Dade County, Florida.	BMPLIF–950915HW	Petition to Deny		11/1/96
The School Board of Dade County, Florida.	WTB85	Petition to Deny		11/1/96
Trans Video Communications	BPIF20000818CJV	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications	KNZ69	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications Inc.	BPIFH–20000818BYE	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	BMPLIF–19950728ER	Petition to Deny	Grand MMDS Alliance New York F/P Partnership.	9/27/95
Trans Video Communications, Inc.	KNZ70	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	9/27/95
Trans Video Communications, Inc.	BMPIF–19950914MF	Petition to Deny	Grand MMDS Alliance New York F/P Partnership.	1/11/96
Trans Video Communications, Inc.	KVS31	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	1/11/96
Trans Video Communications, Inc.	BMLIF–19870429DF	Petition for Relief	Grand MMDS Alliance New York F/P Partnership.	3/14/96
Trans Video Communications, Inc.	KNZ69	Petition for Relief	Grand MMDS Alliance New York F/P Partnership.	3/14/96
Trans Video Communications, Inc.	BPIFH20000818CGV	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	KNZ69	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	KNZ70	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	KRS81	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	KRS82	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	KVS31	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	KZE20	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trans Video Communications, Inc.	WHR691	Petition to Deny	Roman Catholic Diocese of Rockville Centre; Grand MMDS Alliance New York F/P Partnership.	4/2/01
Trocki Hebrew Academy of Atlantic County.	BPLIF–951020BH	Petition to Deny		5/6/98
Trocki Hebrew Academy of Atlantic County.	WHR527	Petition to Deny		5/6/98

Applicant/licensee	File No./call sign	Pleading type	Petitioner (if not applicant)	Filing date
Twiggs County High School ...	WNC324	Petition to Deny	Baldwin County School System.	4/30/98
Twiggs County Middle School	WLX666	Petition to Deny	.....	4/30/98
University of Massachusetts ..	BPLIF–19951020GF	Petition for Reconsideration ..	Georgia College—Macon Campus and The Information Resource Center.	10/14/97
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020B9	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020GC	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020IU	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020LO	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020LX	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020MJ	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020ML	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020MN	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020RF	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020RQ	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020SL	Petition for Relief	.....	6/30/00
University of North Carolina Wilmington, et al. (Jacksonville, NC settlement).	BPIF–19951020TX	Petition for Relief	.....	6/30/00
Via/Net Companies	WHJ942	Petition for Relief	Paging Systems, Inc	10/30/97
Via/Net Companies	50904–CM–P–97	Petition for Relief	.....	10/30/97
Views on Learning, Inc	BPLIF–19930122DD	Petition for Relief	Paging Systems, Inc	1/11/99
Views on Learning, Inc	BPLIF–19931230EH	Petition for Relief	.....	1/11/99
Virginia Communications	.....	Waiver Request	.....	10/7/02
Walter Communications, Inc ..	15810–CM–P–83	Petition for Reconsideration ..	.....	6/4/93
Western New Mexico University.	BMPLIF–951019BL	Petition to Deny	Hispanic Information and Telecommunications Network, Inc.	7/17/97
WYSE Wireless Partnership ..	53037–CM–P–90	Application for Review	.....	7/8/96

[FR Doc. 03–8619 Filed 4–9–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Revocations

The Federal Maritime Commission hereby gives notice that the following Ocean Transportation Intermediary licenses have been revoked pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, effective on the corresponding date shown below:

License Number: 16473N.
Name: Actway Express Inc.
Address: 14261 East Don Julian Road, City of Industry, CA 91746.
Date Revoked: May 3, 2001.
Reason: Failed to maintain a valid bond.

License Number: 16571N.
Name: Arrow Worldwide Logistics, Inc.
Address: 137 Eucalyptus Drive, Suite P, El Segundo, CA 20573.
Date Revoked: March 12, 2003.
Reason: Failed to maintain a valid bond.

License Number: 16644N.
Name: Cargo Management International.
Address: 19113 So. Hamilton Ave, Gardena, CA 90248.
Date Revoked: February 27, 2003.
Reason: Surrendered license voluntarily.

License Number: 3665NF.
Name: Geotrans International, Inc.
Address: 17120 Valley View Ave., La Mirada, CA 90638.
Date Revoked: January 28, 2003.
Reason: Surrendered license voluntarily.

License Number: 2197F.
Name: I.F.T.C., Inc.

Address: 1401 NW 78th Ave., Suite 300, Miami, FL 33126.
Date Revoked: March 14, 2003.
Reason: Failed to maintain a valid bond.

License Number: 11296N.
Name: Master Air Cargo, Inc.
Address: 1840 NW 95th Ave., Miami, FL 33172.
Date Revoked: March 27, 2003.
Reason: Failed to maintain a valid bond.

License Number: 2006F.
Name: Kenehan International Services, Inc.
Address: 6020 S. Spencer Street, Suite A1, Las Vegas, NV 89119.
Date Revoked: March 10, 2003.
Reason: Failed to maintain a valid bond.

License Number: 4448NF.
Name: Pum Yang Express U.S.A., Inc.
Address: 425 Victoria Terrace, Ridgefield, NJ 07657.
Date Revoked: January 6, 2003.
Reason: Surrendered license voluntarily.

License Number: 17768NF.
Name: United Shipping Services, Inc.
Address: 2121 W. Mission Road, #307, Alhambra, CA 91803.
Date Revoked: March 1, 2003.
Reason: Surrendered license voluntarily.

License Number: 156NF.
Name: W.M. Stone & Company, Incorporated.
Address: 838 Granby Street, Norfolk, VA 23510.
Date Revoked: March 24, 2003.
Reason: Surrendered license voluntarily.

Dated: April 14, 2003.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–8696 Filed 4–9–03; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL MARITIME COMMISSION

Ocean Transportation Intermediary License Reissuances

Notice is hereby given that the following Ocean Transportation Intermediary licenses have been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984, as amended by the Ocean Shipping Reform Act of 1998 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of Ocean Transportation Intermediaries, 46 CFR 515.

License No.	Name/Address	Date reissued
15893N	Altamar Shipping Services, Inc., 1701 N. 20th Street, Tampa, FL 33605	February 7, 2003.
13290N	Argosy Transport, Inc., 5572 Lutford Circle, Westminister, CA 92683	March 5, 2003.
14519N	Classic Cargo International, Inc., 6414A S. Howell Avenue, Oak Creek, WI 53154	February 23, 2003.
15696N	ENC, Inc. 15606 Broadway Center, Gardena, CA 90248	February 7, 2003.
14169N	Expedited Transportation Services, Inc., 2169 W. Park Court, Suite 0, Stone Mountain, GA 30087	February 17, 2003.
17080N	General Cargo & Logistics, 2700 W. 182nd Street, Suite 100, Torrance, CA 90504	February 23, 2002.
11950N	Intermodal Logistics Systems, 19401 S. Main Street, Unit #102, Gardena, CA 90248	February 14, 2003.
3779F	L & E International Services, Inc., 380 W. 78th Road, Hialeah, FL 33014	October 26, 2002.
4185F	Southern Winds International, 1780 Wipple Road, Suite 206, Union City, Ca 96587	February 26, 2003.
15255N	Triways Shipping Lines, Inc., 11938 S. La Cienega Blvd., Hawthorne, CA 90250	February 6, 2003.
4642F	Varko International, Corp., 7700 NW 73rd Court, Medley, FL 33166	February 7, 2003.
2813F	Vital International Freight Services, Inc., 5200 W. Century Blvd., Susite 290, Los Angles, CA 90045	March 1, 2003.
2674F	World Express Cargo, Inc., 12612 Executive Drive, #700, Stafford, TX 77477	December 8, 2002.

Dated: April 4, 2003.

Sandra L. Kusumoto,

Director, Bureau of Consumer Complaints and Licensing.

[FR Doc. 03–8695 Filed 4–9–03; 8:45 am]

BILLING CODE 6730–01–P

GENERAL SERVICES ADMINISTRATION

Office of Management Services; Revision of a Standard Form by the Department of the Treasury

AGENCY: Office of Management Services, GSA.

ACTION: Notice.

SUMMARY: The Department of the Treasury revised part D of the SF 329, Administrative Wage Garnishment to:

a. Collect additional information on the employer; and

b. Authorize form for local reproduction.

You can obtain the updated camera copy in two ways:

On the Internet. Address: *http://www.gsa.gov/forms;* or

From Form-CAP, Attn.: Barbara Williams, (202) 501–0581

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Williams, General Services Administration, (202) 501–0581 for availability of the form and Lois Holland, Department of the Treasury, (202) 622–1563 for any other information.

DATES: Effective April 10, 2003.

Dated: April 1, 2003.

Barbara M. Williams,

Deputy Standard and Optional Forms Management Officer, General Services Administration.

[FR Doc. 03–8841 Filed 4–9–03; 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–38–03]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498–1210. Send written comments to CDC, Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project: National Survey of State Endoscopic Capacity—New—National Center for Chronic Disease

Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC). CDC proposes to conduct a study to provide a state-level assessment of the current capacity to conduct colorectal cancer (CRC) screening and follow-up examinations for average risk persons aged 50 and older. CDC has already conducted the ''National Survey of Endoscopic Capacity (SECAP)''. The tasks involved in this national capacity assessment included creating a list of all health care providers who own and use endoscopes for CRC screening and diagnostic follow-up; developing and administering a survey instrument to health care providers across the country who own lower GI endoscopes; and developing a tool to assess the number of people currently unscreened. The data from the SECAP study will be analyzed at the national and regional level. In response to state requests, CDC would like to assist states in assessing the state-level capacity to provide colorectal cancer (CRC) screening and follow-up examinations to appropriate persons.

The proposed study will be conducted through the implementation of a survey which will be mailed to a random sample of providers known to possess flexible sigmoidoscopes and colonoscopes in three states. The sampling frame includes all types of physician specialists and health care providers who own lower endoscopic equipment and may be screening for CRC. The survey will provide information on the types of health care providers who are performing CRC screening and follow-up examinations, the equipment currently being used for screening and follow-up examinations, and current reimbursement rates for these tests. The results of the analysis will be used to (1) identify state-level deficits in the medical infrastructure, (2) guide the development of state-level training initiatives and educational programs for health care providers, and (3) provide critical baseline information for state policy makers for the planning of state-level initiatives to increase colorectal cancer screening. CDC is currently in the process of selecting participating states through a competitive process. The annualized estimated burden is 688 hours.

Respondents	No. of respondents	No. of responses/ respondent	Avg. burden per response (in hours)
Screening Call:	.....	.....	.....
Year 1 (3 states)	969	1	5/60
Year 2 (6 states)	1,940	1	5/60
Year 3 (6 states)	1,940	1	5/60
Annualized screening calls	*1,616	.....	.....
Mail Survey:			
Year 1 (3 states)	797	1	25/60
Year 2 (6 states)	1,595	1	25/60
Year 3 (6 states)	1,595	1	25/60
Annualized mail survey	*1,329	.....	.....

*Average number of respondents per year.

Dated: April 4, 2003.

Tom Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–8747 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–57]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498–1210. CDC is requesting an emergency clearance for this data collection with a two week public comment period. CDC is requesting OMB approval of this package 7 days after the end of the public comment period.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda M. Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 14 days of this notice.

Proposed Project: Severe Acute Respiratory Syndrome (SARS) Outbreak Investigation—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). The purpose of this project is to respond to an outbreak of unknown etiology in the United States and abroad. Since late February 2003, CDC has been supporting the World Health Organization (WHO) in the investigation of a multicountry outbreak of atypical pneumonia of unknown etiology. The illness is being referred to as severe acute respiratory syndrome (SARS). By March 2003, cases of SARS were reported in the U.S. among travelers with a travel history to one or more of the three provinces in Asia where the SARS outbreak was first reported.

In order to investigate this outbreak in the U.S., several collections of information are required. Currently, CDC is collecting this information under an Epidemic Aid (epi-aid) which will expire in 30 days. To preserve continuity in the surveillance information collected by public health investigators, CDC is requesting a 6-month emergency clearance on the current surveillance forms. The information collected includes contact information for travelers on a flight with a person or persons suspected of having SARS, health care work exposures, and

case report forms. There is no cost to the respondent.

Form	Respondent	Number of respondents	Number of responses/ respondent	Avg. burden/response (in hrs)	Total burden hours
International SARS case reports	Caseworker	500	1	30/60	250
SARS contact information	Airline passengers.	3,000	1	5/60	250
SARS retrospective exposure form	Quarantine inspector.	1,000	1	5/60	83
SARS screening form	Health care workers.	330	1	10/60	55
Health care worker exposure form	Health care workers.	500	1	20/60	167
Unprotected HCW form	Health care workers.	500	1	20/60	167
SARS case Report intake form	Health care workers/ epidemiologists.	750	1	1	750
Total					1,722

Dated: April 4, 2003.

Thomas Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–8748 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03022]

Chronic Disease Prevention and Health Promotion Programs; Notice of Availability of Funds; Amendment

A notice announcing the availability of fiscal year (FY) 2003 funds for a cooperative agreement program for Chronic Disease Prevention and Health Promotion Programs published in the **Federal Register** on January 23, 2003, Volume 68, Number 15, pages 3326–3359. The notice is amended as follows: On page 3326, in the third column, the first paragraph should read: Applications will be due on April 14, 2003. On page 3355, in the second column, Section H., paragraph three should read: The application must be received by 4 p.m. Eastern Time April 14, 2003.

Dated: April 4, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–8751 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 03048]

Cooperative Agreement for Collaborating Centers for Public Health Law; Notice of Availability of Funds

Application Deadline: June 9, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301 and 311 of the Public Health Service Act, [42 U.S.C. sections 241, 242, and 243], as amended. The Catalog of Federal Domestic Assistance number is 93.283.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2003 funds for a cooperative agreement for Collaborating Centers for Public Health Law. This program addresses the ''Healthy People 2010'' focus area Public Health Infrastructure.

The purpose of this program is to establish two or more centers for public health preparedness in public health law (''centers'') to improve the contribution that law makes to the health of the public and to the performance of the public health system. The highest priority will be on the contribution law makes to preventing, preparing for, and responding to terrorism, outbreaks of infectious disease, and other major public health threats and emergencies.

Measurable outcomes of the program will be in alignment with the following performance goal for the CDC Public Health Practice Program Office (PHPPO): Prepare state and local health systems, departments and laboratories to respond to current and emerging public health threats.

C. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, technical schools, research institutions, public health and healthcare organizations, community-based organizations, faith-based organizations, and other public and private nonprofit organizations, state and local governments or their bona fide agents, including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau, federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations. CDC specifically encourages applications from consortia that include accredited schools of public health or medicine, accredited schools of law, and organizations that serve the legal and/or law enforcement communities.

Note: Title 2 of the United States Code section 1611 states that an organization described in section 501(c)(4) of the Internal

Revenue Code that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant or loan.

D. Funding

Availability of Funds

Approximately $500,000 is available in FY 2003 to fund approximately two or more awards. It is expected that the average award will be approximately $165,000 ranging from $100,000 to $250,000. It is expected that the awards will begin on or about September 1, 2003, and will be made for a 12-month budget period within a project period of up to three years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Recipient Financial Participation

Matching funds are not required for this program.

E. Program Requirements

Specific goals of the centers will be to:

1. Provide law-related information to public health practitioners, policy makers, and the legal community in at least two ways: (a) by conducting analyses of public health legal issues; and, separately, (b) by improving the quality, accessibility, and utility of information relevant to public health practitioners and maintained in standardized, electronic databases.

2. Improve the competencies of public health practitioners, public policy makers, the legal community, and others to apply law as an effective tool for public health.

3. Foster partnerships between the public health practice community and the legal community (including health attorneys, law enforcement agencies, the judiciary, legal education and training institutions; legal professional associations; and related organizations) to improve their contribution to applying law as an effective tool for public health.

CDC anticipates making awards to two or more centers. The centers will not necessarily conduct the same type of activities. An eligible applicant may apply to conduct activities that address goal 1, goal 2, goal 3, or any combination thereof. However, an applicant that proposes to conduct activities in more than one goal area must submit a separate application for each goal area. For example, if an applicant chooses to apply to conduct activities in both goal area 1 and goal area 2, the applicant must submit one application for each goal area. Each such application will be evaluated separately. CDC reserves the right to make an award to an applicant for activity in one goal area, but not in another.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities listed in 1. Recipient Activities, and CDC will be responsible for the activities listed in 2. CDC Activities.

1. Recipient Activities

With respect to goal 1, recipient activities will be to:

a. Conduct analyses of public health legal issues (see guidance in the Content section of this announcement).

b. Implement the information improvement plan submitted in your application to improve the quality, accessibility, and utility for public health practitioners of information relevant to public health and maintained in standardized, electronic, databases (see guidance in the Content section of this announcement); and revise that plan as needed thereafter.

c. Assist other organizations to conduct activities like those identified in (a) and (b) above.

d. Evaluate the impact of the activities annually.

With respect to goal 2, recipient activities will be to:

a. Review existing statements of core competencies in public health law for public health practitioners, public policy makers, the legal community, and others whose actions affect the health of the public, and assess the need for revision of those statements.

b. Assess the extent to which the groups listed above possess those core competencies.

c. Develop a plan (no later than December 31, 2003) for a self-sustaining program of training, education, and continuing education suitable for implementation at multiple jurisdictional levels to improve the achievement of public health law-related competencies by the current and future public health workforce, the legal community, and others whose actions affect the health of the public; revise that plan as needed thereafter.

d. Develop curricula, courses, and materials, (beginning no later than March 31, 2004) and disseminate training, education, and continuing education consistent with that plan.

e. Assist other organizations in developing and disseminating such training, education and continuing education consistent with that plan.

f. Evaluate the impact of the recipient's activities annually.

With respect to goal 3, recipient activities will be to:

a. Identify organizations in the legal community currently or potentially active in improving the contribution law makes to the health of the public; for this purpose the ''legal community'' includes health attorneys, law enforcement agencies, the judiciary, legal education and training institutions, legal professional associations, and related organizations.

b. Assess the capacity of those organizations to make such contributions and identify gaps between their existing and needed capacities.

c. Develop (by December 31, 2003) a plan to assist those organizations in improving their capacity; and revise that plan as needed thereafter.

d. Assist those organizations to improve their capacity through consultation, technical assistance, training, and other activities.

e. Evaluate the impact of the activities annually.

2. CDC Activities

a. Provide scientific, technical, and legal assistance.

b. In goal area 1, Provide technical assistance in identifying public health legal issues for analysis, in implementing the plan for improving information, and in developing approaches to assisting other organizations.

In goal area 2, Provide technical assistance in identifying existing statements of competencies, in setting priorities for a plan for a program to improve achievement of competencies, in setting priorities for training materials, and in developing approaches to assisting other organizations.

In goal area 3, Provide technical assistance in identifying organizations in the legal community suitable for partnerships, in developing methods for assessing their capacity, in setting priorities for assisting them, and in developing approaches to improving their capacity.

c. Collaborate in identifying constituencies to be served and in establishing goals, priorities, strategies, timelines, and training materials.

d. Identify and establish partnerships between the grantees and other organizations.

e. Collaborate in the evaluation of the effectiveness of the collaborative activities supported under this cooperative agreement.

F. Content

Letter of Intent (LOI)

A LOI is required for this program. The Program Announcement title and

number must appear in the LOI. The narrative should be no more than two pages, double-spaced, printed on one side, with one-inch margins, and unreduced 12-point font. Your letter of intent will be used to estimate the potential reviewer workload and to avoid conflicts of interest during the review. Your letter of intent must include the following information: name, address, telephone number, and E-mail address of the Principal Investigator, the identities of other key personnel and participating institutions, and a narrative description of the proposed project.

Applications

The Program Announcement title and number must appear in the application. Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your PHS 398 (OMB Number 0925–0001) application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 25 pages, single-spaced, printed on one side, with one-inch margins, and 12-point unreduced font.

The narrative should consist of, at a minimum, the following sections: Background and Need; Goals and Objectives; Project Management and Staffing; Methods and Plan of Operation; Collaboration Plan; Evaluation Plan; and Requested Budget.

In addition, the narrative contained in applications for activities that address goal 1 must include the following information:

a. A description of the public health legal issues the applicant tentatively proposes to analyze, reasons for selecting those issues, and a description of ways public health practitioners, policy makers, and the legal community would apply the results of those analyses.

b. A detailed plan for activities the recipient would conduct to improve the quality, accessibility, and utility for public health practitioners of information relevant to public health and maintained in standardized, electronic databases. (This is the ''information improvement plan'' referred to in the Program Requirements section of this announcement.) This type of information consists, in part, of information stemming from scholarly legal research and analysis and review, as well as information maintained in compilations of statutory and regulatory law and of judicial rulings. This body of information currently is largely inaccessible to public health practitioners. The information improvement plan will identify the types and sources of such information the recipient will include in these activities, the methods the recipient will use to improve the quality, accessibility, and utility of that information, the resources the recipient will use to conduct these activities, and a calendar showing when improved information would be made available to public health practitioners.

G. Submission and Deadline

Letter of Intent (LOI) Submission

On or before May 12, 2003, submit the LOI to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Application Forms

Submit the original and two copies of PHS 398 (OMB Number 0925–0001) (Errata Instruction Sheet for PHS 398 attached). Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Applications can be mailed to you.

Submission Date, Time, and Address

The application must be received by 4 p.m. Eastern Time June 9, 2003.

Submit the application to:

Technical Information Management-PA#03048, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd., Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Letters of intent and applications shall be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Any applicant who sends their application by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to: (1) Carrier error, when the carrier accepted the package with a guarantee for delivery by the closing date and time, or (2) significant weather delays or natural disasters, CDC will upon receipt of proper documentation, consider the application as having been received by the deadline.

Any application that does not meet the above criteria will not be eligible for competition, and will be discarded. The applicant will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

Letter of Intent

The required Letter of Intent will not be evaluated or scored.

Application

Applicants are required to provide measures of effectiveness that will demonstrate the accomplishment of the various identified objectives of the cooperative agreement. Measures of effectiveness must relate to the goals stated in the Program Requirements section of this announcement. Measures must be objective and quantitative and must measure the intended outcome. These measures of effectiveness shall be submitted with the application and shall be an element of evaluation.

A review group appointed by CDC will evaluate each application against the following criteria:

1. Collaboration Plan (25 points)

a. The extent to which the applicant presents documented evidence of past or current experience and collaboration, or capacity to collaborate, with partners active in public health practice and public health law, the legal community, and other relevant entities.

b. The extent to which the applicant proposes relevant and feasible collaborations with other organizations in conducting the Recipient Activities and methods for fostering collaboration among such organizations.

c. The extent to which the application includes signed agreements specifying the roles and responsibilities of each organization that will collaborate with the applicant.

2. Project Management and Staffing (20 points)

a. The extent to which the project staff is clearly identified, possesses appropriate skills and knowledge, and has clearly described roles.

b. The extent to which the application provides details regarding the level of effort and allocation of time for each staff position.

c. The extent to which the applicant possesses management and other

systems to assure successful and responsible program implementation.

d. The applicant's experience in the management of resources and production of successful outcomes.

3. Methods and Plan of Operation (20 points)

a. The soundness of the methods the applicant proposes to use to conduct each of the Recipient Activities.

b. The specificity, relevance, and feasibility of the plan of action the applicant proposes to take to develop and conduct each of the Recipient Activities.

4. Goals and Objectives (15 points)

a. The extent to which the application addresses the center goals listed in the Program Requirements section of this announcement.

b. The extent to which the application specifies objectives, activities, work projects, and timelines, which are supportive of the goals, measurable, and feasible.

5. Background and Need (10 points)

The extent to which the applicant clearly describes the need for, and benefits of, the proposed center, including delineation of target audiences and benefits that they would realize from the center's activities.

6. Evaluation Plan (10 points)

The extent to which the applicant provides a detailed description of the methods to be used to evaluate program effectiveness, including identification of the variables to be evaluated, identification of the person(s) or organization(s) that will conduct evaluations, and specification of the time line for evaluations.

7. Budget (Not scored)

The extent to which the budget is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the cooperative agreement funds.

8. Human Subjects

Does the application adequately address the requirements of title 45 CFR part 46 for the protection of human subjects: Not scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

Does the application adequately address the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes:

1. The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation.

2. The proposed justification when representation is limited or absent.

3. A statement as to whether the design of the study is adequate to measure differences when warranted.

4. A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with community(ies) and recognition of mutual benefits.

I. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Interim progress report, no less than 90 days before the end of the budget period. The progress report will serve as your non-competing continuation application, and must contain the following elements:

a. Current budget period activities and objectives.

b. Current budget period financial progress.

c. New budget period program proposed activities and objectives.

d. Detailed line-item budget and justification.

e. Additional requested information.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Additional Requirements

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I of this announcement as posted on the CDC Web site.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–7 Executive Order 12372 Review
AR–8 Public Health System Reporting Requirements
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-free Workplace Requirements
AR–11 Healthy People 2010
AR–12 Lobbying Restrictions
AR–13 Prohibition on Use of CDC Funds for Certain Gun Control Activities
AR–15 Proof of Non-Profit Status

J. Where to Obtain Additional Information

This and other CDC announcements, the necessary applications, and associated forms can be found on the CDC Web site, Internet address: *http://www.cdc.gov.* Click on ''Funding'' then ''Grants and Cooperative Agreements''.

For general questions about this announcement, contact:

Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For Business management and budget assistance, contact:

Merlin J. Williams, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone number 770–488–2765, E-mail address *MWilliams2@cdc.gov.*

For program technical assistance, contact:

Anthony D. Moulton, Ph.D., Public Health Law Program, Public Health Program Practice Office, Centers for Disease Control and Prevention, 4770 Buford Hwy. (K–39), Atlanta, Georgia 30341–3724, Phone 770–488–2405/ Fax 770–488–2553, E-mail: *ADM6@CDC.GOV.*

Dated: April 4, 2003.

Sandra R. Manning,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 03–8746 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Centers for Disease Control and Prevention: Meetings

Name: Regional Meetings on CDC's Directly Funded Community Based HIV Prevention Program.

Times and Dates: 9 a.m. to 5 p.m., April 14, 2003. 9 a.m. to 5 p.m., April 15, 2003. 9 a.m. to 5 p.m., April 16, 2003.

Place: Westin Chicago River North, 320 North Dearborn, Chicago, Illinois 60610, phone (312) 329–7024, fax (312) 329–7045, Internet address *http://www.westinrivernorth.com.*

Times and Dates: 9 a.m. to 5 p.m., April 23, 2003. 9 a.m. to 5 p.m., April 24, 2003. 9 a.m. to 5 p.m., April 25, 2003.

Place: Hyatt Fisherman's Wharf, 555 North Point Street, San Francisco, California 94133, phone (415) 563–1234, fax (415) 563–2218, Internet address *http://www.fishermanswharf.hyatt.com.*

Times and Dates: 9 a.m. to 5 p.m., May 5, 2003. 9 a.m. to 5 p.m., May 6, 2003. 9 a.m. to 5 p.m., May 7, 2003.

Place: Millenium Hotel, 145 West 44th Street, New York, New York 10036, phone (212) 768–4400, fax (212) 789–7698, Internet address *http://www.milleniumhotels.com.*

Times and Dates: 9 a.m. to 5 p.m., May 20, 2003. 9 a.m. to 5 p.m., May 21, 2003. 9 a.m. to 5 p.m., May 22, 2003.

Place: Wyndham Miami Beach Resort, 4833 Collins Avenue, Miami Beach, Florida 33140, phone (305) 532–3600, fax (305) 534–7409, Internet address *http://www.wyndham.com/hotels/MIAMIB/main.wnt.*

Status: Open to the public, but limited by the space available. The meeting rooms accommodate approximately 75 people. Registration is free, but required. Forms can be obtained by e-mailing *cboconsultation@cdc.gov.* Additional information on meeting location is to be determined. For exact location and all meeting materials please visit our Web site at: *http://www.cdc.gov/hiv/cboconsultation.html.*

Purpose: To bring representatives from state and local government, community based prevention programs, community planning group members and community members together to review the current Directly Funded Community Based HIV Prevention Program, capacity building needs and recommend strategies on how to address the future funding for this program.

Matters to be Discussed: Agenda items include plenary presentations, interactive small group breakout sessions, and discussion groups in which participants will learn new information and work together to provide individual recommendations on the future structure and funding for the community based program.

CONTACT PERSON FOR MORE INFORMATION: Sam Martinez, National Center for HIV, STD, and TB Prevention, Division of HIV/AIDS Prevention, 1600 Clifton Rd., NE., M/S E–58, Atlanta, GA 30333, telephone (404) 639–5219, *smartinez@cdc.gov.*

The Director, Management and 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: April 3, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–8745 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Science and Program Review Subcommittee (SPRS) and the Advisory Committee for Injury Prevention and Control (ACIPC): Meetings

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 subcommittee and committee meetings.

Name: Science and Program Review Subcommittee to ACIPC.

Time and Date: 9 a.m.-11:15 a.m., April 30, 2003.

Place: The Westin Peachtree Plaza, 210 Peachtree Street, NW., Atlanta, Georgia 30303–1745.

Status: Open to the public, limited only by the space available.

Purpose: The Subcommittee provides advice on the needs, structure, progress and performance of the National Center for Injury Prevention and Control (NCIPC) programs. The Subcommittee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Subcommittee also advises on priorities for research to be supported by contracts, grants, and cooperative agreements, and provides concept review of program proposals and announcements.

Matters to be Discussed: Agenda items of the Subcommittee oversight meeting include status of fiscal year (FY) 2003 request for applications (RFAs), early notification and marketing of RFAs, status of FY 2003 Injury Control Research Center (ICRC) RFAs, evaluating the ICRC program, mental health and terrorism, and dissemination research experience with FY 2002 RFA and future steps.

Name: Advisory Committee for Injury Prevention and Control.

Time and Dates: 1:30 p.m.-5:40 p.m., April 30, 2003. 8:15 a.m.-3 p.m., May 1, 2003.

Place: The Westin Peachtree Plaza, 210 Peachtree Street, NW., Atlanta, Georgia 30303–1745.

Status: Open to the public, limited only by the space available.

Purpose: The Committee advises and makes recommendations to the Secretary, Health and Human Services, the Director, CDC, and the Director, NCIPC, regarding feasible goals for the prevention and control of injury. The Committee makes recommendations regarding policies, strategies, objectives, and priorities, and reviews progress toward injury prevention and control. The Committee provides advice on the appropriate balance of intramural and extramural research, and also provides guidance on the needs, structure, progress and performance of intramural programs, and on extramural scientific program matters. The Committee provides second-level scientific and programmatic review for applications for research grants, cooperative agreements, and training grants related to injury control and violence prevention, and recommends approval of projects that merit further consideration for funding support. The Committee also recommends areas of research to be supported by contracts and cooperative agreements and provides concept review of program proposals and announcements.

Matters to be Discussed: Agenda items include reports from the Science and Program Review Subcommittee, the Subcommittee on Intimate Partner Violence and Sexual Assault (formerly known as the Family and Intimate Violence Prevention Subcommittee), and the Working Group on Injury Control and Infrastructure Enhancement; an update from the Director, NCIPC; introduction to the National Violent Data Reporting System (NVDRS); implementation and progress of NVDRS; using data on violent deaths to make a difference; how NVDRS fits into building state injury programs; introduction to suicide prevention; a history of CDC's suicide prevention efforts; national strategy for suicide prevention; presentations by several Federal agencies on their suicide prevention activities; CDC's suicide prevention activities; an update on NCIPC terrorism preparedness and response activities; and terrorism and mental health.

Agenda items are subject to change as priorities dictate.

CONTACT PERSON FOR MORE INFORMATION: Ms. Louise Galaska, Executive

Secretary, ACIPC, NCIPC, CDC, 4770 Buford Highway, NE., M/S K02, Atlanta, Georgia 30341–3724, telephone 770/488–4694.

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: April 3, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–8744 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Infectious Diseases: 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 committee meeting.

Name: Board of Scientific Counselors, National Center for Infectious Diseases (NCID).

Times and Dates: 9 a.m.–5 p.m., May 1, 2003. 8:30 a.m.–3:30 p.m., May 2, 2003.

Place: CDC, Auditorium B, Building 1, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Status: Open to the public, limited only by the space available.

Purpose: The Board of Scientific Counselors, NCID, provides advice and guidance to the Secretary, the Assistant Secretary for Health, Director, CDC, and Director, NCID, in the following areas: program goals and objectives; strategies; program organization and resources for infectious disease prevention and control; and program priorities.

Matters to be Discussed: Agenda items will include:

1. *Opening Session:* NCID Update
   a. Severe Acute Respiratory Syndrome
   b. Methicillin-Resistant Staphylococcus Aureus
   c. Malaria
2. Bioterrorism Update
3. Institute of Medicine Emerging Infections Report
4. Global Health Activities
5. Emerging Infectious Diseases Journal
6. Updates
   a. Pneumococcal Disease
   c. Hepatitis
7. Infections and Chronic Diseases
8. Board meets with Director, CDC
9. Discussions and Recommendations

Other agenda items include announcements/introductions; follow-up on actions recommended by the Board in December 2002; consideration of future directions, goals, and recommendations.

Agenda items are subject to change as priorities dictate.

Written comments are welcome and should be received by the contact person listed below prior to the opening of the meeting.

Contact Person for More Information: Tony Johnson, Office of the Director, NCID, CDC, Mailstop E–51, 1600 Clifton Road, NE., Atlanta, Georgia 30333, e-mail *tjohnson3@cdc.gov;* telephone 404/498–3249.

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: April 3, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–8737 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Institute for Occupational Safety and Health; Meeting Notice

The National Institute for Occupational Safety and Health (NIOSH) at the Centers for Disease Control and Prevention announces the following meeting:

Name: Continue Conceptual Discussions for Escape Respirator Standards Development Efforts Used for Respiratory Protection Against Chemical, Biological, Radiological, and Nuclear (CBRN) Agents.

Time and Date: 9 a.m.—5 p.m., April 29, 2003.

Place: Radisson Hotel Pittsburgh Green Tree, 101 Radisson Drive, Pittsburgh, Pennsylvania.

Status: This meeting is hosted by NIOSH and will be open to the public, limited only by the space available. The meeting room will accommodate approximately 175 people. Interested parties should make hotel reservations directly with the Radisson Hotel Pittsburgh Green Tree (412–922–8400 or 800–333–3333) before the cut off date of April 21, 2003, referencing the NIOSH/NPPTL Public Meeting. Interested parties should confirm their attendance to this meeting by completing a registration form and forwarding it by e-mail (*confserv@netl.doe.gov*) or fax (304–285–4459) to the Event Management Office. A registration form may be obtained from the NIOSH Homepage (*http://www.cdc.gov/niosh*) by selecting ''Conferences,'' and then the event.

Requests to make presentations at the public meeting should be mailed to the NIOSH Docket Officer, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone 513–533–8303, Fax 513–533–8285, E-mail *niocindocket@cdc.gov.* All requests to present should contain the name, address, telephone number, relevant business affiliations of the presenter, a brief summary of the presentation, and the approximate time requested for the presentation. Oral presentations should be limited to 15 minutes.

After reviewing the requests for presentations, NIOSH will notify each presenter of the approximate time that their presentation is scheduled to begin. If a participant is not present when his or her presentation is scheduled to begin, the remaining participants will be heard in order. At the conclusion of the meeting, an attempt will be made to allow presentations by any scheduled participants who missed their assigned times. Attendees who wish to speak but did not submit a request for the opportunity to make a presentation may be given this opportunity at the conclusion of the meeting, at the discretion of the presiding officer. Comments on the topics presented in this notice and at the meeting should be mailed to the NIOSH Docket Office, Robert A. Taft Laboratories, M/S C34, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone 513–533–8303, Fax 513–533–8285. Comments may also be submitted by e-mail to *niocindocket@cdc.gov.* E-mail attachments should be formatted as WordPerfect 6/7/8/9 or Microsoft Word. Comments should be submitted to NIOSH no later than May 30, 2003, and should reference docket number, NIOSH–002, in the subject heading.

Purpose: NIOSH will continue conceptual discussions of standards and testing processes for an Escape Respirator standard suitable for respiratory protection against CBRN Agents and review ongoing research to identify simulata materials for use as CBRN test surrogates for respirator research. NIOSH, along with the U.S. Army Soldier and Biological Chemical Command (SBCCOM) and the National Institute for Standards and Technology (NIST), will present information to attendees concerning the concept development for the Escape Respirator CBRN standard. Participants will be given an opportunity to ask questions and to present individual comments for consideration. Interested participants may obtain the latest copy of the Escape Respirator CBRN concept paper, as well as earlier versions of the concept papers used during the standard development effort, from the NIOSH contact identified below, or from the NIOSH National Personal Protective Technology Laboratory (NPPTL) Web site, address: *http://www.cdc.gov/niosh/npptl.* The April 15, 2003, concept paper will be used as the basis for discussion at the public meeting, as well as forming the basis for the new Escape Respirator CBRN statement of standard.

Recent acts of terrorism have created an urgent awareness of domestic security and preparedness issues. Municipal, state, and federal responder groups, particularly those in locations considered potential targets, have been developing and modifying response and consequence management plans. Since the World Trade Center and anthrax incidents, most emergency response agencies have operated with a heightened appreciation of the potential scope and sustained resource requirements for coping with such events. The Federal Interagency Board for Equipment Standardization and Interoperability (IAB) has worked to identify personal protective equipment that is already available on the market for responders' use. The IAB has identified the development of standards or guidelines for respiratory protection equipment as a top priority. NIOSH, NIST, National Fire Protection Association, and the Occupational Safety and Health Administration have entered into a Memorandum of Understanding defining each agency's or organization's role in developing, establishing, and enforcing standards or guidelines for responders' respiratory protective devices. NIST has initiated Interagency Agreements with NIOSH and SBCCOM to aid in the development of appropriate protection standards or guidelines. NIOSH has the lead in developing standards or guidelines to test, evaluate, and approve respirators.

NIOSH, SBCCOM, and NIST have hosted public meetings on April 17 and 18, 2001; June 18 and 19, 2002; and October 16 and 17, 2002, presenting their progress in assessing respiratory protection needs of responders to CBRN incidents. The methods or models for developing hazard and exposure estimates, and the status of evaluating test methods and performance standards that may be applicable in future CBRN respirator standards or guidelines, were discussed at these meetings.

Contact for Additional Information: Event Management, P.O. Box 880, 3610 Collins Ferry Road, Morgantown, WV 26507, Telephone 304–285–4750, Fax 304–285–4459, E-mail *confserv@netl.doe.gov*.

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: April 3, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 03–8738 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: 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 committee meeting:

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–2:45 p.m., April 30, 2003.

Place: The Washington Court, 525 New Jersey Avenue, NW., Washington, DC 20001–1527, telephone 202/879–7918, fax 202/879–7918.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH, is charged with providing advice to the Director, NIOSH, on NIOSH research programs. Specifically, the Board provides guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters to be Discussed: Agenda items include a report from the Director of NIOSH; Report on NIOSH International Activities; update on the National Exposure at Work Survey; briefing on Outreach and Information for Small Businesses; update on NIOSH Occupational Asthma Research; closing remarks.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Roger Rosa, Ph.D., Executive Secretary, BSC, NIOSH, Centers for Disease Control and Prevention, 200 Independence Avenue, SW., Room 715H,Washington, DC 20201, telephone: 202/205–7856, fax: 202/260–4464, e-mail: *rrosa@cdc.gov*.

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: April 3, 2003.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 03–8752 Filed 4–9–03; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03N–0135]

Agency Emergency Processing Under OMB Review; Guidance: Establishing and Maintaining a List of U.S. Dairy Product Manufacturers With Interest in Exporting to Chile

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for emergency processing under the Paperwork Reduction Act of 1995 (the PRA). FDA is preparing a guidance document intended to notify the public of procedures being implemented by the agency to assist U.S. firms that wish to export dairy products to Chile. FDA is taking this action in response to trade discussions with Chile that have been adjunct to the negotiations of the United States-Chile Free Trade Agreement. FDA is requesting this emergency processing under the PRA because a normal clearance is likely to impede completion of the United States-Chile Free Trade Agreement.

DATES: Fax or electronically mail written comments on the collection of information by May 12, 2003.

ADDRESSES: OMB is still experiencing significant delays in the regular mail, including first class and express mail, and messenger deliveries are not being accepted. To ensure that comments on the information collection are received, OMB recommends that written comments be electronically mailed to sshapiro@omb.eop.gov or faxed to the Office of Information and Regulatory Affairs, OMB, Attn: Stuart Shapiro, Desk Officer for FDA, FAX 202–395–6974. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: FDA is preparing a guidance document intended to notify the public of procedures being implemented by the agency to assist U.S. firms that wish to export dairy products to Chile. FDA is taking this action in response to trade

discussions with Chile that have been adjunct to the negotiations of the United States-Chile Free Trade Agreement. As a result of those discussions, Chile has recognized FDA as the competent food safety authority in the United States to identify U.S. dairy product manufacturers eligible to export to Chile and has concluded that it will not conduct individual inspections of U.S. firms identified by FDA as eligible to export to Chile. Therefore, FDA intends to establish and maintain a list, which will be posted on the Internet and given to Chile, identifying U.S. firms that have expressed interest to FDA in exporting dairy products to Chile, are subject to FDA jurisdiction, and are not the subject of a pending judicial enforcement action (i.e., an injunction or seizure) or an unresolved warning letter.

FDA has requested emergency processing of this proposed collection of information under section 3507(j) of the PRA (44 U.S.C. 3507(j)) and 5 CFR 1320.13. This information is needed immediately because it will take time to establish a list of U.S. firms that wish to export dairy products to Chile. Immediate collection of the information will reduce the length of delay before any U.S. firm can actually export their dairy products to Chile without submitting to prior individual inspections from Chile. The use of normal clearance procedures would prolong the time needed to provide guidance on the process for firms to seek inclusion on the referenced list. Delay in resolution of this agricultural trade issue is likely to impede completion of the United States-Chile Free Trade Agreement.

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.

Guidance: Establishing and Maintaining a List of U.S. Dairy Product Manufacturers With Interest in Exporting to Chile

Section 701(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(h)) authorizes the Secretary of Health and Human Services (the Secretary) to develop guidance documents with public participation presenting the views of the Secretary on matters under the jurisdiction of FDA.

At a later date, FDA will announce the availability of a final guidance entitled ''Establishing and Maintaining a List of U.S. Dairy Product Manufacturers With Interest in Exporting to Chile.'' The guidance will provide voluntary recommendations on the process for firms that wish to export dairy products to Chile. Under this guidance, FDA recommends that U.S firms that want to be placed on the list send information to FDA (i.e., name and address of the firm and the manufacturing plant, name and telephone number of contact person, list of products presently shipped and expected to be shipped in the next 3 years, identities of agencies that inspect the plant and date of last inspection, plant number and copy of last inspection notice and, if other than an FDA inspection, copy of last inspection report).

The burden estimates presented below considered the number of U.S. firms that FDA believes produce dairy products and which will be interested in exporting to Chile, which is estimated to total 50. After the first year, FDA believes that approximately five new firms each year will be interested in exporting dairy products to Chile, and thus, being placed on the list.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

No. of Respondents	Annual Frequency of per Response	Total Annual Responses	Hours per Response	Total Hours
50[2]	1	50	1.5	75
5[3]	1	5	1.5	7.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] First year burden.
[3] Recurring burden.

The estimate of the number of firms that will seek to be on the list is based on FDA's current knowledge of the number of U.S. firms that produce dairy products and that will be interested in exporting to Chile. The estimate of the number of hours that it will take a firm to gather the information needed to be placed on the list is based on FDA's experience with firms submitting similar requests. FDA believes that the information to be submitted will be readily available to the firms. We estimate that for the first year a firm will require 1.5 hours to read the **Federal Register**, gather the information needed, and prepare a communication to FDA that contains the information and requests that the firm be placed on the list.

Dated: April 7, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–8901 Filed 4–8–03; 11:52 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 03F–0128]

Alcide Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Alcide Corp. has filed a petition proposing that the food additive regulations be amended to expand the permitted use concentration and to

expand the pH range for acidified sodium chlorite solutions as an antimicrobial agent in water and ice intended for use on seafood (fresh or saltwater).

DATES: Submit written or electronic comments on the petitioner's environmental assessment by May 12, 2003.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Mical E. Honigfort, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 202–418–0714.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 3A4743) has been filed by Alcide Corp., 8561 154th Ave. NE., Redmond, WA 98052–3557. The petition proposes to amend the food additive regulations in § 173.325 *Acidified sodium chlorite solutions* (21 CFR 173.325) to expand the permitted use concentration and to expand the pH range for acidified sodium chlorite solutions as an antimicrobial agent in water and ice intended for use on seafood (fresh or saltwater).

The potential environmental impact of this petition is being reviewed. To encourage public participation consistent with regulations issued under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before, May 12, 2003, submit to the Dockets Management Branch (address above) written or electronic comments. Submit a single copy of electronic comments to *http://www.fda.gov/dockets/ecomments* or two hard copies of any written comments, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required, and this petition results in a regulation, the notice of availability of the agency's Finding of No Significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: March 14, 2003.

Alan M. Rulis,

Director, Office of Food Additive Safety, Center for Food Safety and Applied Nutrition.

[FR Doc. 03–8694 Filed 4–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

9th Annual FDA Science Forum—''FDA Science: Protecting America's Health''

ACTION: Notice of meeting.

The Food and Drug Administration (FDA), Office of Science is announcing the following meeting entitled ''9th Annual FDA Science Forum—FDA Science: Protecting America's Health.'' The Science Forum is FDA's key scientific meeting that seeks to communicate and promote scientific issues relating to scientific development and associated regulatory concerns. Open to the public, the 2003 Forum is designed to bring FDA scientists together with representatives from industry, academia, government agencies, consumer and patient advocacy groups, and international constituents to explore emerging public health issues and to learn and share knowledge and ideas of the science-based mission of the agency.

Date and Time: The Science Forum will be held on Thursday and Friday, April 24 and 25, 2003. On April 24, 2003, registration will be from 7:30 a.m. to 4:30 p.m. and the meeting from 8:30 a.m. to 6:30 p.m. On April 25, 2003, registration will be from 7 a.m. to 1 p.m. and the meeting from 8 a.m. to 5:30 p.m.

Location: New Washington Convention Center, Mount Vernon Square, Washington, DC 20001.

Contact: Susan Bond, FDA, Office of Science (HF–33), 5600 Fishers Lane, Rockville, MD 20857, 301–827–6687, e-mail: *sbond@oc.fda.gov*.

Registration: Complete detailed program, and exhibitor information are available at *www.dcscienceforum.org*. (FDA has verified the Web site address, but is not responsible for subsequest changes to the Web site after this document publishes in the **Federal Register**.) Due to limited seating, interested parties are encouraged to register early. If you need special accommodations due to a disability, please contact *dmentch@oc.fda.gov* or 301–827–3038.

SUPPLEMENTARY INFORMATION: The Science Forum will focus on three plenary tracks with corresponding break-out sessions in the areas of:

- Risk management & risk assessment
- Novel science initiatives at FDA
- FDA's mission post- 9/11/01 and beyond

A poster session featuring all areas of FDA regulatory science will be presented to provide an opportunity for interested scientists to engage in information exchange with FDA scientists.

An exhibition of scientific products, services, and professional societies sponsored by Williamsburg BioProcessing Foundation will be held during the entire event. Interested exhibitors should contact: *clsokker@wilbio.com*. (FDA has verified the Web site address but is not responsible for subsequent changes to the Web site after this document publishes in the **Federal Register**.) An FDA Job Fair will be held as part of this exhibition.

This event is co-sponsored by the FDA Office of Science & Health Coordination, Williamsburg BioProcessing Foundation, AOAC International, California Separation Science Society, and the FDA Chapter of Sigma Xi, The Scientific Research Society.

Dated: April 4, 2003.

William K. Hubbard,

Associate Commissioner for Policy and Planning.

[FR Doc. 03–8759 Filed 4–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director; Office of Dietary Supplements: Notice of Opportunity for Public Comment and Public Meeting

Background

The Office Dietary Supplements (ODS) was established in the Office of the Director, NIH, in 1995 as a major provision of the Dietary Supplement Health and Education Act of 1994 (DSHEA). A key early activity was the

development of a Strategic Plan to define the mission of ODS and to set out goals for its programs. It was prepared with considerable input from NIH Institutes and Centers, other Federal agencies, consumers, and other interested parties.

The Strategic Plan was intended to guide ODS activities and programs for 5 years and it has served this purpose. Since its publication in 1998, there have been increases in the ODS budget each year, and this meant both considerable progress and expanded programs beyond those contemplated in the original Plan. Therefore it is appropriate to re-visit the original Plan this year and to develop an updated ODS Strategic Plan for 2004–2009.

The Office of Dietary Supplements is re-examining its 1998 Strategic Plan and desires public comment on the progress of its programs and on future needs and opportunities for research activities. As a part of this effort, we are holding a meeting for interested parties. The major focus of the meeting is to solicit views and suggestions on the future directions and programs of the ODS.

We have prepared a background paper that summarizes progress in key areas of ODS activity identified in the 1998 Strategic Plan and solicits comments and suggestions on future ODS activities. The background paper and related information are available on the ODS Web site at *http://ods.od.nih.gov.* In addition, the background paper is available from the Office of the address listed below. We are disseminating the background paper for comment by all interested parties. Comments, suggestions, and views should be forwarded to the address listed below or sent to <*ODSplan.od.nih.gov.*>

In addition, the ODS will hold an open public meeting on May 8 and 9, 2003 at the time and address listed below to hear additional comments and suggestions on needs and opportunities for possible inclusion in the 2004–2009 ODS Strategic Plan. Information about the meeting, including the tentative agenda, is available on ODS Web site *http://ods.nih.gov.* There is no registration fee.

We may use all written comments received by 5 p.m. EST, on June 27, 2003 from this request as well as those received at the meeting in the preparation of a revised Strategic Plan for 2004–2009. We will complete the strategic planning process the end of calendar year 2003. We will publish and disseminate the revised ODS Strategic Plan as the ''roadmap'' for programs of the Office of Dietary Supplements in 2004–2009.

The overall purpose of this strategic planning effort is to identify both new opportunities and emerging needs for possible incorporation in the programmatic efforts of the Office. To address this purpose, guidance is being requested from all interested parties on these important issues:

- Is there a need or opportunity for additional overarching goals for ODS? As a corollary, are there reasons or justification for modifying the priorities for allocation of resources to the five original goals?
- Is there a need or opportunity to re-examine the original 33 objectives individually in order to address the following issues:

(a) Are there objectives where current knowledge, opportunities, or needs that suggest expanded efforts or changes in priority for study are appropriate? If so, documentation and justification should be provided.

(b) Are there additional aspects of specific topics that should be added? If so, documentation and justification should be provided.

(c) Beyond the original 33 objectives, are there newly identified needs and opportunities that suggest additional objectives for increased emphasis in ODS programs in the future? If so, documentation and justification should be provided.

- An additional purpose of this current strategic planning effort is to seek comments and suggestions about the various approaches that ODS has utilized in addressing the goals of its 1998 Strategic Plan?

(a) Among the approaches used by ODS, should there be greater emphasis on certain ones in regard to research support, communication and information dissemination, database development, and training and career development?

(c) Are there other methods and techniques that ODS should consider in implementing its goals and objectives in the future?

Meeting Title: Office of Dietary Supplements Public Meeting.

Date: May 8 and 9, 2003.

Time: May 8—8 a.m.–5 p.m.; May 9—8 a.m.–12 noon.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Kenneth D. Fisher, Ph.D., Office of Dietary Supplements, 6100 Executive Boulevard, Room 3B01, Bethesda, MD 20892–7517, Phone: (301) 435–2920, Fax: (301) 480–1845, E-mail: *ODSplan@od.nih.gov*.

Public Participation

The meeting is open to the public with attendance limited by the availability of space on a first come, first serve basis. Members of the public who wish to present oral comment should indicate this when registering on the ODS Web site at *http://ods.nih.gov* no later than April 25, 2003.

Oral comments will be limited to three minutes. Individuals who register to speak will be assigned in the order in which they registered. Due to time constraints, only one representative from each organization will be allotted time for oral presentation. We may limit the number of speakers and the time allotted depending on the number of registrants. All requests to register should include the name, address, telephone number, and business or professional affiliation of the interested party. If time permits, we will allow any person attending the meeting who has not registered to speak in advance of the meeting to make a brief oral statement during the time set aside for public comment, and at the chairperson's discretion.

We encourage individuals unable to attend the meeting and all interested parties to send written comments to the Office of Dietary Supplements by mail, fax, or electronically. When mailing or faxing written comments provide, if possible, an electronic version on diskette.

Persons needing special assistance, such as sign language interpretation or other special accommodations at the meeting should indicate this when registering or contact the Office of Dietary Supplements at the address or telephone number listed no later than April 25, 2003.

Dated: April 2, 2003.

Paul M. Coates,

Director, Office of Dietary Supplements, Office of the Director, National Institutes of Health.

[FR Doc. 03–8720 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NHLBI.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and

evaluation of individual intramural programs and projects conducted by the National Heart, Lung, and Blood Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NHLBI.

Date: June 5, 2003.

Time: 7:45 a.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Elizabeth G Nabel, MD, Scientific Director for Clinical Research, National Heart, Lung, and Blood Institute, Division of Intramural Research, Building 10, Room 8C103, MSC 1754, Bethesda, MD 20892, 301/496–1518.

Information is also available on the Institute's/Center's Home page: *www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8715 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with provisions set forth in sections 552b(c)(4) and 552(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Heart, Lung, and Blood Institute Special Emphasis Panel,

Date: May 1, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Valerie L. Prenger, PhD, Review Branch, Room 7194, Division of Extramural Affairs, National Heart, Lung, and Blood Institute, National Institutes of Health, 6701 Rockledge Drive, MSC 7924, Bethesda, MD 20892–7924, (301) 435–0288.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8716 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussion could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Biodefense Partnerships: Vaccines, Adjuvants, Therapeutics, Diagnostics, and Resources.

Date: April 28–30, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Hagit S. David, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, Room 2117, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7610, (301) 496–2550, *hdavid@mercury.niaid.nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Responses to Biodefense Vaccines.

Date: April 29, 2003.

Time: 4 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20871, (Telephone Conference Call).

Contact Person: Cheryl K. Lapham, PhD, Scientific Review Administrator, Scientific Review Program, National Institute of Allergy and Infectious Diseases, DEA/NIH/DHHS, 6700–B Rockledge Drive, MSC 7616, Room 2156, Bethesda, MD 20892–7616, (301) 402–4598, *clapham@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8697 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, DMID Clinical Trials Management.

Date: May 12–13, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Robert C. Goldman, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID, NIH, DHHS, Room 3124, 6700–B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 496–8424, *rg159w@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8698 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Health Services Research Review Subcommittee, AA–2 Review Meeting.

Date: June 12, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Elsie Taylor, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, (301) 443–9787, *etaylor@niaaa.nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Clinical and Treatment Subcommittee, AA–3 Review Meeting.

Date: June 26–27, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott's Harbor Beach Resort & Spa, 3030 Holiday Drive, Fort Lauderdale, FL 33316.

Contact Person: Elsie Taylor, Ms, Scientific Review Administrator, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Suite 409, 6000 Executive Blvd., Bethesda, MD 20892–7003, (301) 443–9787, *etaylor@niaaa.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol National Research Center Grants, National Institutes of Health, HHS)

Dated: April 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8699 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), Title 5. U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Training Grant.

Date: April 8, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Arthur L. Zachary, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8700 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, Large-Scale Collaborative Project Awards.

Date: April 28, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Arthur L. Zachary, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2886, *zacharya@nigms.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and

Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Development Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8701 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set for in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Neurodevelopmental Consequences of Pain & Inflammation.

Date: April 22, 2003.

Time: 1 PM TO 2 PM.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd, 6100 Executive Blvd, 5B01, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gopal M. Bhatnagar, PhD, Scientific Review Administrator, National Institute of Child Health, and Human Development, National Institutes of Health, 6100 Bldg Rm 5B01, Rockville, MD 20852, (301) 435–6889, *bhatnagg@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8702 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of R13 Application.

Date: April 29, 2003.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Wilco Building, 6000 Executive Boulevard, 411, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeffrey I Toward, PhD, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Extramural Project Review Branch, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 435–5337.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Small Business Initiative for Alcohol Proteomics—RFA—AA03–003.

Date: April 30, 2003.

Time: 1:30 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Wilco Building, 6000 Executive Boulevard, Room 409, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eugene G. Hayunga, PhD, Chief, Scientific Review Branch, OSA, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Wilco Building, Suite 409, 6000 Executive Boulevard, MSC 7003, Bethesda, MD 20892–7003, (301) 443–2860, *ehayunga@mail.nih.gov*.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, Review of R25—Alcohol Education Project Grant Applications.

Date: May 9, 2003.

Time: 1:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Wilco Building, 6000 Executive Boulevard, 411, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jeffrey I Toward, PhD, Chief, Scientific Review Administrator, National Institutes of Health, National Institute on Alcohol Abuse and Alcoholism, Extramural Project Review Branch, 6000 Executive Boulevard, Suite 409, Bethesda, MD 20892–7003, (301) 435–5337.

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Special Emphasis Panel, ZAA1 GG (11)—Review of Fellowship Applications.

Date: May 20, 2003.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Randolph Room, Rockville, MD 20852.

Contact Person: Karen P. Peterson, PhD, Scientific Review Administrator, Extramural Project Review Branch, National Institute of Alcohol Abuse, and Alcoholism, National Institutes of Health, 6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 451–3883, *kp177z@nih.gov.*

Name of Committee: National Institute on Alcohol Abuse and Alcoholism Initial Review Group, Biomedical Research Review Subcommittee.

Date: June 6, 2003.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Sathasiva B. Kandasamy, PhD, Scientific Review Administrator, Extramural Project Review Branch, Office of Scientific Affairs, National Institute of Alcohol Abuse, and Alcoholism,6000 Executive Blvd., Suite 409, Bethesda, MD 20892–7003, (301) 443–2926, *skandasa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8703 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552(c)(4) and 552b(c)(6), Title 5 U.S.C. as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Chronic Stress and Its Relation to Drug Abuse and Addiction.

Date: 22–23, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Rita Liu, PhD, Health Scientist Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 3158, MSC 9547, Bethesda, MD 20892–9547, (301) 435–1388.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.277, Drug Abuse Scientist Development Award for Clinicians, Scientist Development Awards, and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8704 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory Allergy and Infectious Diseases Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Allergy Immunology and Transplantation Subcommittee.

Date: May 29, 2003.

Closed: 8:30 am to 10:30 am.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Open: 1:00 pm to adjournment.

Agenda: Program advisory discussions and presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room D, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Microbiology and Infectious Diseases Subcommittee.

Date: May 29, 2003.

Closed: 8:30 am to 10:30 am.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Open: 1 pm to adjournment.

Agenda: Program advisory discussions and presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room F1/F2, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council Acquired Immunodeficiency Syndrome Subcommittee.

Date: May 29, 2003.

Closed: 8:30 am to 10:30 am.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room C1/C2, Bethesda, MD 20892.

Open: 1:00 pm to adjournment.

Agenda: Program advisory discussions and presentations.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville, MD 20892–7610, 301–496–7291.

Name of Committee: National Advisory Allergy and Infectious Diseases Council.

Date: May 29, 2003.

Open: 10:30 am to 11:40 am.

Agenda: Reports from the NIAID Director and the Director of the Vaccine Research Center.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room E1/E2, Bethesda, MD 20892.

Closed: 11:40 am. to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Room E1/E2, Bethesda, MD 20892.

Contact Person: John J McGowan, Director, Division of Extramural Activities, NIAID, Room 2142, 6700–B Rockledge Drive, MSC 7610, Rockville MD 20892–7610, 301–496–7291.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

Information is also available on the Institute's/Center's home page: *www.niaid.nih.gov/facts/facts.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8705 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the AIDS Research Advisory Committee, NIAID.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: AIDS Research Advisory Committee, NIAID.

Date: May 29, 2003.

Time: 1 a.m. to 5 p.m.

Agenda: The Committee will provide advice on scientific priorities, policy, and program balance at the Division level. The Committee will review the progress and productivity of ongoing efforts, and identify critical gaps and/or obstacles to progress.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Conference Room E1/E2, Bethesda, MD 20892.

Contact Person: Rona L. Siskind, Executive Secretary, AIDS Research Advisory Committee, Division of AIDS, NIAID/NIH, Room 4139, 6700–B Rockledge Drive, MSC 7610, Bethesda, MD 20892–7601, 301–435–3732.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 03, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8706 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Network for Large-Scale Sequencing of Microbial Genomes.

Date: May 1–2, 2003.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Alec Ritchie, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700 B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–435–1614, *aritchie@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8707 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Prenatal Programming of Reproductive Health and Disease.

Date: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: April 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8708 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 20, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C. as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel, Maternal Microchimerism: A Cause of Type 1 Diabetes Mellitus?

Date: April 17, 2003.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Hameed Khasn, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, National Institutes of Health, 6100 Executive Blvd., Room 5E01, Bethesda, MD 20892, (301) 496–1485.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: April 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8709 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel in Anesthesiology.

Date: April 24, 2003.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Rebecca H. Johnson, PhD, Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biology Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: April 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8710 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Stem Cell Engraftment and Differentiation.

Date: April 22, 2003.

Time: 8:30 a.m. to 12:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: John F. Connaughton, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, K18'S

Date: April 22, 2003.

Time: 12:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: John F. Connaughton, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 757, 6707 Democracy Boulevard, Bethesda, MD 20892, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Calcium Metabolism.

Date: April 25, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIDDK Review Branch, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20814, (Telephone Conference Call).

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, *federn@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Pediatric Diabetes.

Date: April 28, 2003.

Time: 2 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 748, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, *federn@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, PTHrP Action.

Date: April 28, 2003.

Time: 2:30 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 748, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, *federn@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Hepatoxicity Clinical Research Network.

Date: May 4–5, 2003.

Time: 7 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Ned Feder, MD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 748, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, *federn@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8711 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Deafness and Other Communication Disorders; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Deafness and Other Communications Disorders Special Emphasis Panel, Review of Core Center Grants.

Date: May 14, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6120 Executive Blvd., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Melissa Stick, Ph.D. MPH, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NIDCD/NIH, 6120 Executive Blvd., Bethesda, MD 20892, 301–496–8683.

(Catalog of Federal Domestic Assistance Program Nos. 93.173, Biological Research Related to Deafness and Communicative Disorders, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8712 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Esophageal Varices.

Date: April 28, 2003.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799, *Is38z@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Podocyte Biology Disease.

Date: May 9, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel at Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Maxine A. Lesniak, PHM, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 3, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8713 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Treatment of Diabetic Nephropathy.

Date: April 8, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Neal A. Musto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 751, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7798, *muston@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, P01 Group 3: Type 1 Diabetes.

Date: April 23, 2003.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Lakshmanan Sankaran, PhD, Scientific Review Administrator,

Review Branch, DEA, NIDDK, Room 754, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7799, *Is38z@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, a Multi-Center Therapy Trial for Acute Liver Failure.

Date: April 23, 2003.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carolyn Miles, PhD., Scientific Review Administrator Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892 (301) 594–7791 *milesc@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Developing GBM.

Date: April 28, 2003.

Time: 8 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Pentagon City, 1250 South Hayes Street, Arlington, VA 22202.

Contact Person: Maxine A. Lesniak, PHM, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 756, 6707, Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600, (301) 594–7792, *lesniakm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Biomarker Trial for Immunosuppressants.

Date: May 1, 2003.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Carolyn Miles, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, Room 755, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892, (301) 594–7791, *milesc@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.837, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8714 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Renal Transport and Function.

Date: April 28, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–6600, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Translational Research For the Prevention and Control of Diabetes.

Date: May 6, 2003.

Time: 8 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–6600, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, T32 Review.

Date: May 6, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Dan E. Matsumoto, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 749, 6707 Democracy Boulevard, Bethesda, MD 20892–6600, (301) 594–8894, *matsumotod@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 02, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8717 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDDK.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Diabetes and Digestive and Kidney Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIDDK.

Date: May 14, 2003.

Open: 8:30 am to 8:45 am.

Agenda: Introductions and Overview.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Closed: 8:45 am to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 5, Room 127, Bethesda, MD 20892.

Contact Person: Marvin C Gershengorn, MD, Scientific Director, Division of Intramural Research, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, 9000 Rockville Pike, Bldg. 10, Rm. 9N222., Bethesda, MD 20892, (301) 496–4129.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign-in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research: 93.848, Digestive Diseases and Nutrition Research; 93,849, Kidney Disease, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April, 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8718 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Understanding Mentor-Child Relationships.

Date: April 4, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michael Micklin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3178, MSC 7848, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Carcadian Rhythms.

Date: April 4, 2003.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Anxiety and Stress.

Date: April 7, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Synaptic Plasticity.

Date: April 7, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Factors in Pseudomonas Virulence.

Date: April 8, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pneumococcal Polysaccharide Vaccine Factors.

Date: April 9, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Reactivated Coxiella Burnetii Application.

Date: April 11, 2003.

Time: 11 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Timothy J. Henry, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, MSC 7808, Bethesda, MD 20892, (301) 435–1147.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Regulation of Hepatocyte Gene Expression.

Date: April 11, 2003.

Time: 1:30 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elaine Sierra-Rivera, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7804, Bethesda, MD 20892, 301–435–1779, *riverase@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Oral Biology and Medicine SBIR/STTR Special Emphasis Panel.

Date: April 14, 2003.

Time: 10 a.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 Twenty-Fifth Street, NW., Washington, DC 20037.

Contact Person: J. Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, 301/435–1781, *th88q@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, AARR 4 Reviewer Conflict.

Date: April 14, 2003.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Eduardo A. Montalvo, PhD, Scientific Review Administrator, Center for scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108 MSC 7852, Bethesda, MD 20892, (301) 435–1168.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Skin Cancer Prevention.

Date: April 14, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Lee S. Mann, PhD, JD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, (301) 435–0677.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transsynaptic Labelling.

Date: April 14, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Sleep Mechanisms.

Date: April 15, 2003.

Time: 12 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Drug Addiction.

Date: April 16, 2003.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology: Lymphocyte Development.

Date: April 17, 2003.

Time: 1 p.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7812, Bethesda, MD 20892, (301) 435–3565.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Gene Transcription in Diabetes.

Date: April 17, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Anshumali Chaudhari, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4124, MSC 7802, Bethesda, MD 20892, (301) 435–1210.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transmission of Prion Disease.

Date: April 17, 2003.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7808, Bethesda, MD 20892, (301) 435–1146.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Breast Cancer Studies.

Date: April 17, 2003.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817), Bethesda, MD 20892, 301–435–1715, *nga@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Transcriptional Immunology.

Date: April 18, 2003.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Cathleen L. Cooper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, Department of Health and Human Services, 6701 Rockledge Drive, Room 4208, MSC 7812, Bethesda, MD 20892, 301–435–3566, *cooperc@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 IFCN 2 (04) Neuroendocrinology, Neuroimmunology, and Behavior.

Date: April 21, 2003.

Time: 2 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Richard Marcus, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7844, Bethesda, MD 20892, 301–435–1245, *richard.marcus@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Oral Biology.

Date: April 21, 2003.

Time: 2:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Priscilla B. Chen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4104, MSC 7814, Bethesda, MD 20892, (301) 435–1787.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Leukemia Studies.

Date: April 21, 2003.

Time: 3 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Angela Y. Ng, PhD, MBA, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6200, MSC 7804, (For courier delivery, use MD 20817), Bethesda, MD 20892, 301–435–1715.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Cancer Therapy.

Date: April 21, 2003.

Time: 3 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6208, MSC 7804, Bethesda, MD 20892, (301) 435–1718, *perkinsp@csr.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chronic Fatigue Syndrome/Fibromyalgia Syndrome SBIR/STTP Review Panel.

Date: April 21, 2003.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: J Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4116, MSC 7816, Bethesda, MD 20892, 301/435–1781, *th88q@nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Chronic Fatigue Syndrome/Fibromyalgia Syndrome.

Date: April 22, 2003.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: J Terrell Hoffeld, DDS, PhD, Dental Officer, USPHS, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1446, MSC 7816, Bethesda, MD 20892, 301/435–1781, *th88q@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Plasticity and Cell Proliferation.

Date: April 22, 2003.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Daniel R. Kenshalo, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, (301) 435–1255.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Trials.

Date: April 23, 2003.

Time: 9:30 a.m. to 10:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6206, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Hypoxia.

Date: April 23, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Marcia Litwack, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6206, MSC 7804, Bethesda, MD 20892, (301) 435–1719.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Fellowship: Molecular Pharmacology.

Date: April 24, 2003.

Time: 3 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Sharon K. Gubanich, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4140, MSC 7804, Bethesda, MD 20892, (301) 435–1767.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Epidemiology of Aging.

Date: April 24, 2003.

Time: 4 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Ann Hardy, DRPH, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3158, MSC 7770, Bethesda, MD 20892, (301) 435–0695, *hardyan@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Anthrax.

Date: April 25, 2003.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7808, Bethesda, MD 20892, 301–435–1050, *freund@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: April 2, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–8719 Filed 4–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Aviation Security Advisory Committee Meeting

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Aviation Security Advisory Committee (ASAC).

DATES: The meeting will take place on April 30, 2003, from 9 a.m. to 12:30 p.m.

ADDRESSES: The meeting will be held at the Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dan Mullarkey, Office of Transportation Security Policy, TSA Headquarters (West Tower, Floor 11), 400 Seventh St. SW., Washington, DC, 20590; telephone 571–227–2635, e-mail *dan.mullarkey@tsa.dot.gov.*

SUPPLEMENTARY INFORMATION: This meeting is announced pursuant to section 10(a)(2) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.). The agenda for the meeting will include a discussion of cargo security and general aviation initiatives. In addition, cargo working groups will be formed. This meeting, from 9 a.m. to 12:30 p.m., is open to the public but attendance is limited to space available.

The newly formed cargo working groups will hold follow-on meetings on April 30, 2003, and all day on May 1, 2003. These working group meetings will be closed to the public.

Members of the public must make advance arrangements to present oral statements at the open ASAC meeting. Written statements may be presented to the committee by providing copies of them to the Chair prior to or at the meeting. Anyone in need of assistance or a reasonable accommodation for the meeting, should contact the person listed under the heading **FOR FURTHER INFORMATION CONTACT**. In addition, sign and oral interpretation, as well as a listening device, can be made available at the meeting if requested 10 calendar days before the meeting. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT**.

Issued in Arlington, Virginia, on April 4, 2003.

Tom Blank,

Assistant Administrator for Transportation Security Policy.

[FR Doc. 03–8813 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4818–N–03]

Notice of Proposed Information Collection for Public Comment on A Survey of Users of Products From the Office of Policy Development and Research

AGENCY: Office of the Assistant Secretary for Public Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* June 9, 2003.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development, 451 7th Street, SW., Room 8226, Washington, DC 20410–6000.

FOR FURTHER INFORMATION CONTACT: Barbara Haley, 202–708–5537, ext. 5708 (this is not a toll-free number), for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. This Notice also lists the following information:

Title of Proposal: Survey of Users of Products from the Office of Policy Development and Research (PD&R).

Description of the need for the information and proposed use: Each year PD&R produces and facilitates the dissemination of approximately 60 publications through its distribution clearinghouse HUD USER. In 1978 PD&R established HUD USER as an information source for housing and community development researchers and policymakers. In the last calendar year, over 4,000,000 housing research publications were downloaded from the HUD USER Web site and on average 70,000 unique visitors stop by the site each month. Over the past few years, over 80,000 individuals have placed orders for HUD USER research products.

In order to evaluate the impact of its current programs and to measure its dissemination efforts, PD&R will study the opinions of stakeholders and people who request PD&R products regarding the extent to which PD&R research makes a difference and contributes to the development of best practices.

Agency Form Numbers: None.

Members of the Affected Public: Users of products from the Office of Policy Development and Research.

Estimation of the total number of house needed to prepare the information collection including number of respondents, frequency of response, and hours of response: Information will be collected by a one-time telephone survey of 75 individuals who are users of products from the Office of Policy Development and Research. The survey will take approximately 30 minutes to complete. This means a total of 37.5 hours of response time annually for the information collection.

Status of the Proposed Information Collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: April 03, 2003.

Christopher D. Lord,

Deputy Assistant Secretary for Policy Development.

[FR Doc. 03–8693 Filed 4–9–03; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt.

SUMMARY: The following applicant has applied for a permit to conduct certain activities with an 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.*):

PRT—TE069518

Applicant: University of Maine, Orono, Maine

DATES: Written data or comments on this application must be received at the address given below by May 12, 2003.

ADDRESSES: Documents and other information submitted with this application are available for review 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, 300 Westgate Center Drive, Hadley, Massachusetts 01035. Attention: Diane Lynch, Regional Endangered Species Permits Coordinator, telephone: (413) 253–8628; facsimile: (413) 253–8482.

FOR FURTHER INFORMATION CONTACT: Diane Lynch, telephone: (413) 253–8628; facsimile (413) 253–8482.

SUPPLEMENTARY INFORMATION: You are invited to comment on the application from the University of Maine, PRT–TE069510. This application requests authorization to take (harass, in the form of stress, and kill) Gulf of Maine, distinct population segment, Atlantic salmon (Salmo salar) stocks, for scientific purposes. DPS stocks for this study include stock from the: Denny's, Machias, East Machias, Pleasant, Sheepscot, and Narraguagus Rivers. No wild fish will be used in this study only stocks currently propagated at the Craig Brook National Fish Hatchery.

Dated: March 28, 2003.

Richard O. Bennett,

Acting Regional Director.

[FR Doc. 03–8743 Filed 4–9–03; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Draft Wild and Scenic River Eligibility Report for the Westfield River, MA

AGENCY: National Park Service, Interior.

ACTION: Publication of draft report for public comment.

SUMMARY: The National Park Service is publishing for public review and comment a draft study report on designating additional miles to the Westfield River, Massachusetts, National Wild and Scenic River. The National Park Service has found that the Westfield River, Massachusetts (Upper East Branch and Tributaries: Drowned Land Brook; Center Brook; Windsor Jambs Brook—Towns of Savoy and Windsor; Headwater Tributaries of the West Branch: Shaker Mill Brook; Depot Brook; Savery Brook; Watson Brook; Center Pond Brook—Towns of Becket and Washington; Lower Middle Branch, East Branch and Main Stem—Town of Huntington) is eligible for the national system and is recommending that this section of the river be designated.

DATES: Submit comments on or before May 27, 2003.

ADDRESSES: Copies of the draft report are available for public inspection at: National Park Service, Boston Support Office, 15 State Street, Boston, MA 02109; National Park Service, 1201 Eye Street, NW., Washington, DC 20240–0001. Hours of availability are between 8:30 a.m. and 4:30 p.m., Monday through Friday, except holidays. Additional copies for review are located in the Huntington, Savoy, Washington, and Windsor Town Halls; during normal hours of operation. Copies of the draft report may be obtained from Jamie Fosburgh, National Park Service, Boston Support Office, 15 State Street, Boston, MA, 617–223–5191. The full draft report may be viewed at *http://www.nps.gov/rivers.*

Comments should be directed to the National Park Service, Boston Support Office, attention Jamie Fosburgh at the address above.

FOR FURTHER INFORMATION CONTACT: Jamie Fosburgh, National Park Service, Boston Support Office, 15 State Street, Boston, MA, 617–223–5191.

SUPPLEMENTARY INFORMATION: On April 26, 2002, Acting Governor Jane Swift of the Commonwealth of Massachusetts petitioned the Secretary of the Interior to extend the Westfield River's Wild and Scenic designation to include additional segments of the river and its headwaters (34.8 miles) under the National Wild and Scenic Rivers Act. The sections of river under consideration includes the Upper East Branch and Tributaries: Drowned Land Brook; Center Brook; Windsor Jambs Brook in the Towns of Savoy and Windsor; the Headwater Tributaries of the West Branch: Shaker Mill Brook; Depot Brook; Savery Brook; Watson Brook; Center Pond Brook in the Towns of Becket and Washington; and the Lower Middle Branch, East Branch and Main Stem in the Town of Huntington. Under section 2(a)(ii) of the National Wild and Scenic Rivers Act (Pub. L. 90–542, as amended), the Secretary has the authority to add a river to the National System at the request of a state, provided the state has met certain prior conditions and the river meets eligibility criteria, based upon an evaluation of natural and cultural resources.

These conditions are:

(1) The river must have been designated as a component of a states wild or scenic rivers system by, or pursuant to, an act of the legislature of that state.

(2) Management of the river must be administered by an agency or political subdivision of the state, except for those lands administered by an agency of the Federal government.

(3) The river meets National Wild and Scenic River eligibility criteria, that is, that the river is free-flowing and possesses one or more outstanding resources of significance to the region or nation.

(4) There must be effective mechanisms and regulations in place—local, state or federal—to provide for the long-term protection of those resources for which the river was deemed eligible.

Upon the request of a state governor to the Secretary of the Interior, the National Park Service, acting for the Secretary, undertakes an evaluation of the state's request.

As a result of the evaluation, the National Park Service has concluded that all requirements were fully met for the designation extension for the Westfield River.

The National Park Service recommends that the following segments of the Westfield River be classified as:

Wild: Shaker Mill Brook, approximately 2.6 miles from Brooker Hill Road in Becket to its headwaters.

Scenic: Upper East Branch, 6.6 miles from the Windsor/Cummington town line to its confluence; Upper East Branch Tributaries—Drowned Land Brook, 1.5 miles; Center Brook, 2.5 miles; and Windsor Jambs Brook, 1.3 miles; and Headwater Tributaries of the West Branch—Shaker Mill Brook, approximately 1.2 miles from Brooker Hill Road in Becket to its confluence; Depot Brook, 4.5 miles; Savery Brook, 2.9 miles; Watson Brook, 1.9 miles; Center Pond Brook, 1.6 miles from Center Pond to its confluence; and

Recreational: Lower Middle Branch, East Branch, and Main Stem, 3.2 miles in the Town of Huntington and the Upper East Branch, 5.0 miles from its confluence with Sykes Brook to its confluence with the West Branch.

Dated: February 6, 2003.

Fran P. Mainella,

Director, National Park Service.

[FR Doc. 03–8499 Filed 4–9–03; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation 332–452]

Steel-Consuming Industries: Competitive Conditions With Respect to Steel Safeguard Measures

AGENCY: International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: April 4, 2003.

SUMMARY: Following receipt of a request on March 18, 2003, from the Committee on Ways and Means (Committee), U.S. House of Representatives, the Commission instituted investigation No. 332–452, Steel-Consuming Industries: Competitive Conditions with Respect to Steel Safeguard Measures, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

On March 5, 2003, the Commission instituted an investigation under section 204(a) of the Trade Act of 1974 (Inv. No. TA–204–9) in order to prepare a report on the results of its monitoring of developments relating to the domestic steel industry since the President imposed tariffs and tariff-rate quotas on imports of certain steel products (68 FR 12380, March 14, 2003). In its letter, the Committee on Ways and Means requests that the Commission provide its report in this section 332 investigation and its monitoring report in the section 204(a) investigation in a single document. In a March 27, 2003 letter to the Commission, the Office of the United States Trade Representative (USTR) referenced the format requested by the Committee and informed the Commission that USTR has no objection to receiving the section 204(a)(2) report and the section 332(g) report in a single document. Accordingly, the Commission will transmit to the President and the Congress these two separate reports in the requested format.

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from James Fetzer, Project Leader (202–708–5403; *jfetzer@usitc.gov*), Office of Economics; Karl Tsuji, Deputy Project Leader (202–205–3434; *tsuji@usitc.gov*), Office of Industries; or Catherine DeFilippo, Chief, Applied Economics Division (202–205–3253; *cdefilippo@usitc.gov*), Office of Economics, U.S. International Trade Commission, Washington, DC, 20436. For information on the legal aspects of this investigation, contact William Gearhart of the Office of the General Counsel (202–205–3091; *wgearhart@usitc.gov*). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202) 205–1810.

Background

As requested by the Committee, the Commission will investigate the current competitive conditions facing the steel-consuming industries in the United States, with respect to tariffs and tariff-rate quotas imposed by the President on March 5, 2002, and with respect to foreign competitors not subject to such measures. As requested, the Commission will conduct its analysis along sectoral lines in order to assess the impact on differing segments of the U.S. manufacturing sector; and also examine the data as related to steel products on which the President imposed steel safeguard measures. To the extent possible, the investigation will address the effects of the safeguard measures on steel consuming industries and on industries that rely on steel imports such as the ports, including the following:

(1) Changes in employment, wages, profitability, sales, productivity, and capital investment of steel-consuming industries;

(2) An examination of the reported effects of the safeguard remedies on factors such as steel prices paid by consuming industries, steel shortages/availability, the ability of steel consumers to obtain required products or quality specifications, lead times and delivery times, contract abrogation, sourcing of finished parts from overseas by customers of steel consumers, and the relocation or shift of U.S. downstream production to foreign plants or facilities;

(3) The impact of international competitive factors, such as relative differences in steel costs to foreign steel-consuming industries, on steel consumers' exports and imports of steel-containing products;

(4) An examination of any shifts in steel-consuming patterns in the United States, *i.e.*, how much steel was purchased from domestic steel producers by U.S. steel-consuming industries before the safeguard action, and how has this sourcing changed following the implementation of the safeguard measures; and

(5) A discussion of the likely impact on employment, profitability, capital investment, and international competitiveness of steel-consuming industries of (i) continuation of the safeguard measures for the period September 2003–March 2005 and (ii) termination of the safeguard measures effective September 20, 2003.

In addition, as requested, the Commission will provide an analysis of the potential economy-wide effects of these safeguard measures (*e.g.*, on costs borne by steel consumers, tariff revenues entering the U.S. Treasury, income to steel producers, and the net effect on the U.S. economy) using appropriate simulation models.

The Committee asked that the Commission furnish its report by September 20, 2003, along with the Commission's section 204 steel monitoring report in a single document. The Committee also requested that the Commission make its report available to the public, consistent with procedures set forth in section 332(g) of the Tariff Act of 1930 concerning the release of confidential business information.

Public Hearing

A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on June 19, 2003, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW, Washington, DC 20436, not later than the close of business (5:15 p.m.) on June 2, 2003. In addition, persons appearing should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on June 4, 2003. Posthearing briefs should be filed with the Secretary by the close of business on June 27, 2003. In the event that no requests to appear at the hearing are received by the close of business on June 2, 2003, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after June 4, 2003 to determine whether the hearing will be held.

Written Submissions

In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on June 27, 2003. Commercial or financial information which a submitter desires the

Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. The Commission intends to publish only a public report in this investigation. Accordingly, any confidential business information received by the Commission in this investigation and used in preparing the report will not be published in a manner that would reveal the operations of the firm supplying the information. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's Rules, as amended, 67 FR 68036 (Nov. 8, 2002). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Issued: April 4, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–8727 Filed 4–9–03; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Extension of a currently approved collection; Certification of compliance with eligibility requirements of grants to reduce crimes against women.

The Department of Justice (DOJ), Office of Justice Programs (OJP) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 68, Number 20, page 4797 on January 30, 2003, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until May 12, 2003. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

Overview of this information collection:

(1) *Type of information collection:* Extension of a currently approved collection.

(2) *The title of the form/collection:* Certification of Compliance with Eligibility Requirements of Grants to Reduce Crimes against Women.

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form Number: none. Office on Violence Against Women, Office of Justice Programs, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Institutions of Higher Education. Other: None. The grants to Reduce Violent Crimes Against Women on Campus Program was authorized through section 826 of the Higher Education Amendments of 1998 to make funds available to institutions of higher education to combat domestic violence, dating violence, sexual assault and stalking crimes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 125 respondents will complete the application in approximately 30 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this application is 62 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: April 4, 2003.

Brenda E. Dyer,

Deputy Clearance Officer, Department of Justice.

[FR Doc. 03–8687 Filed 4–9–03; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–40,947]

BASF Corporation, Vitamin Division, a Subsidiary of BASFIN Corporation, Including Leased Workers of Adecco, Wyandotte, MI; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the U.S. Department Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 9, 2002, applicable to workers of BASF Corporation, Vitamin Division, a subsidiary of BASFIN Corporation, Wyandotte, Michigan. The notice was published in the **Federal Register** on May 17, 2002 (67 FR 35141).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. Information provided by the State shows that leased workers of Adecco were employed at BASF Corporation, Vitamin Division, a subsidiary of BASFIN Corporation to produce vitamin E, vitamin A and food blends/mixes at the Wyandotte, Michigan location of the subject firm.

Based on these findings, the Department is amending the certification to include leased workers of Adecco who were working at BASF Corporation, Vitamin Division, a subsidiary of BASFIN Corporation, Wyandotte, Michigan.

The intent of the Department's certification is to include all workers of BASF Corporation, Vitamin Division, a subsidiary of BASFIN Corporation who were adversely affected by increased imports.

The amended notice applicable to TA–W–40,947 is hereby issued as follows:

All workers of BASF Corporation, Vitamin Division, a subsidiary of BASFIN Corporation, Wyandotte, Michigan, and leased workers of Adecco producing of vitamin E, vitamin A and food blends/mixes at BASF Corporation, Vitamin Division, a subsidiary of BASFIN Corporation, Wyandotte, Michigan, who became totally or partially separated from employment on or after January 14, 2001, through May 9, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 27th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8846 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,916]

Emess Design Group, LLC, Ellwood City, PA; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 2, 2002, applicable to workers of Emess Design Group, LLC, located in Ellwood City, Pennsylvania. The notice was published in the **Federal Register** on December 23, 2002 (67 FR 78256).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers produce lamps and lamp products. Information provided by company shows that on April 12, 2002, Emess Design Group, LLC, purchased the assets of another company.

Since the Emess Design Group, LLC did not exist prior to April 12, 2002, the Department is changing the impact date from July 15, 2001 to April 12, 2002.

The amended notice applicable to TA–W–41,916 is hereby issued as follows:

All workers of Emess Design Group, LLC, Ellwood City, Pennsylvania, who became totally or partially separated from employment on or after April 12, 2002 through December 2, 2004, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 14th day of March 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8848 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,122]

FCI USA, Inc., Communications, Data, and Consumer Division (CDC), Fiber Optics Group, a Member of the Areva Group, Etters, PA; Notice of Revised Determination on Reconsideration

On February 19, 2003, the Department issued an Affirmative Determination Regarding Application on Reconsideration applicable to workers and former workers of the subject firm. The notice will soon be published in the **Federal Register**.

The Department initially terminated the investigation on behalf of workers of FCI USA, Inc., Communications, Data, and Consumer Division (CDC), Fiber Optics Group, a member of the Areva Group, Etters, Pennsylvania because the Department had recently issued negative determinations applicable to the petitioning group of workers on September 20, 2002 (TA–W–41,571).

On reconsideration, the Department conducted a survey of the major customers of the subject firm regarding their purchases of electrical and fiber optic connectors during the relevant period. The survey revealed that a major customer increased their imports, while decreasing their purchases from the subject firm during the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with electrical and fiber optic connectors, contributed importantly to the declines in sales or production and to the total or partial separation of workers of FCI USA, Inc., Communications, Data, and Consumer Division (CDC), Fiber Optics Group, a member of the Areva Group, Etters, Pennsylvania. In accordance with the provisions of the Act, I make the following certification:

All workers of FCI USA, Inc., Communications, Data, and Consumer Division (CDC), Fiber Optics Group, a member of the Areva Group, Etters, Pennsylvania, engaged in the production of electrical and fiber optic connectors, who became totally or partially separated from employment on or after November 14, 2001 through two years from date of certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC this 26th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8852 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–42,310]

Inteplast Group Ltd., Integrated Bagging Systems, Lolita, TX; Notice of Revised Determination on Reconsideration

By application of February 21, 2003, petitioners requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on February 13, 2003, based on the finding that imports of plastic bags did not contribute importantly to worker separations at the Lolita plant. The denial notice was published in the **Federal Register** on March 10, 2003 (68 FR 11409).

To support the request for reconsideration, the petitioner supplied additional information to supplement that which was gathered during the initial investigation. Upon further review and contact with the company, it was revealed that sales and production did decline in the relevant period. As a result of this finding, a customer survey which was conducted in the original investigation became relevant to establishing import impact. Results from this survey revealed that a major declining customer increased their imports of plastic bags while decreasing their purchases from the subject firm in the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Inteplast Group, LTD., Integrated Bagging Systems, Lolita, Texas, contributed importantly to the declines in sales or production and

to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Inteplast Group, LTD., Integrated Bagging Systems, Lolita, Texas, who became totally or partially separated from employment on or after October 7, 2001 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 26th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8850 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–38,928]

Motorola, Inc. Personal Communications Sector, Harvard, IL; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Notice of Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on April 13, 2001, applicable to workers of Motorola, Inc., Personal Communications Sector, Harvard, Illinois. The notice was published in the **Federal Register** on May 2, 2001 (66 FR 22006).

At the request of the company, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of cellular phones.

New company information shows that worker separations will continue to occur at the Harvard, Illinois location of the subject firm after the current certification expires April 13, 2003. The workers will remain at the Harvard, Illinois location until August 15, 2003 to decommission equipment and to physically close the property.

Accordingly, the Department is amending the certification to extent the expiration date to August 15, 2003.

The intent of the Department's certification is to include all workers of Motorola, Inc., Personal Communication Sector, Harvard, Illinois who were adversely affected by increased imports.

The amended notice applicable to TA–W–38,928 is hereby issued as follows:

All workers of Motorola, Inc., Personnel Communications Sector, Harvard, Illinois who became totally or partially separated from employment on or after February 14, 2000, through August 15, 2003, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 17th day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8844 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,036 and TA–W–50,036A]

Nortel Networks, Department #2446, Research Triangle Park, NC and Including an Employee of Nortel Networks, Department #2446, Located in New York; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 17, 2003, applicable to workers of Nortel Networks, Department #2446, Research Triangle Park, North Carolina. The notice was published in the **Federal Register** on February 6, 2003 (68 FR 6212).

At the request of the petitioner, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred involving an employee of Department #2446, Research Triangle Park, North Carolina facility of Nortel Networks located in New York. This employee provided verification testing and turnup for the production of fiber optic backbone telecommunications network at Department #2446, Research Triangle Park, North Carolina location of the subject firm.

Based on these findings, the Department is amending this certification to include an employee of the Research Triangle Park, North Carolina facility of Nortel Networks, Department #2446 located in New York.

The intent of the Department's certification is to include all workers of Nortel Networks, Department #2446 who were adversely affected by increased imports.

The amended notice applicable to TA–W–50,036 is hereby issued as follows:

All workers of Nortel Networks, Department #2446, Research Triangle Park, North Carolina (TA–W–50,036), including an employee of Nortel Networks, Department #2446, Research Triangle Park, North Carolina, located in New York (TA–W–50,036A), who became totally or partially separated from employment on or after November 5, 2001, through January 17, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 21st day of March 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–8851 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,380]

Spinnaker Coating Maine Incorporated, Westbrook, ME; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) remanded to the Labor Department for further investigation of the negative determination in *Former Employees of Spinnaker Coating, Maine Inc.* v. *U.S. Secretary of Labor* (Court No. 02–00203).

The Department's initial denial of the petition for employees of Spinnaker Coating Maine, Inc., Incorporated, Westbrook, Maine was issued on August 23, 2001 and published in the **Federal Register** on September 11, 2001 (66 FR 47242). The denial was based on the fact that criterion (3) of the Group Eligibility Requirements of Section 222 of the Trade Act of 1974, as amended, was not met. Imports did not contribute importantly to worker separations at the subject firm.

On administrative reconsideration, the Department issued a ''Notice of Negative Determination Regarding Application for Reconsideration,'' on December 26, 2001 for the employees of Spinnaker Coating Maine, Inc., Incorporated, Westbrook, Maine. The notice was published in the **Federal Register** on January 31, 2002 (66 FR 4756 and 4757). The Department further concluded that imports did not contribute importantly to worker separations at the subject firm.

On remand, the Department examined the results of a survey response conducted during the initial investigation, with additional clarification from the customer during reconsideration. The survey showed

that the customer stopped buying thermal transfer paper from the subject firm prior to the relevant period. During the same time period, the customer increased their imports purchases of thermal transfer paper from another domestic source, while decreasing their purchases of Electronic Data Processing (EDP) paper from the subject firm.

Since the two products EDP and thermal transfer paper appeared to be two different types of paper, the Department did not consider the increased imports as impacting the subject plant. On remand, the Department contacted a company official and followed up with an industry expert at the United States International Trade Commission. Both indicated that the two products were directly competitive with each other. Therefore on further review of that survey response, the customer increased their purchases of imported thermal transfer paper, a product ''like or directly competitive'' with EDP during the relevant period. The customer simultaneously reduced their purchases of EDP, while increasing their imports of thermal transfer paper during the relevant period.

Conclusion

After careful review of the additional facts obtained on remand, I conclude that there were increased imports of articles like or directly competitive with those produced by the subject firm that contributed importantly to the worker separations and sales or production declines at the subject facility. In accordance with the provisions of the Trade Act, I make the following certification:

All workers of Spinnaker Coating Maine Incorporated, Westbrook, Maine who became totally or partially separated from employment on or after June 4, 2000, through two years from the issuance of this revised determination, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 10th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8845 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,967]

Trego Industries, Inc., Red Oak, TX; Notice of Revised Determination on Reconsideration

By letter postmarked November 13, 2002, a petitioner requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on October 11, 2002, based on the finding that imports of commercial door products did not contribute importantly to worker separations at the Red Oak plant. The denial notice was published in the **Federal Register** on November 5, 2002 (67 FR 67421).

To support the request for reconsideration, the petitioner supplied additional information to supplement that which was gathered during the initial investigation. Upon further review and contact with the major declining customer, it was revealed that this customer increased its imports of like or directly competitive products in the relevant period.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Trego Industries, Inc., Red Oak, Texas, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Trego Industries, Inc., Red Oak, Texas, who became totally or partially separated from employment on or after August 2, 2001 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 18th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8849 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,225]

Unitek Electronics, Inc., Portland, OR; Notice of Revised Determination on Reopening

On March 24, 2003, the Department on its own motion reviewed the initial determination for workers and former workers of the subject firm engaged in the production of solid-state motor speed controls.

The initial investigation resulted in a negative determination issued on January 29, 2003 because imports did not contribute importantly to the worker separations. The notice was published in the **Federal Register** on February 24, 2003 (68 FR 8619).

New information submitted to the Department by the company and additional information supplied by a primary customer of the subject firm revealed that the customer has increased purchases of imported solid-state motor speed controls while reducing purchases from the subject firm.

Conclusion

After careful consideration of the new facts obtained on reopening, it is concluded that increased imports of articles like or directly competitive with solid-state motor speed controls produced by the subject firm contributed importantly to the decline in sales and to the total or partial separation of workers of the subject firm. In accordance with the provisions of the Trade Act of 1974, I make the following revised determination:

All workers of Unitek Electronics, Inc., Portland, Oregon, who became totally or partially separated from employment on or after November 29, 2001 through two years from the date of this certification are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 27th day of March, 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8853 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–41,195]

Wellman Thermal Systems, Inc., Shelbyville, IN; Notice of Revised Determination on Reconsideration

By letter of August 14, 2002, the company requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation resulted in a negative determination issued on July 11, 2002, based on the finding that imports of electrical process heaters and controls did not contribute importantly to worker separations at the Shelbyville, Indiana plant. The denial notice was published in the **Federal Register** on July 29, 2002 (67 FR 49038).

To support the request for reconsideration, the company attempted to provide information to illustrate that foreign competition impacted the subject workers. On further clarification from the company it was discovered that a competitor purchased certain assets of Wellman's industrial grade electrical process business and inventory. The company indicated that the foreign company was attempting to penetrate the U.S. marketplace. As a result of the asset sale, workers engaged in the production of electrical process heaters and controls at the subject firm were impacted.

The Department contacted the foreign company for further clarification. The company indicated that they did purchase the assets from Wellman and inventory from the subject firm. The foreign company indicated that shortly after the asset purchase they increased their U.S. imports of products ''like and directly'' competitive with what the subject plant produced during the relevant period. The products were also simultaneously imported to some of the subject firm's domestic customers.

Conclusion

After careful review of the additional facts obtained on reconsideration, I conclude that increased imports of articles like or directly competitive with those produced at Wellman Thermal Systems, Inc., Shelbyville, Indiana contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wellman Thermal Systems, Inc., Shelbyville, Indiana, engaged in the production of electrical process heaters and controls, who became totally or partially separated from employment on or after March 13, 2001 through two years from the date of this certification, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 18th day of March 2003.

Edward A. Tomchick,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–8847 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed extension of data collection using the ETA Form 9023, Trade Adjustment Assistance (TAA)/North American Free Trade Agreement Transitional Adjustment Assistance (NAFTA–TAA) Program Financial Status Report/ Request for Funds (1205–0275, expires 4/31/2003). Efforts are currently underway to transition financial reporting on the TAA and NAFTA–TAA programs to the Standard Form 269. This transition will make financial reporting uniform across all ETA programs. It should be noted that the ETA–9023 will continue to be used by States to request supplemental funding for both the TAA and NAFTA–TAA programs.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before June 9, 2003.

ADDRESSEE: Edward A. Tomchick, Director, Division of Trade Adjustment Assistance, Room C–5311, 200 Constitution Ave., NW., Washington, DC 20210. Phone (202) 693–3577 (this is not a toll-free number), fax (202) 693–3584, e-mail *etomchick@doleta.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

The Trade Adjustment Assistance Reform Act of 2002 consolidated the Trade Adjustment Assistance (TAA) and North American Free Trade Agreement—Transitional Adjustment Assistance (NAFTA–TAA) programs into one program for trade affected workers. However; earlier amendments to the Trade Act of 1974, contained in the Omnibus Trade and Competitiveness Act (OTCA) of 1988 (Pub. L. 100–418) and Title 5 of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182) of 1993 made some significant changes and additions to the way worker adjustment assistance programs for trade-affected workers are funded and administered. These changes made enrollment in training an entitlement for workers adversely affected by imports (TAA program) or by imports from Canada or Mexico (NAFTA–TAA program). The TAA and NAFTA–TAA trade programs provide monies for trade readjustment allowances, job search allowances, job relocation allowances and training. In order for workers to receive trade readjustment allowances for the maximum amount of time permitted, they must be enrolled in a training program approved by the Secretary of Labor (section 423 of OTCA) for the TAA program and (section 250 of the NAFTA Implementation Act) for the NAFTA–TAA program. Although training becomes an entitlement under both programs if certain regulatory criteria are met, the OTCA imposed a training cap in section 236 of the TAA program and under subchapter D for the NAFTA–TAA program. Under the Trade Adjustment Assistance Reform Act of 2002, the statutory cap for training dollars is $220 million. The purpose of the collection of this information on the form ETA–9023 is to be able to monitor

expenditures for training and related activities for both programs to ensure that the statutory ceiling is not exceeded. Tracking of expenditures for the NAFTA–TAA program will occur until all funds have been expended or the State submits a final report—at which time the NAFTA–TAA program will be phased out in accordance with the Trade Adjustment Assistance Reform Act of 2002. Additionally, the Secretary of Labor is responsible for ensuring that resources are equitably distributed to the States. This form enables the ETA to evaluate a State's need for resources and to distribute resources among States as necessary.

II. Review Focus

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* Enhance the quality, utility, and clarity of the information to be collected; and

* Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The ETA–9023 has been successfully utilized by the ETA and the States with only minor modifications since Fiscal Year 1989. The **Federal Register** Notice requests an extension of the ETA–9023 for both the reformed TAA program and the NAFTA–TAA program—the latter only until monies for it expire. Overall, States have done a commendable job in completing the form with relatively minor problems or questions raised by the States on the form. The ETA–9023 has been extremely important to the ETA over the last several years because the entire funding available, under the statutory cap for the Trade program for training was allocated to the States. The ETA–9023 report was critical in allowing ETA to be able to distribute resources equitably among States so the maximum number of eligible participants seeking training could obtain it.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Trade Adjustment Assistance/NAFTA Financial Status Report/Request for Funds.

OMB Number: 1205–0275.

Agency Number: ETA–9023.

Affected Public: State Governments, State Workforce Agencies.

Cite/Reference	Total respondents/responses	Frequency	Total responses	Average time per response (hours)	Total requested burden
TAA Reporting	50	5	250	2	500
NAFTA Reporting	50	5	250	2	500
Totals	.....	.....	500	.....	1,000

The total costs is $26.00 x 100 hours = $26,000. Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 4, 2003.

Shirley Smith,

Administrator, Employment and Training Administration.

[FR Doc. 03–8842 Filed 4–9–03; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 03–039]

NASA Advisory Council, Pioneer Revolutionary Technology Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Aerospace Technology Advisory Committee (ATAC), Pioneer Revolutionary Technology Subcommittee (PRTS).

DATES: Tuesday, May 20, 2003, 8 a.m. to 5 p.m.; and Wednesday, May 21, 2003, 8 a.m. to 5 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building 258, Conference Room 221, Moffett Field, California 94035–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Mary-Ellen McGrath, Office of Aerospace Technology, National Aeronautics and Space Administration, Washington, DC 20546–0001, 202/358–4729.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—Quality Review Process
—General Description of Program
—Actions from ATAC and NASA's Response
—In-Depth Description of Computing, Information, and Communications Technology
—In-Depth Description of Engineering for Complex Systems
—General Description of Enabling Concepts and Technology

Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign Nationals attending this meeting will be required to provide the following information: full name; gender; date/place of birth; citizenship; visa/green card information (number, type, expiration date); passport information (number, country, expiration date); employer/affiliation information (name of institution, address, country, phone); title/position of attendee. To expedite admittance, attendees can provide identifying information in advance by contacting Ms. Pat A. Elson via e-mail at *pelson@mail.arc.nasa.gov* or by telephone at (650) 604–4498. Attendees will be escorted at all times.

It is imperative that the meeting be held on these dates to accommodate the

scheduling priorities of the key participants.

June W. Edwards,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 03–8819 Filed 4–9–03; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Institute of Museum and Library Services; Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons

AGENCY: Institute of Museum and Library Services; National Foundation on the Arts and the Humanities.

ACTION: Notice of proposed guidance.

SUMMARY: The Institute of Museum and Library Services (IMLS) publishes for public comment proposed policy guidance on Title VI's prohibition against national origin discrimination as it affects limited English proficient persons.

DATES: Comments must be submitted on or before May 12, 2003. IMLS will review all comments and will determine what modifications, if any, to this policy guidance are necessary.

ADDRESSES: Interested persons should submit written comments to Office of the General Counsel, Institute of Museum and Library Services, 1100 Pennsylvania Avenue, NW., Suite 802, Washington, DC 20506. Comments may also be submitted to facsimile at 202–606–1077 or by e-mail at *nweiss@imls.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy Weiss at the above address or by telephone at 202–606–5414; TDD: 202–606–8636. Arrangements to receive the policy in an alternative format may be made by contacting the named individual.

SUPPLEMENTARY INFORMATION: Under IMLS regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. (Title VI), recipients of federal financial assistance from the IMLS (''recipients'') have a responsibility to ensure meaningful access by persons with limited English proficiency (LEP) to their programs and activities. See 45 CFR 1170. Executive Order 13166, reprinted at 65 FR 50121 (August 16, 2000), directs each Federal agency that extends assistance subject to the requirements of Title VI to publish, after review and approval by the Department of Justice, guidance for its recipients clarifying that obligation. The Executive Order also directs that all such guidance be consistent with the compliance standards and framework detailed in DOJ Policy Guidance entitled ''Enforcement of Title VI of the Civil Rights Act of 1964—National Origin Discrimination Against Persons with Limited English Proficiency.'' See 65 FR 50123 (August 16, 2000).

On March 14, 2002, the Office of Management and Budget (OMB) issued a Report To Congress titled ''Assessment of the Total Benefits and Costs of Implementing Executive Order No. 13166: Improving Access to Services for Persons with Limited English Proficiency.'' Among other things, the Report recommended the adoption of uniform guidance across all federal agencies, with flexibility to permit tailoring to each agency's specific recipients. Consistent with this OMB recommendation, the Department of Justice (DOJ) published LEP Guidance for DOJ recipients which was drafted and organized to also function as a model for similar guidance by other Federal grant agencies. See 67 FR 41455 (June 18, 2002). The proposed guidance is based upon and incorporates the legal analysis and compliance standards of the model June 18, 2002, DOJ LEP Guidance for Recipients.

It has been determined that the guidance does not constitute a regulation subject to the rulemaking requirements of the Administrative Procedure Act, 5 U.S.C. 553. It has also been determined that this guidance is not subject to the requirements of Executive Order 12866.

The text of the complete proposed guidance document appears below.

Nancy E. Weiss, General Counsel, Institute of Museum and Library Services.

I. Introduction

Most individuals living in the United States read, write, speak and understand English. There are many individuals, however, for whom English is not their primary language. For instance, based on the 2000 census, over 26 million individuals speak Spanish and almost 7 million individuals speak an Asian or Pacific Island language at home. If these individuals have a limited ability to read, write, speak, or understand English, they are limited English proficient, or ''LEP.''

Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d, et seq. and its implementing regulations provide that no person shall be subjected to discrimination on the basis of race, color, or national origin under any program or activity that receives federal financial assistance. Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by federally funded programs and activities.

In certain circumstances, failure to ensure that LEP persons can effectively participate in or benefit from federally assisted programs and activities may violate the prohibition under Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d and Title VI regulations against national origin discrimination.

The purpose of this policy guidance is to clarify the responsibilities of recipients of federal financial assistance from the Institute of Museum and Library Services (IMLS), and assist them in fulfilling their responsibilities to limited English proficient (LEP) persons pursuant to Title VI of the Civil Rights Act of 1964 and the IMLS implementing regulations. The policy guidance reiterates IMLS's longstanding position that, in order to avoid discrimination against LEP persons on the grounds of national origin, recipients must take reasonable steps to ensure that such persons have meaningful access to the programs, services, and information those recipients provide.

This policy guidance is modeled on and incorporates the legal analysis and compliance standards and framework set out in Section I through Section VIII of Department of Justice (DOJ) Policy Guidance titled ''Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons,'' published at 67 FR 41455, 41457–41465 (June 18, 2002) (DOJ Recipient LEP Guidance). To the extent additional clarification is desired on the obligation under Title VI to ensure meaningful access by LEP persons and how recipients can satisfy that obligation, a recipient should consult the more detailed discussion of the applicable compliance standards and relevant factors set out in DOJ Recipient LEP Guidance. The DOJ Guidance may be viewed and downloaded at *http://www.usdoj.gov/crt/cor/lep/DOJFinLEPFRJun182002.htm* or at *http://www.lep.gov.* In addition, IMLS recipients also receiving federal financial assistance from other federal agencies, such as the National Endowment for the Humanities, should review those agencies' guidance documents at *http://www.lep.gov* for a

more focused explanation of how they can comply with their Title VI and regulatory obligations in the context of similar federally assisted programs or activities.

Many commentators have noted that some have interpreted the case of *Alexander* v. *Sandoval,* 532 U.S. 275 (2001), as impliedly striking down the regulations promulgated under Title VI that form the basis for the part of Executive Order 13166 that applies to federally assisted programs and activities. The IMLS and the Department of Justice have taken the position that this is not the case, and will continue to do so. Accordingly, we will strive to ensure that federally assisted programs and activities work in a way that is effective for all eligible beneficiaries, including those with limited English proficiency.

II. Purpose and Application

This policy guidance provides a legal framework to assist recipients in developing appropriate and reasonable language assistance measures designed to address the needs of LEP individuals. The IMLS Title VI implementing regulations prohibit both intentional discrimination and policies and practices that appear neutral but have a discriminatory effect. Thus, a recipient entity's policies or practices regarding the provision of benefits and services to LEP persons need not be intentional to be discriminatory, but may constitute a violation of Title VI if they have an adverse effect on the ability of national origin minorities to meaningfully access programs and services.

Recipient entities have considerable flexibility in determining how to comply with their legal obligation in the LEP setting and are not required to use the suggested methods and options that follow. However, recipient entities must establish and implement policies and procedures for providing language assistance sufficient to fulfill their Title VI responsibilities and provide LEP persons with meaningful access to services.

III. Policy Guidance

1. Who Is Covered

All entities that receive Federal financial assistance from IMLS, either directly or indirectly, through a grant, cooperative agreement, contract or subcontract, are covered by this policy guidance. Title VI applies to all Federal financial assistance, which includes but is not limited to awards and loans of Federal funds, awards or donations of Federal property, details of Federal personnel, or any agreement, arrangement or other contract that has as one of its purposes the provision of assistance.

Title VI prohibits discrimination in any program or activity that receives Federal financial assistance. In most cases, when a recipient receives Federal financial assistance for a particular program or activity, all operations of the recipient are covered by Title VI, not just the part of the program that uses the Federal assistance. Thus, all parts of the recipient's operations would be covered by Title VI, even if the Federal assistance were used only by one part.

Finally, some recipients operate in jurisdictions in which English has been declared the official language. Nonetheless, these recipients continue to be subject to federal non-discrimination requirements, including those applicable to the provision of federally assisted services to persons with limited English proficiency.

2. Basic Requirement: All Recipients Must Take Reasonable Steps To Provide Meaningful Access to LEP Persons

Title VI and the IMLS implementing regulations require that recipients take reasonable steps to ensure meaningful access to the information, programs, and services they provide. Recipients of federal assistance have considerable flexibility in determining precisely how to fulfill this obligation.

It is also important to emphasize that museums and libraries are in the business of maintaining, sharing, and dissemination vast amounts of information and items, most of which are created or generated by third parties. In large measure, the common service provided by these recipients is *access* to information, whether maintained on-site or elsewhere, not the generation of the sources information itself. This distinction is critical in properly applying Title VI to museums, libraries, and similar programs. For example, in the context of library services, recipients initially should focus on their procedures or services that directly impact access in three areas. First, applications for library or membership cards, instructions on card usage, and dissemination of information on where and how source material is maintained and indexed, should be available in appropriate languages other than English. Second, recipients should, consistent with the four factor analysis, determine what reasonable steps could be taken to enhance the value of their collections or services to LEP persons, including, for example, accessing language-appropriate books through inter-library loans, direct acquisitions, and/or on-line materials. Third, to the extent a recipient provides services beyond access to books, art, or cultural collections to include the generation of information about those collections, research aids, or community educational outreach such as reading or discovery programs, these additional or enhanced services should be separately evaluated under the four-factor analysis. A similar distinction can be employed with respect to a museum's exhibits versus a museum's procedures for meaningful access to those exhibits.

What constitute reasonable steps to ensure meaningful access in the context of federally-assisted programs and activities in the area of museums and library services will be contingent upon a balancing of four factors: (1) The number and proportion of eligible LEP constituents; (2) the frequency of LEP individuals' contact with the program; (3) the nature and importance of the program; and (4) the resources available, including costs. Each of these factors is summarized below. In addition, recipients should consult Section V of the June 18, 2002 DOJ LEP Guidance for Recipients, 67 FR 41459–41460 or *http://www.lep.gov,* for additional detail on the nature, scope, and application of these factors.

(1) Number or Proportion of LEP Individuals

The appropriateness of any action will depend on the size and proportion of the LEP population that the recipient serves and the prevalence of particular languages. Programs that serve a few or even one LEP person are still subject to the Title VI obligation to take reasonable steps to provide meaningful opportunities for access. The first factor in determining the reasonableness of a recipient's efforts in the number or proportion of people who will be effectively excluded form meaningful access to the benefits or services if efforts are not made to remove language barriers. The steps that are reasonable for a recipient who serves one LEP person a year may be different than those expected from a recipient that serves several LEP persons each day.

(2) Frequency of Contact With the Program

Frequency of contact between the program or activity and LEP individuals is another factor to be weighed. If LEP individuals must access the recipient's program or activity on a daily basis, a recipient has greater duties than if such contact is unpredictable and infrequent. Recipients should take into account local or regional conditions when determining frequency of contact with the program, and should have the

flexibility to tailor their services to those needs.

(3) Nature and Importance of the Program

The importance of the recipient's program to beneficiaries will affect the determination of what reasonable steps are required. More affirmative steps must be taken in programs where the denial or delay of access may have serious, or even life or death implications than in programs that are not crucial to one's day-to-day existence, economic livelihood, safety, or education. For example, the obligations, of a federally assisted school or hospital differ from those of a federally assisted museum or library. This factor implies that the obligation to provide translation services will be highest in programs providing education, job training, medical/health services, social welfare services, and similar services. As a general matter, it is less likely that museums and libraries receiving assistance from the IMLS will provide services having a similar immediate and direct impact on a person's life or livelihood. Thus, in large measure, it is the first factor (number or proportion of LEP individuals) that will have the greatest impact in determining the initial need for language assistance services.

In assessing the effect on individuals of failure to provide language services, recipients must consider the importance of the benefit to individuals both immediately and in the long-term. Another aspect of this factor is the nature of the program itself. Some museum content may be extremely accessible regardless of language. In these instances, little translation might be required.

(4) Resources Available

IMLS is aware that its recipients may experience difficulties with resource allocation. Many of the organizations' overall budgets, and awards involved are quite small. The resources available to a recipient of federal assistance may have an impact on the nature of the steps that recipient must take to ensure meaningful access. For example, a small recipient with limited resources may not have to take the same steps as a larger recipient to provide LEP assistance in programs that have a limited number of eligible LEP individuals, where contact is infrequent, where the total cost of providing language services is relatively high, and/or where the program is not providing an important service or benefit from, for instance, a health, education, economic, or safety perspective. Translation and interpretation costs are appropriately included in award budget requests.

This four-factor analysis necessarily implicates the ''mix''of LEP services required. The correct mix should be based on what is both necessary and reasonable in light of the four-factor analysis. Even those award recipients who serve very few LEP persons on an infrequent basis should use a balancing analysis to determine whether the importance of the services(s) provided and minimal costs make language assistance measures reasonable even in the case of limited and infrequent interactions with LEP persons. Recipients have substantial flexibility in determining the appropriate mix.

IV. Strategies for Ensuring Meaningful Access

Museums and libraries have a long history of interacting with people with varying language backgrounds and capabilities within the communities where they are located. The agency's goal is to continue to encourage these efforts and share practices so that other museums and libraries can benefit from other institutions' experiences.

The following are examples of language assistance strategies that are potentially useful for all recipients. These strategies incorporate a variety of options and methods for providing meaningful access to LEP beneficiaries and provide examples of how recipients should take each of the four factors discussed above into account when developing an LEP strategy. Not every option is necessary or appropriate for every recipient with respect to all of its programs and activities. Indeed, a language assistance plan need not be intricate; it may be as simple as being prepared to use a commercially available ''language line'' to obtain immediate interpreting services and/or having bilingual staff members available who are fluent in the most common non-English languages spoken in the area. Recipients should exercise the flexibility afforded under this Guidance to select those language assistance measures which have the greatest potential to address, at appropriate levels and in reasonable manners, the specific language needs of the LEP populations they serve.

Finally, the examples below are not intended to suggest that if services to LEP populations aren't legally required under Title VI and Title VI regulations, they should not be undertaken. Part of the way in which libraries and museums build communities is by cutting across barriers like language. A small investment in outreach to a linguistically diverse community may well result in a rich cultural exchange that benefits not only the LEP population, but also the library or museum and the community as a whole.

Examples

- Identification of the languages that are likely to be encountered in, and the number of LEP persons that are likely to be affected by, the program. This information may be gathered through review of census and constituent data as well as data from school systems and community agencies and organizations;
- Posting signs in public areas in several language, informing the public of its right to free interpreter services and inviting members of the public to identify themselves as persons needing language assistance;
- Use of ''I speak'' cards for public-contact personnel so that the public can easily identify staff language abilities;
- Employment of staff, bilingual in appropriate languages, in public contact positions;
- Contracts with interpreting services that can provide competent interpreters in a wide variety of languages in a timely manner;
- Formal arrangements with community groups for competent and timely interpreter services by community volunteers;
- An arrangement with a telephone language interpreter line for on-demand service;
- Translations of application forms, instructional, informational and other key documents into appropriate non-English languages and provide oral interpreter assistance with documents for those persons whose language does not exist in written form;
- Procedures for effective telephone communication between staff and LEP persons, including instructions for English-speaking employees to obtain assistance from bilingual staff or interpreters when initiating or receiving calls to or from LEP persons;
- Notice to and training of all staff, particularly public contact staff, with respect to the recipient's Title VI obligation to provide language assistance to LEP persons, and on the language assistance policies and the procedures to be followed in securing such assistance in a timely manner;
- Insertion of notices, in appropriate languages, about access to free interpreters and other language assistance, in brochures, pamphlets, manuals, and other materials disseminated to the public and to staff; and
- Notice to and consultation with community organizations that represent LEP language groups, regarding

problems and solutions, including standards and procedures for using their members as interpreters.

In identifying language assistance measures, recipients should avoid relying on an LEP person's family members, friends, or other informal interpreters to provide meaningful access to important programs and activities. However, where LEP persons so desire, they should be permitted to use, at their own expense, an interpreter of their own choosing (whether a professional interpreter, family member, or friend) in place of or as a supplement to the free language services expressly offered by the recipient. But where a balancing of the four factors indicate that recipient-provided language assistance is warranted, the recipient should take care to ensure that the LEP person's choice is voluntary, that the LEP person is aware of the possible problems if the preferred interpreter is a minor child, and that the LEP person knows that a competent interpreter could be provided by the recipient at no cost.

The use of family and friends as interpreters may be an appropriate option where proper application of the four factors would lead to a conclusion that recipient-provided language assistance is not necessary. An example of this might be a bookstore or cafeteria associated with a library or archive. There, the importance and nature of the activity may be relatively low and unlikely to implicate issues of confidentiality, conflict of interest, or the need for technical accuracy. In addition, the resources needed and costs of providing language services may be high. In such a setting, an LEP person's use of family, friends, or other informal ad hoc interpreters may be appropriate.

As noted throughout this guidance. IMLS award recipients have a great deal of flexibility in addressing the needs of their constituents with limited English skills. That flexibility does not diminish, and should not be used to minimize, the obligation that those needs be addressed. IMLS recipients should apply the four factors outlined above to the various kinds of contacts that they have with the public to assess language needs and decide what reasonable steps they should take to ensure meaningful access for LEP persons. By balancing the number or proportion of people with limited English skills served, the frequency of their contact with the program, the importance and nature of the program, and the resources available, IMLS awardees' Title VI obligations in many cases will be satisfied by making available oral language assistance or commissioning translations on an as-requested and as-needed basis. There are many circumstances where, after an application and balancing of the four factors noted above, Title VI would not require translation. For example, Title VI does not require a library to translate its collections, but it does require the implementation of appropriate language assistance measures to permit an otherwise eligible LEP person to apply for a library card and potentially to access appropriate-language materials through inter-library loans or other reasonable methods. The IMLS views this policy guidance as providing sufficient flexibility to allow the IMLS to continue to fund language-dependent programs in both English and other languages without requiring translation that would be inconsistent with the nature of the program. Recipients should consult Section VI of the June 18, 2002 DOJ LEP Guidance for Recipients, 67 FR at 41461–41464 or *http://www.lep.gov,* for additional clarification on the standards applicable to assessing interpreter and translator competence, and for determining when translations of documents vital to accessing program benefits should be undertaken.

The key to ensuring meaningful access for people with limited English skills is effective communication. A library or museum can ensure effective communication by developing and implementing a comprehensive language assistance program that includes policies and procedures for identifying and assessing the language needs of its LEP constituents. Such a program should also provide for a range of oral language assistance options, notice to LEP persons of the right to language assistance, periodic training of staff, monitoring of the program and, in certain circumstances, the translation of written materials.

Each recipient should, based on its own volume and frequency of contact with LEP clients and its own available resources, adopt a procedure for the resolution of complaints regarding the provision of language assistance and for notifying the public of their right to and how to file a complaint under Title VI. State recipients, who will frequently serve large numbers of LEP individuals, may consider appointing a senior level employee to coordinate the language assistance program and to ensure that there is regular monitoring of the program.

V. Compliance and Enforcement

Executive order 13166 requires that each federal department or agency extending federal financial assistance subject to Title VI issue separate guidance implementing uniform Title VI compliance standards with respect to LEP persons. Where recipients of federal financial assistance from IMLS also receive assistance from one or more other federal departments or agencies, there is no obligation to conduct and document separate but identical analyses and language assistance plans for IMLS. IMLS, in discharging its compliance and enforcement obligations under Title VI, looks to analyses performed and plans developed in response to similar detailed LEP guidance issued by other federal agencies. Recipients may rely upon guidance issued by those agencies.

IMLS's regulations implementing Title VI contain compliance and enforcement provisions to ensure that a recipient's policies and practices overcome barriers resulting from language differences that would deny LEP persons an equal opportunity to participate in and access to programs, services and benefits offered by IMLS. *See* 45 CFR part 1110. The agency will ensure that its recipient entities fulfill their responsibilities to LEP persons through the procedures provided for the Title VI regulations.

The Title VI regulations provide that IMLS will investigate (or contact its State recipient of funds to investigate, if appropriate) whenever it receives a complaint, report or other information that alleges or indicates possible noncompliance with Title VI. If the investigation results in a finding of compliance, IMLS will inform the recipient in writing of this determination, including the basis for the determination. If the investigation results in a finding of noncompliance, IMLS must inform the recipient of the noncompliance through a Letter of Findings that sets out the areas of noncompliance and the steps that must be taken to correct the noncompliance, and must attempt to secure voluntary compliance through informal means. If the matter cannot bed resolved informally, the IMLS will secure compliance through (a) the suspension of termination of Federal assistance after the recipient has been given an opportunity for an administrative hearing, (b) referral to the Department of Justice for injunctive relief or other enforcement proceedings, or (c) any other means authorized by federal, state, or local law.

Under the Title VI regulations, the IMLS has a legal obligation to seek voluntary compliance in resolving cases and cannot seek the termination of funds until it has engaged in voluntary compliance efforts and has determined

that compliance cannot be secured voluntarily. IMLS will engage in voluntary compliance efforts and will provide technical assistance to recipients at all stages of its investigation. During these efforts to secure voluntary compliance, IMLS will propose reasonable timetables for achieving compliance and will consult with and assist recipients in exploring cost effective ways of coming into compliance.

In determining a recipient's compliance with Title VI, the IMLS's primary concern is to ensure that the recipient's policies and procedures overcome barriers resulting from language differences that would deny LEP persons a meaningful opportunity to participate in and access programs, services, and benefits. A recipient's appropriate use of the methods and options discussed in this policy guidance will be reviewed by the IMLS as evidence of a recipient's willingness to comply voluntarily with its Title VI obligations. If implementation of one or more of these options would be so financially burdensome as to defeat the legitimate objectives of a recipient/covered entity's program, or if there are equally effective alternatives for ensuring that LEP persons have meaningful access to programs and services (such as timely effective oral interpretation of vital documents), IMLS will not find the recipient/covered entity in noncompliance.

If you have any questions related to this policy, please contact the IMLS Office of the General Counsel.

Nancy E. Weiss,

General Counsel.

[FR Doc. 03–8803 Filed 4–9–03; 8:45 am]

BILLING CODE 7036–01–M

RAILROAD RETIREMENT BOARD

Notice of Public Meeting; Sunshine Act

Notice is hereby given that the Railroad Retirement Board will hold a meeting on April 16, 2003, 9 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois 60611. The agenda for this meeting follows:

(1) Employer Status Determination—Rail Temps, Inc.

(2) Employer Status Determination—Southern Gulf Railway Company.

(3) Occupational Disability Task Force Report.

(4) Management Information Report—Strategic Initiatives Related to the President's Management Agenda.

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. 312–751–4920.

Dated: April 7, 2003.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 03–8890 Filed 4–8–03; 9:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Form S–11; OMB Control No. 3235–0067; SEC File No. 270–064.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Form S–11 is the registration statement form used to register securities issued in real estate investment trusts by issuers whose business is primarily that of acquiring and holding investment interest in real estate under the Securities Act of 1933. The information filed with the Commission permits verifications of compliance with securities law requirements and assures public availability. Approximately 150 issuers file Form S–11 annually and it takes approximately 473 hours per response for a total burden of 283,800 hours. It is estimated that 25% of the total burden hours (70,950 reporting burden hours) is prepared by the company.

Written 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 collection of information collection information; (c) ways to enhance the quality, utility, and clarity of the information 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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Kenneth A. Fogash, Acting Associate Executive Director/CIO, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

Dated: April 3, 2003.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8809 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35–27665]

Filings Under the Public Utility Holding Company Act of 1935, as Amended (''Act'')

April 4, 2003.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated under the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by April 28, 2003 to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After April 29, 2003, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

National Grid Group plc, et al. (70–9849)

National Grid Group plc (''National Grid''), National Grid Holdings One plc

(''Holdings One''), National Grid (US) Investments (''US Investments''), all at 15 Marylebone Road, London, NW15JD, United Kingdom, National Grid (Ireland) 1 Limited (''Ireland 1''), and National Grid (Ireland) 2 Limited (''Ireland 2'' and collectively, ''Applicants''), both at 6 Avenue Pasteur L 2310, Luxembourg, all registered holding companies, have filed a post-effective amendment under section 5(d) of the Act to a previously filed application.

By order dated March 15, 2000, the Commission authorized Holdings One (formerly known as National Grid) to acquire all of the issued and outstanding common stock of the New England Electric System (''NEES''), a registered holding company. *See National Grid Group plc, et al*, Holding Co. Act Release No. 27154 (March 15, 2000) (''NEES Order''). Holdings One acquired NEES through several intermediate registered holding companies, including: U.S. Investments, Ireland 1, and Ireland 2. This corporate structure was designed to hold the National Grid's United States assets in a tax-efficient manner. To maintain tax efficiency, the Commission also authorized Holdings One to make non-material changes to its corporate structure.[1] *See* NEES Order.

By order dated January 16, 2002, the Commission authorized Holdings One and National Grid (formerly known as New National Grid Group plc) to acquire Niagara Mohawk Holdings, Inc. (''NiMo''). *See National Grid Group plc, et al*, Holding Co. Act Release No. 27490 (January 16, 2002) (''NiMo Order''). In the NiMo Order, the Commission also authorized Holdings One to become a direct subsidiary of National Grid and the direct parent of National Grid Holdings, Ltd., a foreign utility company (''FUCO'') within the meaning of section 33 of the Act. In the application underlying the NiMo Order, it was represented that Holdings One would deregister, as proposed by the application, and claim FUCO status.

Prior to the acquisition of NiMo, under the authority granted by the NEES Order, Holdings One restructured its intermediate registered holding company subsidiaries. Specifically, U.S. Investments, Ireland 1, and Ireland 2 (collectively, ''Former Intermediate Holding Companies'') were removed as intermediate holding companies.[2] They are now direct or indirect subsidiaries of National Grid Holdings Limited.[3]

Applicants state that, as a result of the transactions described above, Holdings One and the Former Intermediate Holding Companies no longer, directly or indirectly, own, control, or hold the power to vote ten percent or more of the outstanding voting securities of any public-utility company or holding company. Correspondingly, Applicants request that the Commission declare that Holdings One and the Former Intermediate Holding Companies are no longer public-utility holding companies.

For the Commission by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8810 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

[1] In the application underlying the NEES Order, it is stated that to maintain an efficient post-acquisition structure would require their quick response to changes in such areas as tax law and accounting rules and that it might be necessary to revise various organizational details of the intermediate registered holding companies.

[2] National Grid (US) Investments 4, National Grid U.S. Partner 1 Limited, National Grid U.S. Partner 2 Limited, and National Grid Holdings Inc. were added as new intermediate holding companies. National Grid (US) Holdings Limited and National Grid General Partnership were not changed in the restructuring, and remain intermediate registered holding companies.

[3] Specifically, U.S. Investments and Ireland 1 are direct subsidiaries of National Grid Holdings Limited; Ireland 2 is a direct subsidiary of Ireland 1.

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC –25991; File No. 812–12880]

The Prudential Insurance Company of America, et al.; Notice of Application

April 4, 2003.

AGENCY: Securities and Exchange Commission (''SEC'' or ''Commission'').

ACTION: Notice of Application for an order pursuant to section 11(a) of the Investment Company Act of 1940 (the ''Act'') approving the terms of certain offers of exchange, and for an order under section 6(c) of the Act granting exemptions from the provisions of sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and rule 22c–1 thereunder to permit the recapture of certain bonus credits.

SUMMARY OF APPLICATION: Applicants seek an order approving the terms of a proposed offer of exchange of the ''Discovery Plus'', ''Variable Investment Plan'' and ''Qualified Variable Investment Plan'' individual variable annuity contracts (the ''Old Contracts'') for a version of the Strategic Partners Annuity One individual variable annuity (the ''New Contracts'') to be offered by Pruco Life Insurance Company and Pruco Life Insurance Company of New Jersey. Applicants also seek an order approving the terms of a proposed exchange program under their Strategic Partners FlexElite variable annuity contract. In addition, Applicants seek an order to permit the recapture of any bonus credits granted with respect to purchase payments under the New Contracts (a) if the New Contract is cancelled during the applicable free-look period or (b) for credits granted within one year prior to death where the death benefit is equal to contract value.

Applicants: The Prudential Insurance Company of America (''Prudential Life''), the Prudential Individual Variable Contract Account and the Prudential Qualified Individual Variable Contract Account (each such Account, the ''Old Prudential Account''); Pruco Life Insurance Company (''Pruco Life''); Pruco Life Flexible Premium Variable Annuity Account (the ''New Pruco Life Account''); Pruco Life Insurance Company of New Jersey (''PLNJ,'' and collectively with Pruco Life and Prudential Life, the ''Insurance Companies''); Pruco Life of New Jersey Flexible Premium Variable Annuity Account (the ''New PLNJ Account,'' and collectively with the Old Pruco Life Accounts and the New Pruco Life Account, the ''Accounts''); and Prudential Investment Management Services LLC (''PIMS,'' and collectively with the Insurance Companies and the Accounts, ''Applicants'').

Filing Date: The application was filed on September 9, 2002, and amended and restated on April 3, 2003.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on April 29, 2003, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the requester's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants: The Prudential Insurance Company of America, 213 Washington Street, Newark, NJ 07102.

FOR FURTHER INFORMATION CONTACT: Joyce M. Pickholz, Senior Counsel, or William J. Kotapish, Assistant Director, at (202) 942–0670, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. Prudential Life is a stock life insurance company founded in 1875 under the laws of New Jersey. It is licensed to sell life insurance and annuities in the District of Columbia, Guam, the U.S. Virgin Islands and in all states. Pruco Life is a stock life insurance company organized in 1971 under the laws of the State of Arizona and is licensed to sell life insurance and annuities in the District of Columbia, Guam, and in all states except New York. PLNJ is a stock life insurance company organized in 1982 under the Laws of the State of New Jersey and is licensed to sell life insurance and annuities in the states of New Jersey and New York. PLNJ is a wholly-owned subsidiary of Pruco Life, which is a wholly-owned subsidiary of Prudential Life. PIMS is registered with the Commission as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc. PIMS is the principal underwriter for the Old Contracts and the New Contracts and for certain other of Prudential Life's variable insurance products, including the Strategic Partners FlexElite variable annuity. PIMS is an affiliate of Prudential Life.

2. Each Old Prudential Account was established on October 12, 1982, in accordance with authorization by the Board of Directors of Prudential Life and registered under the Act as a unit investment trust (File Nos. 811–03622 and 811–03625). The Prudential Individual Variable Contract Account is the separate account through which Prudential Life issues the Discovery Plus individual variable annuity contracts (''Discovery Plus Contracts'') and the Variable Investment Plan Contracts. The Prudential Qualified Individual Variable Contract Account is the separate account through which Prudential Life issues the Qualified Variable Investment Plan Contracts (collectively with the Variable Investment Plan Contracts, the ''VIP Contracts'').

3. The New Pruco Life Account was established on June 16, 1995, in accordance with authorization by the Board of Directors of Pruco Life and registered under the Act as a unit investment trust (File No. 811–07325). It is the separate account in which Pruco Life will set aside and invest assets attributable to the New Contracts.

4. The New PLNJ Account was established on May 20, 1996, in accordance with authorization by the Board of Directors of PLNJ and registered under the Act as a unit investment trust (File No. 811–07975). It is the separate account in which PLNJ will set aside and invest assets attributable to PLNJ's version of the New Contracts.

The Exchange Offer

5. The Exchange Offer proposed by the Applicants will be made only to owners of the Old Contracts whose current account value equals or exceeds $ 20,000, whose Old Contract is no longer subject to a withdrawal charge, and who are aged 80 or younger on the date of the exchange.

6. The New Contracts will be registered with the SEC and will be offered as individual tax-deferred flexible premium variable annuity contracts. They will permit contract values to be accumulated on a variable, fixed, or combination of variable and fixed basis. They require a minimum initial premium payment of $20,000. Subsequent purchase payments generally must be at least $500.

7. On the day the exchange is effected (the ''Exchange Date'') eligible owners would receive a bonus based on the contract value of each Old Contract surrendered in exchange for an enhanced New Contract (the ''New Credit''). The New Credit would be equal to 1.5%, 2%, 2.5%, or 3%, depending on the amount exchanged and the age of the owner. Specifically, the New Credit percentage is 2% for purchase payments less than $250,000, 2.5% for purchase payments of $250,000 or more (but less than $1 million), and 3% with respect to a purchase payment of $1 million or more if the contract owner is age 80 or younger (for jointly-owned contracts, if the older owner is 80 or younger). The New Credit percentage is 1.5% for contract owners aged 81 or older (for jointly-owned contracts, if the older owner is 81 or older), regardless of the amount of the purchase payment. Under the New Contracts, the New Credit will vest upon the expiration of the free look period (except for New Credits applied within 12 months of death where the death benefit amount is equal to contract value). Specifically, if a New Credit is applied to a purchase payment within one year of death and the death benefit amount is equal to contract value, then any Credit attributable to that purchase payment will be recaptured in calculating the death benefit.

8. The New Contracts will provide for a base death benefit equal to the greater of (a) contract value or (b) total purchase payments (less withdrawals). The guaranteed minimum death benefit option (''GMDB'') guarantees that the death benefit will be no lower than a certain ''protected value'' equal to the ''step-up value'' or the ''roll-up value'' or the greater of the ''step-up value'' or the ''roll-up value''. The step-up value equals the highest value of the contract on any contract anniversary date (on each contract anniversary, the new step-up value becomes the higher of the previous step-up value and the current contract value). Between anniversary dates, the step-up value is only increased by additional purchase payments and reduced proportionally by withdrawals. The roll-up value equals the total of all invested purchase payments compounded daily at an effective annual rate of 5.0%. The New Contract will offer a minimum of three annuity payment options, including annuity payments for a fixed period, life income annuity option, and an interest payment settlement option.

9. Contract values under the New Contracts may be invested in several different investment company portfolios (''Underlying Funds''). New Underlying Funds may be added in the future. All but one of the Underlying Funds are portfolios of The Prudential Series Fund (''Series Fund Portfolios''). The other Underlying Fund is a portfolio of Janus Aspen Series. In addition, contract values under the New Contracts may be allocated to certain companion fixed options and market value adjustment options.

10. Contract values may be transferred among the subaccounts funding the New Contracts without charge for the first twelve such transfers per contract year. After the twelfth, a charge of up to $30 for each additional transfer will be imposed. New Contract owners may enroll in a dollar-cost averaging transfer program (the ''DCA Program''). Contract owners who enroll under the DCA Program may then systematically transfer either a fixed dollar amount or a percentage out of any variable investment option and into any other variable investment option. The New Contracts also will offer an auto-rebalancing feature. The contract owner may choose an allocation among the

variable investment options, and on a periodic basis (monthly, quarterly, semi-annually, or annually) automatic transfers occur to return the contract to the chosen allocation. In addition to the DCA Program, the New Contract will offer a dollar cost averaging fixed rate option (the ''DCA Fixed Rate Option''). Purchase payments allocated to the DCA Fixed Rate Option will be allocated to the insurer's general account, and will earn interest at prevailing rates. Those purchase payments will be transferred, in either six or twelve monthly installments, to the variable investment options selected by the contract owner.

11. Contract values under the New Contracts may be accessed at any time prior to the annuity commencement date by means of partial surrenders or full surrender. The New Contracts will permit withdrawal of up to 10% of purchase payments per contract year without charge. This annual withdrawal amount, which is not subject to the contingent deferred sales charge (''CDSC''), is also referred to herein as the ''charge-free-amount''. Earnings (the contract value in excess of purchase payments) are also not subject to the CDSC when withdrawn. No CDSC is imposed on amounts withdrawn to meet minimum distribution requirements. Purchase payments are deemed to be withdrawn before any earnings. The CDSC under the New Contracts will be as follows:

Contract anniversaries since purchase payment	Withdrawal charge (percent)
0	8
1	8
2	8
3	8
4	7
5	6
6	5
7 or more	0

12. Some versions of the New Contracts may offer lower withdrawal charges. In no event, however, will the withdrawal charge after a given number of contract anniversaries exceed the charge shown in the above schedules.

13. Other charges under the New Contract will include the following: (a) Asset-based insurance and administrative charges of 1.20%, 1.45%, and 1.55% for the base death benefit, Roll-up or Step-up guaranteed minimum death benefit, and greater of Roll-up or Step-up guaranteed minimum death benefit, respectively; (b) where the guaranteed minimum income benefit feature (''GMIB'') has been elected, a charge at an annual rate of 0.45% of the Roll-Up value, which is deducted proportionally from the net assets of each sub-account on each contract anniversary and pro-rata upon partial withdrawals (when the remaining contract value is less than the amount of the charge), annuitization, the contract owner's election to discontinue the feature, and surrender of the contract; (c) where the Earnings Appreciator supplemental death benefit feature has been elected, a charge at an annual rate of 0.30% of the contract value which is deducted from the contract value on the contract anniversary and upon annuitization, death of the sole or last surviving owner prior to annuitization, surrender of the contract, and partial withdrawal if the contract value remaining is insufficient to cover the then applicable charge; (d) in those jurisdictions in which premium taxes are assessed, a charge to cover these taxes, either when the contract is issued or when annuity payments begin; and (e) for each transfer among subaccounts after the twelfth in a single contract year, a charge up to $30 assessed pro rata from the subaccounts involved in the transfer; and (f) a charge equal to .25% of contract value for the optional Income Appreciator benefit that pays a benefit designed to help the owner defray the taxes that will be owed on annuity payments.

14. The Discovery Plus Contract is offered pursuant to a registration statement under the Securities Act of 1933 (''1933 Act'') (File No. 33–25434), and permits contract values to be accumulated on a variable, fixed or combination variable and fixed basis. The Discovery Plus Contract requires a minimum initial premium payment of $10,000, and each subsequent premium payment must be at least $1000. Contract values of the Discovery Plus Contracts currently may be allocated to 13 subaccounts, each of which corresponds to a portfolio of the Prudential Series Fund, Inc. Contract values may also be accumulated on a guaranteed basis by allocation to Prudential Life's general account.

15. Contract values may be transferred among the Discovery Plus subaccounts without charge for the first four such transfers per contract year. The contract owner does not have a contractual right to more than four transfers a year, although Prudential Life currently permits such excess transfers. The Discovery Plus Contract offers a DCA Program similar to the one available under the New Contracts. Unlike the New Contracts, however, the Discovery Plus Contract's DCA Program permits transfers to come only out of the Money Market Portfolio.

16. The Discovery Plus Contract provides a bonus credit of 1% of each purchase payment during the first three contract years, up to a maximum credit of $ 1,000 per contract year. Prudential Life has the contractual discretion to grant the 1% bonus for purchase payments made after the third contract year, and currently does so. The credit does not vest at all until the end of the surrender charge period, at which point the entire credit vests. Applicants represent that each owner of a Discovery Plus Contract to whom an Exchange Offer is extended will be fully vested in his/her bonus amounts. Any withdrawal or surrender during the surrender charge period results the in recapture of any credit corresponding to the amount withdrawn. Contract values under the Discovery Plus Contracts may be accessed at any time prior to the annuity commencement date by means of partial surrenders or full surrender. The Discovery Plus Contract permits a charge-free withdrawal of all earnings and up to 10% of the contract value each contract year less any prior withdrawals of purchase payments (''net premium payments'').

17. The Discovery Plus Contract provides for a death benefit equal to the greater of (a) the contract value and (b) net premium payments. In addition, the death benefit is subject to a one-time step-up on the sixth contract anniversary, at which time the minimum death benefit is guaranteed to be the greater of (a) the contract value on the sixth contract anniversary, increased by any additional premium payments and reduced by any withdrawals, (b) the contract value, and (c) net premium payments. The Discovery Plus Contract offers the same annuity options available under the New Contracts.

18. The Discovery Plus Contracts assess a CDSC against partial or full surrenders in excess of the free withdrawal amount. The length of time from receipt of a premium payment to the time of surrender determines the percentage of the CDSC. During the first five contract years after each premium payment, a CDSC will be assessed against the surrender of premium payments. The CDSC is a percentage of the amount surrendered (not to exceed the aggregate amount of the premium payments made) and equals:

Contract anniversaries since purchase payment	Withdrawal charge (percent)
0–2	7
3	6
4	5
5	4

Contract anniversaries since purchase payment	Withdrawal charge (percent)
6 or more	0

Prudential Life deducts an M&E charge and an administration fee from contract value at an aggregate annual rate equal to 1.20% of amounts invested in the contract's variable investment options. A charge for administrative expenses relating to the maintenance of the Discovery Plus Contract is deducted annually on each contract anniversary and upon surrender from the contract value. This maintenance fee is $30, and is waived on contracts with a $10,000 contract value or greater on the contract anniversary or full surrender. Charges for the Underlying Funds of the Discovery Plus Contracts (as of December 31, 2002) ranged on an annual basis from 0.37% to 0.82% of average daily net assets.

19. The VIP Contracts are individual, flexible premium variable annuity contracts that allow the contract owner to allocate purchase payments to 13 portfolios of The Prudential Series Fund, Inc., to the Prudential Variable Contract Real Property Account and to a fixed interest-rate option. These contracts are registered under the 1933 Act on Form N–4 (File No. 2–80897). The Qualified Variable Investment Plan Contracts (''QVIP Contracts'') are also registered under the 1933 Act on Form N–4 (File No. 2–81318) and generally have the same features as the VIP contracts, except that they are sold only to certain retirement arrangements. Except as indicated, the discussion herein concerning the VIP Contracts applies equally to the Qualified Variable Investment Plan Contracts, and references to the VIP contracts encompass both VIP and QVIP Contracts. The total expenses of the Prudential Series Fund portfolios available under the VIP contracts (as of December 31, 2002) ranged from 0.37% to 0.82% annually.

20. The VIP Contracts also offer a DCA Program, under which the contract owner can systematically transfer amounts from the money market sub-account into any other variable investment option. During the first three years of the contract, Prudential Life adds an additional 1% bonus to each purchase payment made by an owner. This 1% bonus vests over a period of eight contract anniversaries. Prudential Life has the contractual discretion to grant the 1% bonus for purchase payments made after the third contract year, and currently does so. Applicants represent that each owner of a VIP Contract to whom an exchange offer is extended will be fully vested in his/her bonus amounts. The VIP Contract offers several annuity and settlement options, including life annuity with 10 years certain and an interest payment option. If the annuitant under a VIP Contract dies, the beneficiary will receive the total value of the contract, or, depending on the age of the annuitant, the total amount invested in the contract (reduced proportionately by withdrawals), whichever is greater.

21. Each day, Prudential Life deducts a mortality and expense risk charge under the VIP contracts equal, on an annual basis, to 1.20% of the daily value of the contract invested in the variable investment options. During the accumulation phase, Prudential Life deducts an annual contract fee of $30 if the contract value is less than $10,000 on the contract anniversary date. Each contract year, the contract owner can withdraw earnings, plus up to 10% of the owner's total contract value without paying a withdrawal charge. With respect to contracts issued in states that impose a premium tax, Prudential Life makes a deduction from the contract value to pay some or all of these taxes. There is a CDSC under the VIP Contracts according to the following schedule:

Contract anniversaries since purchase payment	Withdrawal charge (percent)
0	8
1	7
2	6
3	5
4	4
5	3
6	2
7	1
8	0

22. Prudential proposes to offer eligible owners of Old Contracts the opportunity to exchange their Old Contracts for New Contracts by means of the Exchange Offer. To be eligible for the Exchange Offer, Old Contract owners must not be subject to a CDSC on their contract, have a minimum contract value of $ 20,000, and not be older than 80 on the date of the exchange. Only Old Contracts held in IRAs and outside any tax-qualified arrangement will be eligible for the Exchange Offer. Pruco Life and PLNJ, as applicable will provide from their general accounts a Credit to each owner of an Old Contract who accepts the offer (equal to either 1.5%, 2%, 2.5%, or 3% as discussed above). The Exchange Offer will provide that, upon acceptance of the offer, a New Contract will be issued with a contract value equal to the contract value of the Old Contract surrendered in the exchange, increased by the amount of the applicable Credit. Any such Credit will be recaptured if the New Contract is surrendered during the free look period or if the Credit was granted within 12 months prior to death and the death benefit amount is equal to the contract value.

23. After an initial notification of the Exchange Offer to Old Contract owners and contacts made by Prudential's registered representatives, the Exchange Offer will be made by providing eligible owners of Old Contracts who express an interest in learning the details of the offer a prospectus for the New Contracts, accompanied by a letter explaining the offer and a piece of sales literature that compares the applicable contracts. The offering letter will advise owners of an Old Contract that the Exchange Offer is specifically designed for those contract owners who intend to continue to hold their contracts as long-term investment vehicles. The letter will state that the offer is not intended for all contract owners, and that it is especially not appropriate for any contract owner who anticipated surrendering all or a significant part (*i.e.,* more than 10% of purchase payments on an annual basis) of his or her contract before seven years have elapsed. In this regard, the letter will encourage contract owners to carefully evaluate their personal financial situation when deciding whether to accept or reject the Exchange Offer. In addition, the offering letter will explain how an owner of an Old Contract contemplating an exchange may want to decline the offer to avoid the applicable CDSC on the New Contract if more than the annual ''free withdrawal amount'' is surrendered. In this regard, the offering letter will state in clear plain English that if the New Contract is surrendered during the initial CDSC period, a contract owner may be worse off than if he or she had rejected the Exchange Offer, because the amount of the CDSC will exceed the amount of the New Credits granted.

24. The contract value of an Old Contract (''Exchange Value'') together with the New Credit and any additional premium payments submitted with an internal Exchange Application Form for the New Contract will be applied to the New Contract as of the Exchange Date. Because only Old Contract owners who are no longer subject to a CDSC charge will be eligible for the Exchange Offer, no CDSC will be deducted upon the surrender of an Old Contract in connection with an exchange. If a contract owner surrenders his New Contract prior to the completion of the

CDSC period, Prudential will apply the applicable CDSC according to the seven-year schedule detailed above. If a contract owner exercises his or her right to cancel the New Contract, the New Credit will be returned to Prudential and the Old Contract will be reinstated with contract values that reflect the investment experience while the New Contract was held, or such other value as is required by state law. After expiration of the New Contract's right to cancel period, withdrawals will be governed by the terms of the New Contract for purposes of calculating any CDSC. The Exchange Date will be the issue date of the New Contract for purposes of determining contract years and anniversaries after the Exchange Date.

25. To accept the Exchange Offer, an owner of an Old Contract must complete an Internal Exchange Application Form. Contract values will be allocated to the New Contract investment options selected by the owner. Contract values may subsequently be reallocated under the New Contract pursuant to contract owner instructions. Payments submitted with the Internal Exchange Application Form will be assumed to be payments under the New Contract as of the date of issue of the New Contract.

26. No adverse tax consequences generally will be incurred by those Old Contract owners who accept the Exchange Offer. The exchanges will constitute tax-free exchanges pursuant to Section 1035 of the Internal Revenue Code (for nonqualified annuities) or tax-free transfers (in connection with Old Contracts held under IRAs). Prudential designed the terms of the Exchange Offer (particularly the New Credit) in response to similar offers currently being made by its competitors as a means to maintain the existing Old Contract business.

27. The following chart summarizes the salient features of the Old Contracts and the New Contracts.

Features	New contract	Discovery plus	VIP
A. Investment Options:			
1. Number of underlying funds	27	13	13.
2. Fixed rate option (and MVA option)	Yes	Yes	Yes.
3. Dollar cost averaging fixed rate option	Yes	N/A	N/A.
4. Dollar cost averaging feature	Yes	Yes	Yes.
5. Asset allocation program	Yes	N/A	N/A.
6. Auto-rebalancing	Yes	N/A	N/A.
7. Number of Free Transfers	12	4	4.
B. Death Benefit:			
1. Base death benefit (greater of total purchase payments less withdrawals or contract value).	Yes	Yes	Yes.
2. Step-up or roll-up GMDB	Yes	N/A	N/A.
3. Greater of Step-up or Roll-up GMDB	Yes	N/A	N/A.
4. Earnings Appreciator supplemental death benefit	Yes	N/A	N/A.
C. Annuity Options:			
1. Annuity payments for a fixed period	Yes	Yes	Yes.
2. Life income annuity option.	Yes	Yes	Yes.
3. Interest payment option	Yes	Yes	Yes.
4. Other annuity options.	Yes	Yes	Yes.
5. Automated withdrawals	Yes	Yes	Yes.
D. Guaranteed Minimum Income Benefit	Yes	N/A	N/A.
E. Spousal Continuance Benefit	Yes	N/A	N/A.
F. Credit Amount/Bonus	Up to 3%	1%	1%.
G. Fees and Charges:			
1. Maximum transfer fee	$30.00	N/A	N/A.
2. Contract maintenance charge	$0.00	$30.00	$30.00.
3. Base Death Benefit; or	1.20%	1.20%	1.20%.
GMDB—Roll-up or Step-up; or	1.45%	N/A	N/A.
GMDB greater of Roll-up and Step-up	1.55%	N/A	N/A.
4. Earnings appreciator charge	.30%	N/A	N/A.
5. Income Appreciator charge	.25%	N/A	N/A.
6. GMIB charge	.45%	N/A	N/A.
7. Underlying fund charge range (after Expense reimbursement)	.37%–1.30%	.37%–.82%	.37%–.82%.

28. Applicants submit that the Exchange Offer is meant to encourage existing Old Contract owners who might otherwise surrender their contracts in exchange for a competitor's product offering a similar bonus to remain with Prudential instead. If imposing the New Contract's CDSC on the New Contract is not permitted, Applicants believe some contract owners might exchange their New Contracts with the intent to take advantage of the New Credit and then surrender the New Contract without a CDSC. Without the CDSC, Prudential would have no assurance that a contract owner who accepted the Exchange Offer would persist for long enough for the New Credit and any payments to registered representatives to be recouped through standard fees from the ongoing operation of the New Contracts. Old Contract owners will be informed in the offering letter that Prudential reserve the right to terminate the Exchange Offer at any time, and will be referred to a toll-free telephone number to call for information concerning the current status of the Exchange Offer.

The FlexElite Exchange Program

29. In addition to seeking an order under section 11(a) with respect to the Exchange Offer described above, PLIC, PLNJ, the New PLIC Account, the New PLNJ Account, and PIMS also seek Commission approval of an exchange offer to be made with respect to each of PLIC's and PLNJ's Strategic Partners FlexElite variable annuity contract (such exchange offer is referred to hereinafter as the ''FlexElite Exchange Program''). PLIC currently offers a Strategic Partners FlexElite variable annuity contract through the New PLIC Account. (File

No. 333–75702). PLIC's Strategic Partners FlexElite variable annuity has a withdrawal charge, equal to 7% of the amount withdrawn (in excess of the permitted free withdrawal amount), that applies in each of the first three years of the contract. No withdrawal charge applies after the third contract year, unless the contract owner makes the credit election described below. Before each contract's third contract anniversary, PLIC will offer the owner of such contract the opportunity to receive a credit equal to 1% of the contract value as of the third contract anniversary (the ''1% Credit''). If the owner chooses to receive the 1% Credit, PLIC will re-impose the three-year, 7% surrender charge schedule discussed above. PLIC also will offer the 1% Credit before the sixth anniversary of the contract, and will re-impose the three-year, 7% surrender charge schedule on any contract owner who accepts that offer. It is the offer of the 1% Credit before the third and sixth contract anniversaries, coupled with the re-imposition of the three-year, 7% surrender charge schedule, that arguably causes the FlexElite Exchange Program to need an exemption from section 11(a) of the Act. However, apart from the re-imposition of the surrender charge schedule on contract owners who accept the 1% Credit, a contract owner will experience no change in contract features as a consequence of accepting the 1% Credit.

30. PLNJ has filed with the Commission a Form N–4 registration statement to register its version of the Strategic Partners FlexElite variable annuity (File No. 333–99275). The 1% Credit, surrender charges, and re-imposition of surrender charge provisions of the PLNJ version are substantially similar in all material respects to those under the PLIC version of Strategic Partners FlexElite. PLNJ's version of Strategic Partners FlexElite otherwise is substantially similar in all material respects to the PLIC version.

31. PLIC and PLNJ seek Commission approval of the FlexElite Exchange Program under section 11(a) of the Act. To the extent described below, Applicants would adhere to the conditions set forth below with respect to the Exchange Offer. By adhering to those conditions, Applicants believe that contract owners will be fully apprised of the fact that the economic benefits of accepting the 1% Credit would be negated if the owner surrenders his/her contract during the ensuing three-year surrender charge period. Specifically, Applicants represent that they will adhere to the offering letter requirements set forth in condition 1 below, except that (a) they will not contrast an old contract with a new contract because no new contract will be issued and (b) they will not reserve any right to terminate the FlexElite Exchange Program. Applicants also will adhere to the terms of condition 2 below. Applicants will adhere to the terms of condition 3 below, except as respects the reference in that condition to the contract number of the old and new contracts (*i.e.,* there is only a single security, having a single 1933 Act registration number, involved). Finally, Applicants will comply with condition 4 below, in that the offering letter will disclose in concise, plain English the one feature of the exchange that could be less favorable than not accepting the exchange offer (*i.e.,* the possible imposition of a surrender charge).

Applicants' Conditions

If the requested order is granted, Applicants consent to the following conditions:

1. The offering letter will contain concise plain English statements that (a) the Exchange Offer is suitable only for contract owners who expect to hold their contracts as long term investments, and (b) if the New Contract is surrendered during the initial CDSC period, a contract owner may be worse off than if he or she had rejected the Exchange Offer, because the amount of the CDSC will exceed the amount of the New Credit, and (c) disclose each aspect of the New Contract that will be less favorable than the Old Contracts, and (d) Applicants reserve the right to terminate the Exchange Offer at any time, and contract owners can call a toll-free telephone number for information concerning the current status of the Exchange Offer.

2. Prudential will provide a means of confirming that a contract owner choosing to make an exchange was told the statements in the offering letter (stated in Condition No. 1). Prudential will send the offering letter directly to eligible contract owners. A contract owner choosing to exchange will then complete and sign an internal exchange form, which will prominently restate in concise plain English the statements required in condition No. 1, and return it to Prudential. If the internal exchange form is more than two pages in length, Prudential will use a separate document to obtain contract owner acknowledgement of the statements required in condition No. 1.

3. Prudential will maintain the following separately identifiable records in an easily accessible place, for the time periods specified below in this condition No. 3, for review by the Commission upon request (a) records showing the level of exchange activity and how it relates to the total number of contract owners eligible to exchange (quarterly as a percentage of the number eligible), (b) copies of any form of offering letter and other written materials or scripts for presentations by representatives regarding the Exchange Offer (if Prudential prepared or approved the materials), including the date(s) used; (c) records showing information about each exchange transaction that occurs, including the name of the contract owner, Old and New Contract number(s), Credit paid, registered representative's name, CRD number, firm affiliation, branch office address and telephone number, and name of the registered representative's broker-dealer, commission paid, internal exchange form (and separate document, if any, used to obtain contract owner acknowledgement of the statements required in condition No. 1) showing the name, date of birth, address and telephone number of the contract owner, and date internal exchange form (or separate document) was signed, amount of contract value exchanged, and persistency information relating to the New Contract (date surrendered and CDSC paid), and (d) logs showing any contract owner complaints about the exchange, state insurance department inquiries about the exchange, or litigation, arbitration or other proceedings regarding any exchange. The following information will be included on the log's date of complaint or commencement of proceedings, name, address of the person making the complaint or commencing the proceeding, nature of the complaint or proceeding, and persons named or involved in the complaint or proceeding.

Records specified in conditions No. 3(a) and (d) will be retained for six years from creation of the record. Records specified in condition No. 3(b) will be retained for six years after the date of last use, and records specified in condition No. 3(c) will be retained for two years from the end of the initial CDSC period of the New Contract.

4. The offering letter will disclose in concise plain English each aspect of the New Contracts that will be less favorable than the Old Contracts.

Applicants' Legal Analysis

1. Section 11(a) of the Act makes it unlawful for any registered open-end company, or any principal underwriter for such a company, to make or cause to be made an offer to the holder of a security of such company, or any other

open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities, unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with Commission rules adopted under section 11. Section 11(c) of the Act, in pertinent part, requires, in effect, that any offer of exchange of the securities of a registered unit investment trust for the securities of any other investment company be approved by the Commission or satisfy applicable rules adopted under section 11, regardless of the basis of the exchange. Each Account is registered under the Act as a unit investment trust. Accordingly, the proposed Exchange Offer constitutes an offer of exchange of two securities, each of which is offered by a registered unit investment trust. Thus, unless the terms of the Exchange Offer are consistent with those permitted by Commission rule, Applicants may make the proposed Exchange Offer only after the Commission has approved the terms of the offer by an order pursuant to section 11(a) of the Act.

2. As noted by the Commission when proposing rule 11a–3 under the Act, the purpose of section 11 of the Act is to prevent ''switching''. ''Switching is a term of art that refers to the practice of inducing security holders of one Investment Company to exchange their securities for those of a different investment company ''solely for the purpose of exacting additional selling charges.'' That type of practice was found by Congress to be widespread in the 1930's prior to adoption of the Act.

3. Rule 11a–2 adopted in 1983 under section 11 of the Act, by its express terms provides blanket Commission approval of certain types of offers of exchange of one variable annuity contract for another or of one variable life insurance contract for another. Variable annuity exchanges are permitted by rule 11a–2, provided that the only variance from a relative net asset value exchange is an administrative fee disclosed in the offering account's registration statement and a sales load or sales load differential calculated according to method prescribed in the rule. No exchange is permitted under rule 11a–2 that involves a security acquired or exchanged that has both a front-end and a deferred sales load. Adoption of rule 11a–3, which takes a similar approach to that of rule 11a–2, represents the most recent Commission action under section 11 of the Act. As with rule 11a–2, the focus of rule 11a–3 is primarily on sales or administrative charges that would be incurred by investors for effecting exchanges.

The Exchange Offer

4. Applicants submit that the terms of the proposed Exchange Offer do not represent the abuses against which section 11 was intended to protect. The Exchange Offer was not created ''solely for the purpose'' of exacting additional sales charges. Rather, the Exchange Offer was designed to allow Prudential to compete on a level playing field with its competitors who are making bonus offers to its current Old Contract owners. No additional sales load or other fee will be imposed at the time of exercise of the Exchange Offer. In stark contrast with the 9–10% front-end commissions deducted in the ''switching'' exchanges that led to the adoption of section 11, each contract owner accepting the Exchange Offer will be provided with a New Credit, funded from Pruco Life's or PLNJ's general account. The effect of this Credit is to add the New Credit to the Old Contract value at the time of exchange to the New Contract value. An owner of an Old Contract who intends to continue to hold the contract as a long-term retirement planning vehicle will be significantly advantaged by the Exchange Offer because this New Credit will automatically be added to his or her contract value upon receipt of an enhanced New Contract. No sales charge will ever be paid on the amounts rolled over in the exchange unless the New Contract is surrendered before expiration of the New Contract's CDSC period.

5. Given the terms of the exchange, Applicants are precluded from relying on rule 11a–2. Accordingly, section 11(a) requires that Applicants submit the terms of the offer to the Commission for approval. Although section 11 does not prescribe specific standards for Commission approval of exchange offers, Applicants believe that the Exchange Offer presents less potential for the type of abuses that led to the adoption of section 11 than in connection with exchanges that would be permitted under rule 11a–2.

6. Applicant submit that the Exchange Offer is available to all eligible Old Contract owners on an entirely voluntary basis. While the Exchange Offer would not be in the interests of all contract owners (*i.e.*, those contract owners who anticipate a need to access a significant portion of their contract's value—more than 10% of net premium payments on an annual basis—sometime before the expiration of the initial CDSC period), the determination of whether to accept or reject the Exchange Offer will be made by each contract owner. Applicants state that the terms of the proposed Exchange Offer are similar to offers currently being made to Old Contract owners by Prudential's competitors, which are permissible pursuant to a no-action letter issued to *Alexander Hamilton Funds*, SEC No-Action Letter (pub. avail. July 20, 1994). Accordingly, an offer such as the Exchange Offer would be permitted to be made by Prudential to owners of competitor's contracts under section 11(a) because the Accounts would be permitted to rely on the Alexander Hamilton letter. In fact, competitors can and do make such offers. The relief sought here would do no more than permit Prudential to offer its longstanding clients an enhanced contract and bonus similar to those they may be offered by Prudential's competitors.

7. Applicants represent that the description of the proposed Exchange Offer in letters to owners of Old Contracts and in the New Contracts' prospectus will provide full disclosure of the material differences in the applicable contracts. Assuming no premature surrender, the New Contracts should be no more expensive than the Old Contracts for contract owners unless they affirmatively choose to add additional features. In each case, existing contract owners would be offered a better contract and a Credit under terms that would be on an equal footing with similar offers made daily by Prudential's competitors.

8. Far from being a way to extract additional charges from investors, as contemplated by the prohibitions of section 11, Applicants state that the proposed Exchange Offer would provide an immediate and enduring economic benefit to investors. The New Credit would be applied immediately and the fact that asset-based charges would not be increased by the Exchange Offer, and that no contract maintenance charge would apply, also would contribute significantly to this enduring economic benefit. To the extent that a contract owner ultimately did not benefit from accepting the offer, it would most likely be as a result of his or her own subsequent decision to surrender the New Contract during the new CDSC period. The Exchange Offer will provide much more explicit disclosure about the inadvisability of accepting the Exchange Offer if the owner may require access to a significant portion of the amount invested in the contract during the CDSC period than would be the case with competitors' offers that pose the identical risk. The disclosure provided

in the offering materials will give owners of Old Contracts sufficient information to determine which contract will be best for them.

The Flexelite Exchange Program

9. Applicants submit that the legal rationale supporting the FlexElite Exchange Program is comparable to that posited for the Exchange Offer. The FlexElite Exchange Program was not designed ''solely for the purpose'' of exacting additional sales charges. Rather, that Program is designed to allow investors who do not anticipate making a withdrawal within the succeeding three years to receive a 1% addition to their contract value. As required by the conditions set forth above, Applicants will give investors ample notice of the fact that acceptance of the 1% Credit carries with it the reimposition of the three year surrender charge. Applicants anticipate that through that notice, investors who envision needing to make a significant withdrawal within the succeeding three years will be steered away from accepting the 1% Credit. On the other hand, investors who accept the 1% Credit and make no withdrawals during the succeeding three year period will receive an immediate monetary benefit in the form of the Credit, but will avoid any withdrawal charge.

10. According to the Applicants, approval of the FlexElite Exchange Program also is warranted because it will promote competition in the variable annuity marketplace. The promotion of competition is a relevant consideration in evaluating whether the terms of an exchange offer are consistent with the protection of investors. Applicants state that several of their competitors currently offer variable annuity products featuring a ''persistency bonus'' coupled with a reimposition of the withdrawal charge. By granting the requested relief, the Commission will permit Applicants to offer and operate the Strategic Partners FlexElite contract as described herein—adding that product to the menu of such variable annuities already available in the marketplace.

11. Applicants submit that the Exchange Offer does not present any duplication of sales loads or administrative fees to those Contract owners who intend to hold their Contracts as long-term retirement vehicles. Similarly, the FlexElite Exchange Program will entail no reassessment of surrender charges on a contract owner who accepts the 1% Credit, so long as the owner holds the contract longer than the three-year surrender charge period. Applicants also submit that the Exchange Offer and FlexElite Exchange Program are consistent with the protections provided by section 11 of the Act, do not involve any of the switching abuses that led to the adoption of section 11, and assure an immediate and enduring economic benefit to persisting Contract owners. Furthermore, permitting Contract owners to evaluate the relative merits of the Old and New Contracts under the Exchange Offer and to select the one that best suits their circumstances and preferences fosters competition and is consistent with the public interest and the protection of investors. Accordingly, approval of the terms of the Exchange Offer and the FlexElite Exchange Program is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

Recapture of Credit Under the New Contracts

12. Section 6(c) of the Act authorizes the Commission to exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act and the rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants request that the Commission, pursuant to section 6(c) of the Act, grant the exemptions requested below with respect to the New Contracts. Applicants believe that the requested exemptions are appropriate in the public interest and consistent with the protections of investors and the purposes fairly intended by the policy and provisions of the Act.

13. Applicants seek exemption pursuant to section 6(c) from sections 2(a)(32), 22(c), and 27(i)(2)(A) of the Act and rule 22c–l thereunder to the extent necessary to permit Pruco Life and PLNJ to recapture all or the unvested portion of certain Credits in the following instances: (a) The contract is canceled under the free look provision; or (b) death occurs within one year of a purchase payment where the death benefit amount is equal to contract value. Applicants represent that it is not administratively feasible to track the Credit amount in the subaccounts after the Credit is applied. Accordingly, the asset-based charges applicable to the subaccounts will be assessed against the entire amounts held in the respective subaccounts, including the Credit amount, during the period when the owner's interest in the credit is not completely vested. As a result, during such periods, the aggregate asset-based charges assessed against an owner's contract value will be higher than those that would be charged if the owner's contract value did not include the Credit. Applicants note, however, that any earnings attributable to Credit amounts vest immediately and are not subject to recapture.

14. Section 27 of the Act provides that such section does not apply to any registered separate account funding variable insurance contracts, or the sponsoring insurance company and principal underwriter of such account, except as provided in paragraph (2) of the subsection. Paragraph (2) provides that it shall be unlawful for such a separate account or sponsoring insurance company to sell a contract funded by the registered separate account unless such contract is a redeemable security.

15. Section 2(a)(32) defines ''redeemable security'' as any security, other than short-term paper, under the terms of which the holder, upon presentation to the issuer, is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof. Applicants submit that the recapture of the credit amount in the circumstances set forth in this Application would not deprive an owner of his or her proportionate share of the issuer's current net assets. With respect to Credit recaptures upon exercise of the free-look privilege, it would be unfair to allow an owner exercising that privilege to retain a Credit amount under a contract that has been returned for a refund after a period of only a few days. If Pruco Life and PLNJ could not recapture the Credit, individuals could purchase a contract with no intention of retaining it, and simply return it for a quick profit. Furthermore, the recapture of Credits relating to purchase payments made within one year prior to death or after death is designed to provide Pruco Life and PLNJ with a measure of protection against ''anti-selection''. The risk here is that, rather than holding the New Contract for a number of years, an owner will exchange an existing contract for a New Contract shortly before death, thereby leaving Pruco Life and PLNJ less time to recover the cost of the Credits applied, to their financial detriment. Again, the amounts recaptured equal the Credits provided by Pruco Life and PLNJ from their own general account assets and any gain would remain as part of the New Contract's value when annuity payments begin. For the foregoing

reasons, Applicants submit that the provisions for recapture of any Credits under the New Contracts does not violate section 2(a)(32) and 27 (i)(2)(A) of the Act.

16. Section 22(c) of the Act authorizes the Commission to make rules and regulations applicable to registered investment companies and to principal underwriters of, and dealers in, their redeemable securities to accomplish the same purposes as contemplated by section 22(c). Rule 22c–1 thereunder prohibits a registered investment company issuing any redeemable security, a person designated in such issuer's prospectus as authorized to consummate transactions in any such security, and a principal underwriter of, or dealer in, such security, from selling, redeeming or repurchasing any such security except at a price based on the current net asset value of such security which is next computed after receipt of a tender of such security for redemption or of an order to purchase or sell such security.

17. Applicants state that Pruco Life's and PLNJ's recapture of the Credit might arguably be viewed as resulting in the redemption of redeemable securities for a price other than the one based on the current net asset value of the Accounts. Applicants contend, however, that the recapture of the Credit does not violate section 22(c) and rule 22c–1.

Conclusion

For the reasons summarized above, Applicants submit that the Exchange Offer and the FlexElite Exchange Program are consistent with the protections provided by section 11 of the Act and that their approval is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants further submit that their request for exemptions from sections 2(a)(32), 22(c) and 27(i)(2)(A) of the Act and rule 22c–1 thereunder meet the standards set out in section 6(c) of the Act. Applicants submit that the requested order should therefore be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8729 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–25993; File No. 812–12913]

National Life Insurance Company, et al.; Notice of Application

April 4, 2003.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(c) of the Investment Company Act of 1940 (the ''Act'') approving certain substitutions of securities.

APPLICANTS: National Life Insurance Company (''NLIC''), National Variable Annuity Account II (''Annuity Account''), and National Variable Life Insurance Account (''Life Account'').

FILING DATE: The application was filed on December 19, 2002, and amended and restated on April 3, 2003.

SUMMARY OF APPLICATION: Applicants request an order to permit NLIC to substitute securities issued by two series of the Sentinel Variable Products Trust (''SVPT'') to support variable annuity contracts or variable life insurance contracts (collectively, the ''Contracts'') issued by NLIC, for securities issued by two series of the Market Street Fund (''MSF''), and currently held by either the Annuity Account or the Life Account (each, an ''Account,'' together, the ''Accounts'').

HEARING OR NOTIFICATION OF HEARING: An order granting the amended and restated application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Secretary of the Commission and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on April 29, 2003, and should be accompanied by proof of service on Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicants, c/o D. Russell Morgan, Esq., Assistant General Counsel, National Life Insurance Company, National Life Drive, Montpelier, Vermont 05604. Copy to David S. Goldstein, Esq., Sutherland Asbill & Brennan LLP, 1275 Pennsylvania Avenue, NW., Washington, DC 20004–2415.

FOR FURTHER INFORMATION CONTACT: Ellen J. Sazzman, Senior Counsel, or Lorna J. MacLeod, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Public Reference Branch of the Commission, 450 5th Street, NW., Washington, DC 20549 (tel. (202) 942–8090).

Applicants' Representations

1. MSF has eleven investment portfolios, two of which are the subject of this application (each, a Portfolio). SVPT currently has five investment portfolios, but is adding two more that are the subject of this application (each, a Fund).

2. NLIC was a mutual life insurance company originally chartered by the State of Vermont in 1848. It is now a stock life insurance company, all of the outstanding stock of which is indirectly owned by National Life Holding Company, a mutual insurance holding company, established under Vermont law in 1999. All owners of NLIC contracts, including the Contracts, are voting members of National Life Holding Company. NLIC is authorized to transact life insurance and annuity business in Vermont and in 50 other jurisdictions. For purposes of the Act, NLIC is the depositor and sponsor of the Annuity Account and the Life Account as those terms have been interpreted by the Commission with respect to variable life insurance and variable annuity separate accounts.

3. NLIC established the Annuity Account on November 1, 1996, and the Life Account on February 1, 1985, as segregated investment accounts under Vermont law. Under Vermont law, the assets of each Account attributable to the Contracts through which interests in that Account are issued are owned by NLIC but are held separately from all other assets of NLIC for the benefit of the owners of, and the persons entitled to payment under, those Contracts. Consequently, such assets in each Account equal to the reserves and other liabilities with respect to such Account are not chargeable with liabilities arising out of any other business that NLIC may conduct. Income, gains and losses, realized or unrealized, from assets allocated to each Account are credited to or charged against that Account without regard to the other income, gains or losses of NLIC. Each Account is a ''separate account'' as

defined by Rule 0–1(e) under the Act, and is registered with the Commission as a unit investment trust.

4. The Annuity Account is divided into twenty-eight subaccounts. Each subaccount invests exclusively in a corresponding investment portfolio of one of twelve series-type management investment companies. The assets of the Annuity Account support variable annuity contracts, and interests in the Account offered through such contracts have been registered under the Securities Act of 1933 (the ''1933 Act'').

5. The Life Account is divided into eighty-six subaccounts. Each subaccount invests exclusively in shares representing an interest in a corresponding investment portfolio of one of fourteen series-type management investment companies. The assets of the Life Account support variable life insurance contracts, and interests in this Account offered through such contracts have been registered under the 1933 Act.

6. *Market Street Fund.* MSF was originally incorporated in Maryland on March 21, 1985, but reorganized into a Delaware business trust on January 26, 2001. MSF is registered under the Act as an open-end diversified management investment company. MSF is a series investment company as defined by Rule 18f–2 under the Act and currently comprises eleven investment portfolios. MSF issues a separate series of shares of beneficial interest in connection with each portfolio and has registered these shares under the 1933 Act. Gartmore Mutual Fund Capital Trust (''Gartmore''), serves as investment adviser to the MSF Balanced and Bond Portfolios, and selects their subadvisers. The subadviser to the MSF Balanced Portfolio is currently Fred Alger Management, Inc., and the subadviser to the Bond Portfolio is currently Western Asset Management Company.

7. The investment objective of the MSF Bond Portfolio is to seek a high level of current income consistent with prudent investment risk. This Portfolio invests in a diversified portfolio of fixed-income securities of U.S. and foreign issuers. The Portfolio's subadviser uses active fixed-income management techniques by focusing on four key areas: (1) Sector and sub-sector allocation, (2) issue selection, (3) duration, and (4) term structure.

8. The investment objective of the MSF Balanced Portfolio is to realize as high a level of long-term total rate of return as is consistent with prudent investment risk. The MSF Balanced Portfolio's equity portion is invested primarily in equity securities, such as common or preferred stocks, which are listed on U.S. exchanges or traded in the over-the-counter markets. The Portfolio's subadviser uses a growth-oriented strategy. Growth-oriented investments involve seeking securities of issuers with above-average recent earnings growth rates and what the subadviser views as a reasonable likelihood of maintaining these rates in the foreseeable future. The subadviser focuses on stocks of companies with growth potential and fixed-income securities, with emphasis on income-producing securities that appear to have some potential for capital appreciation. Normally, the Portfolio invests in common stocks and fixed-income securities that include commercial paper and bonds rated within the four highest rating categories by an established rating agency or if not rated, that are determined by the subadviser to be of comparable quality. Ordinarily, at least 25% of the Portfolio's net assets are invested in fixed-income securities.

9. *Sentinel Variable Products Trust.* SVPT was organized as a business trust in Delaware on March 14, 2000, and is currently registered under the Act as an open-end diversified management investment company. SVPT is a series investment company as defined by Rule 18f–2 under the Act and currently comprises five investment portfolios. It plans to create two new Funds to receive the assets of the MSF Balanced Portfolio and MSF Bond Portfolio in the substitution. SVPT will issue a separate series of shares of beneficial interest in connection with each Fund and will register these shares under the 1933 Act. NL Capital Management, Inc. (''NLCM'') will serve as investment adviser to each of the Funds. NLCM is affiliated with NLIC.

10. The investment objective of the SVPT Bond Fund is to seek high current income while seeking to control risk, by investing mainly in investment grade bonds. The Fund will invest exclusively in fixed-income securities. At least 80% of the Fund's assets will normally be invested in the following types of bonds: (1) corporate bonds which at the time of purchase are rated within the four highest rating categories of Moody's, Standard & Poor's, or any other nationally recognized statistical rating organization, (2) debt securities issued or guaranteed by the U.S. government, its agencies or instrumentalities, including mortgage-backed securities, (3) debt securities (payable in U.S. dollars) issued or guaranteed by Canadian governmental entities, and (4) debt obligations of domestic banks or bank holding companies, even though not rated by Moody's or Standard & Poor's, that NLCM believes have investment qualities comparable to investment grade corporate securities. The remainder of the Fund's assets may be invested in other fixed-income securities, such as straight or convertible debt securities and straight or convertible preferred stocks. The Fund will invest no more than 20% of its total assets in lower quality bonds.

11. The investment objective of the SVPT Balanced Fund is to seek a combination of growth of capital and current income, with relatively low risk and relatively low fluctuations in value. It will seek this goal by investing in common stocks similar to those in the SVPT Common Stock Fund. NLCM tries to select stocks of leading companies that are financially strong and are selling at attractive prices in relation to their values and in investment grade bonds similar to those in the SVPT Bond Fund, with at least 25% of its total assets in bonds. When determining this percentage, convertible bonds and/or preferred stocks will be considered common stocks, unless these securities are held primarily for income. NLCM will divide the Fund's investments among stocks and bonds based on whether it believes stocks or bonds offer a better value at the time.

12. The Contracts are flexible premium variable life insurance Contracts and individual flexible premium deferred variable annuity Contracts. The Contracts provide for the accumulation of values on a variable basis, fixed basis, or both, during the accumulation period, and provide settlement or annuity payment options on a fixed basis. Under each of the Contracts, NLIC reserves the right to substitute shares of one Fund or Portfolio for shares of another, including a fund or portfolio of a different investment company.

13. Under all of the variable life insurance Contracts, a Contract owner may make unlimited transfers of accumulated value in a contract year between and among the subaccounts of the Life Account and NLIC's general account. Currently there is no charge for transfers, however, NLIC reserves the right to assess a $25 charge for each transfer in excess of twelve in any Contract year. Under the variable annuity Contracts, a Contract owner may make unlimited transfers of Contract value between and among the subaccounts of the Annuity Account and NLIC's general account. Currently there is no charge for transfers, however, NLIC reserves the right to assess a $25 charge for each transfer in excess of twelve in any Contract year.

14. NLIC, on its behalf and on behalf of the Accounts, proposes to substitute shares of the SVPT Bond Fund for shares of the MSF Bond Portfolio, and shares of the SVPT Balanced Fund for shares of the MSF Balanced Portfolio. NLIC believes that by making the proposed substitutions in each of the Accounts, they can better serve the interests of owners of the Contracts.

15. During 2000, NLIC and the Accounts applied for and received an order approving a number of substitutions of SVPT Funds for MSF Portfolios. At the time of that application, Sentinel Advisors Company (''SAC'') served as the investment manager and adviser to a number of the MSF Portfolios, including the Bond and Balanced Portfolios. SAC is a general partnership which at that time was owned and controlled by affiliates of NLIC, Provident Mutual Life Insurance Company (''PMLIC''), and The Penn Mutual Life Insurance Company (''Penn Mutual''). NLIC's affiliate controls the managing general partner and is entitled to a majority of the profits earned by SAC. NLIC, PMLIC, and Penn Mutual are not affiliated persons of each other. Effective June 30, 2002, NLCM (affiliated with NLIC) purchased all the stock of PMLIC's affiliates which owned PMLIC's interests in SAC, and as a result, NLIC's affiliates are now entitled to more than 90% of the profits of SAC. SAC's officers and investment personnel are all employees of NLCM, and they are the same officers and investment personnel who provide investment management services to the SVPT Funds. SAC, like NLCM, is located at NLIC's premises, in Montpelier, Vermont.

16. With the substitutions applied for in the previous order, PMLIC and NLIC intended to end their joint use of MSF as an investment vehicle for both companies' variable life insurance and variable annuity contracts (including the Contracts). NLIC originally intended to substitute independently managed funds for the MSF Bond and Balanced (then Managed) Portfolios, at the time of the substitutions effected in late 2000. However, the available independently managed funds did not meet the conditions that the SEC would impose on the substitutions and SVPT did not have the Bond or Balanced Funds to receive the Accounts' assets in the MSF Bond and Balanced Portfolios. NLIC chose to proceed with the substitutions that the SEC would approve at the time and the Accounts have continued to invest in the MSF Bond and Balanced Portfolios.

17. After the initial substitutions, SAC stepped down as investment adviser to all of the MSF Portfolios of which it had been the investment adviser. Market Street Investment Management Company (''MSIM'') became the investment manager to the MSF Portfolios, and selected subadvisers to manage the assets on a day-to-day basis, including Western Asset Management Company for the Bond Portfolio and Fred Alger Management, Inc., for the Balanced Portfolio. New investment advisory contracts were approved by the shareholders, and management fees and overall expense ratios rose significantly.

18. In addition, effective September 30, 2002, PMLIC was acquired by Nationwide Financial Services, Inc. (''Nationwide''), in a sponsored demutualization transaction. PMLIC's name changed to Nationwide Life Insurance Company of America (''NLICA'') as part of this transaction. Also, effective October 1, 2002, Gartmore, an affiliate of Nationwide Financial, replaced MSIM as the MSF investment adviser. NLICA, under Nationwide's control, has proposed another reorganization of MSF, under which the MSF Balanced and Bond Portfolios would be acquired by series of the GVIT Trust, another series investment company offering shares to variable insurance product separate accounts, for which Gartmore also serves as investment adviser. Specifically, the MSF Balanced Portfolio would be acquired by the J.P. Morgan GVIT Balanced Fund, a series of the GVIT Trust, and the MSF Bond Portfolio would be acquired by the Gartmore GVIT Government Bond Fund. As a result of this proposed reorganization, the subadviser to the MSF Balanced Portfolio would be J.P. Morgan Investment Management, Inc. and Gartmore would directly manage the MSF Bond Portfolio.

19. NLIC continues to desire to end the joint use of the remaining MSF Portfolios by separate accounts of both companies. NLIC continues to believe that the manner of accomplishing this separation which would involve the least confusion and disruption to owners of the Contracts would be for it to substitute shares of new SVPT Funds for those of the MSF Bond and Balanced Portfolios held by the Accounts. This would avoid the possibility that MSF may propose future changes which NLIC and NLICA could not support. Such a disagreement could create unnecessary expense and confusion for owners of both the Contracts and NLICA contracts, and could result in one or more material irreconcilable conflicts between the interests of Contract owners and owners of other NLICA contracts. NLIC had no role in the selection of the current subadvisers to the MSF Balanced and Bond Portfolios, no role in the planning for the reorganization now proposed by NLICA, and does not anticipate that it would have any role in future decisions to continue to engage or to replace such subadvisers.

20. The majority of the assets in the MSF Bond and Balanced Portfolios belong to owners of variable annuity and variable life insurance contracts issued by NLICA and its affiliates and only relatively small portions of each consist of assets beneficially owned by owners of the Contracts.

Portfolios	Approximate percent represented by NLIC contracts	Approximate percent represented by contracts issued by NLICA or its affiliates
MSF Bond	24.5	75.5
MSF Balanced ..	16.1	83.9

21. NLIC believes that many of the owners of the Contracts who invested in the MSF Bond and Balanced Portfolios did so at the time these Portfolios were managed by SAC, and that most would prefer to invest in funds or portfolios selected by NLIC and over which NLIC has some influence.

22. Projected expense levels for the SVPT Bond and Balanced Funds are the same as those currently experienced by the MSF Bond and Balanced Portfolios because each will be capped by NLIC for two years at levels equal to the percentage expense levels experienced by its corresponding MSF Portfolio for the 2002 fiscal year. Likewise, the management fee rates (including breakpoints) of the SVPT Bond and Balanced Funds are the same as that of their corresponding MSF Portfolios. In addition, for those Contract owners who were Contract owners on the date of the proposed substitutions, NLIC will not increase Account or other asset-based expenses under the Contracts for a period of 24 months following the date of the proposed substitutions.

23. NLIC notes that the equity portion of the SVPT Balanced Fund would be managed in a different style from that currently employed by the MSF Balanced Portfolio, utilizing a more value-oriented style similar to that employed by Sentinel Balanced Fund, as contrasted with the more growth-oriented style employed by Fred Alger Management. It expects that the fixed-income portion of the SVPT Balanced Fund would be comparable to the fixed-income portion of the MSF Balanced Portfolio, as currently managed. However, if the Portfolio is acquired by

J.P. Morgan GVIT Balanced Fund, the investment style for the equity portion of the Portfolio will change anyway, and furthermore, the fixed-income portion of the Portfolio would have greater flexibility to invest in lower quality debt instruments and emerging market securities. NLIC also notes that it already has available to the Accounts three equity portfolios managed by Fred Alger Management, the Alger American Growth Portfolio, the Alger American Leveraged AllCap Portfolio, and the Alger American Small Capitalization Portfolio. As a result, any Contract owners who wish to invest a portion of their Contract value using Alger's equity investment style would be able to participate by allocating assets to one of these investment choices.

24. NLIC expects that the SVPT Bond Fund would be similar in investment style and categories of investments to the MSF Bond Portfolio as currently operated, and certainly similar to the MSF Bond Portfolio as managed by SAC prior to 2001. In contrast, if the proposed reorganization occurs, the Gartmore GVIT Government Bond Fund will be limited to investments in U.S. government and agency bonds, bills, and notes, while the SVPT Bond Fund would, like the current MSF Bond Portfolio, be able to invest in investment grade corporate issuers.

25. As the two new SVPT Portfolios will initially be relatively small in size (the SVPT Bond Fund is expected to initially have net assets of approximately $19 million, and the SVPT Balanced Fund is expected to initially have net assets of approximately $12 million), NLIC does not anticipate earning material profits from the management of these assets in the first few years after the proposed substitutions. Rather, its motivation is to complete the termination of the joint use of the MSF Portfolios which it initially sought in 2000, and to regain a level of control over its Contract owner assets which it lost as its joint venture with PMLIC ended.

26. In light of the significant beneficial ownership position of NLICA (and affiliate) contract owners, Contract owners and future NLIC contract owners cannot expect to command a majority voting position in either of the MSF Bond or Balanced Portfolios in the event that they, as a group, desire that a Portfolio move in a direction different from that generally desired by owners of NLICA (or its affiliates'') contracts. In addition, unless the growth in the number of Contracts or the assets supporting them increases at a much greater rate than those of similar contracts issued by PMLIC and its affiliates, owners of Contracts have no prospects of ever gaining a position capable of influencing the future direction of these Portfolios.

27. NLIC also notes that it has had no prior business relationship with Nationwide, which now controls NLICA and the investment advisor to MSF. NLIC has never selected a Nationwide-controlled entity to provide investment advisory services to its Contract owners, and while it has no particular problem with Nationwide, NLIC feels that it should not be forced into a position of offering investment portfolios managed by Nationwide-affiliated entities simply because Nationwide has acquired PMLIC.

28. The following charts show the approximate year-end size (in net assets), expense ratio (ratio of operating expenses as a percentage of average net assets), and annual total returns for each of the past three years for each of the Funds and Portfolios involved in the proposed substitutions.

SVPT bond fund	Anticipated net assets after substitution (in millions)	Anticipated expense ratio after substitution (percent)	Total return
	$19	0.67	N/A
MSF bond portfolio	**Net assets at year-end (in millions)**	**Expense ratio (percent)**	**Total return (percent)**
2000	$39.0	0.52	9.68
2001	53.4	0.67	7.40
2002	67.0	0.67	9.09
SVPT balanced fund	**Anticipated net assets after substitution (in millions)**	**Anticipated expense ratio after substitution**	**Total return**
	$12	0.79	N/A
MSF balanced portfolio	**Net assets at year-end (in millions)**	**Expense ratio (percent)**	**Total return (percent)**
2000	$71.5	0.57	8.75
2001	69.0	0.82	(7.02)
2002	58.4	0.79	(10.26)

29. The following charts show the approximate annual management fees, other expenses and total expenses of each of the Funds or Portfolios involved in the proposed substitutions both before and after any reimbursement or fee waivers. The management fees and expenses shown for the MSF Bond and Balanced Portfolios are for the last complete fiscal year, 2002.

Fund	In percent		Revenue sharing percentage
	Before reimbursement or fee waiver	After reimbursement or fee waiver	
MSF Bond	0.40 0.29	0.40 0.27	N/A
	0.69	0.67	
SVPT Bond	0.40 0.29	0.40 0.27	N/A
	0.69	0.67	
MSF Balanced	0.55 0.27	0.55 0.24	N/A
	0.82	0.79	
SVPT Balanced	0.55 0.32	0.55 0.24	N/A
	0.87	0.79	

30. By disclosure added to supplements to the various May 1, 2002 prospectuses for the Contracts and the Accounts, all owners of the Contracts have been notified of NLIC's intention to take the necessary actions, including seeking the order requested by this application, to substitute shares of the SVPT Bond and Balanced Funds for the MSF Bond and Balanced Portfolios as described herein.

31. The additional prospectus disclosure (and any subsequent supplements) about the proposed substitutions will advise Contract owners that from the date of the supplement until the date of the proposed substitution, owners are permitted to make one transfer of all amounts under a Contract invested in either of the affected subaccounts to another subaccount available under a Contract other than one of the other affected subaccounts without that transfer counting as a ''free'' transfer permitted under a Contact. The prospectus disclosure also informs (and any subsequent supplements will inform) Contract owners that NLIC will not exercise any rights reserved under any Contract to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The supplements will also advise Contract owners that if the proposed substitutions are carried out, then each Contract owner affected by a substitution will be sent a written notice (described below) informing them of the fact and details of the substitutions.

32. The proposed substitutions will take place at relative net asset value with no change in the amount of any Contract owner's account value or death benefit or in the dollar value of his or her investment in any of the Accounts. Contract owners will not incur any fees or charges as a result of the proposed substitutions, nor will their rights or NLIC's obligations under the Contracts be altered in any way. All applicable expenses incurred in connection with the proposed substitutions, including brokerage commissions, legal, accounting and other fees and expenses, will be paid by NLIC. In addition, the proposed substitutions will not impose any tax liability on Contract owners. The proposed substitutions will not cause the Contract fees and charges currently being paid by existing Contract owners to be greater after the proposed substitutions than before the proposed substitutions.

33. The proposed substitutions will not, of course, be treated as a transfer of Contract value or an exchange of annuity units for the purpose of assessing transfer charges or for determining the number of remaining ''free'' transfers or exchanges in a Contract year. NLIC will not exercise any right it may have under the Contracts to impose restrictions on or charges for Contract value transfers or annuity unit exchanges under the Contracts for a period of at least 30 days following the substitutions. One exception to this is that NLIC may impose restrictions on transfers to prevent or limit ''market timing'' activities by Contract owners or agents of Contract owners.

34. NLIC will permit Contract owners to make one transfer of Contract value (or annuity unit exchange) out of the MSF Bond Portfolio subaccount to another subaccount, and out of the MSF Balanced Portfolio subaccount to another subaccount, without the transfer (or exchange) being treated as one of a limited number of transfers (or exchanges) permitted without a transfer charge. Likewise, for at least 30 days following the proposed substitutions, NLIC will permit Contract owners affected by the substitutions to make one transfer of Contract value (or annuity unit exchange) out of the SVPT Bond Portfolio subaccount to another subaccount, and out of the SVPT Balanced Portfolio subaccount to another subaccount, without the transfer (or exchange) being treated as one of a limited number of transfers (or exchanges) permitted without a transfer charge. All Contract owners, even those who are ''market timers,'' may avail themselves of the ''free'' transfer privilege both before and after the proposed substitutions.

35. To the extent that the annualized expenses of the SVPT Bond and Balanced Portfolios exceeds, for each fiscal period (such period being less than 90 days) during the twenty-four months following the substitutions, the 2002 net expense level of the MSF Bond and Balanced Portfolios, NLIC will, for each Contract outstanding on the date of the proposed substitutions, make a corresponding reduction in separate account (or subaccount) expenses on the last day of such fiscal period, such that the amount of the SVPT Balanced and Bond Portfolios' net expenses, together with those of the corresponding separate account (or subaccount) will, on an annualized basis, be no greater than the sum of the net expenses of the MSF Balanced and Bond Portfolios' and the expenses of the separate account (or

subaccount) for the 2002 fiscal year. In addition, for twenty-four months following the substitutions, NLIC will not increase asset-based fees or charges for Contracts outstanding on the day of the proposed substitutions.

36. In addition to the prospectus disclosure (and supplements) distributed to owners of Contracts, within five days after the proposed substitutions, any Contract owners who were affected by the substitution will be sent a written notice informing them that the substitutions were carried out and that they may make one transfer of all accumulation or contract value under a Contract invested in any one of the affected subaccounts on the date of the notice to another subaccount available under their Contract without that transfer counting as one of a limited number transfers permitted in a Contract year free of charge. The notice will also reiterate the fact that NLIC will not exercise any rights reserved by it under any of the Contracts to impose additional restrictions on transfers until at least 30 days after the proposed substitutions. The notice as delivered in certain states also may explain that, under the insurance regulations in those states, Contract owners who are affected by the substitutions may exchange their Contracts for fixed-benefit life insurance contracts or annuity contracts, as applicable, issued by NLIC during the 60 days following the proposed substitutions. Current prospectuses for the new Funds will precede or accompany the notices.

37. NLIC also is seeking approval of the proposed substitutions from any state insurance regulators whose approval may be necessary or appropriate.

Applicants' Legal Analysis

1. The proposed substitutions appear to involve substitutions of securities within the meaning of section 26(c) of the Act.

2. Applicants state that the Contracts expressly reserve for NLIC the right, subject to compliance with applicable law, to substitute shares of one Portfolio or Fund held by a subaccount of an Account for another. The prospectuses for the Contracts and the Accounts contain appropriate disclosure of this right.

3. Applicants state that NLIC reserved this right of substitution both to protect themselves and their Contract owners in situations where either might be harmed or disadvantaged by circumstances surrounding the issuer of the shares held by one or more of their separate accounts and to afford the opportunity to replace such shares where to do so could benefit itself and Contract owners. The prospectuses for the Contracts and Accounts contain appropriate disclosure of this right.

4. In the case of the proposed substitutions, the MSF Portfolios would be replaced by funds with substantially similar investment objectives, and management would return to the investment management team which managed the MSF Portfolios prior to the reorganization in late 2000 (in the case of many of the Contract owners, the management team that was in place at the time they made the decision to allocate Contract value to the MSF Portfolios). The substitutions would also prevent Contract owners from being affected by any additional reorganization of MSF as it adapts to Nationwide's acquisition of PMLIC.

5. In addition to the foregoing, Applicants generally submit that the proposed substitutions meet the standards that the Commission and its staff have applied to similar substitutions that have been approved in the past.

6. Applicants anticipate that Contract owners will be at least as well off with the proposed array of subaccounts offered after the proposed substitutions as they have been with the array of subaccounts offered prior to the substitutions. The proposed substitutions retain for Contract owners the investment flexibility which is a central feature of the Contracts. If the proposed substitutions are carried out, all Contract owners will be permitted to allocate purchase payments and transfer accumulated values and contract values between and among the same number of subaccounts as they could before the proposed substitutions.

7. Applicants argue that each of the proposed substitutions is not the type of substitution which Section 26(c) was designed to prevent. Unlike traditional unit investment trusts where a depositor could only substitute an investment security in a manner which permanently affected all the investors in the trust, the Contracts provide each Contract owner with the right to exercise his or her own judgment and transfer accumulation and contract values into other subaccounts. Moreover, the Contracts will offer Contract owners the opportunity to transfer amounts out of the affected subaccounts into any of the remaining subaccounts without cost or other disadvantage. The proposed substitutions, therefore, will not result in the type of costly forced redemption which Section 26(c) was designed to prevent.

8. In addition, Applicants argue that the proposed substitutions are unlike the type of substitution which Section 26(c) was designed to prevent in that by purchasing a Contract, Contract owners select the specific type of insurance coverage offered by NLIC under their Contract as well as numerous other rights and privileges set forth in the Contract. Therefore, Applicants contend that Contract owners may also have considered NLIC's size, financial condition, type and its reputation for service in selecting their Contract. These factors will not change as a result of the proposed substitutions.

9. Applicants submit that, for all the reasons stated above, the proposed substitutions are consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47628; File No. SR–CBOE–00–55]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 4 Thereto by the Chicago Board Options Exchange, Incorporated to Establish Rules for a Screen-Based Trading System Known as CBOE*direct*

April 3, 2003.

On November 9, 2000, the Chicago Board Options Exchange, Incorporated (''CBOE'' 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 proposal to establish rules for a screen-based trading system known as CBOE*direct*. Subsequently, CBOE submitted three amendments to the proposed rule change.[3] On May 8,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letters from Angelo Evangelou, Legal Division, CBOE, to Nancy Sanow, Division of Market Regulation, Commission, dated October 25, 2001 (''Amendment No. 1''); April 1, 2002 (''Amendment No. 2''); and April 18, 2002 (''Amendment No. 3''). Amendment No. 1 superceded the original submission in its entirety and made substantial changes to the proposed rule

Continued

2002, the Commission published the amended proposal in the **Federal Register**.[4] The Commission received no comments on the proposal. On March 14, 2003, CBOE submitted a fourth amendment to the proposal.[5] This notice and order solicits comment on Amendment No. 4 and approves the proposal, as amended, on an accelerated basis.[6]

I. Description of the Proposal

The Exchange proposed rules governing CBOE*direct*, a screen-based trading system (''SBT System'') that allows market participants to trade options in a wholly electronic environment. CBOE*direct* will supplement the Exchange's floor-based open outcry auction market. Many of CBOE's existing rules also will apply to CBOE*direct;* CBOE provided a list of these rules as Appendix A to the proposed rule change.[7] CBOE also has proposed a number of new rules that would govern the SBT System.

The Exchange commenced operating CBOE*direct* as a pilot trading system in October 2001 pursuant to rule 19b–5 under the Act[8] and currently is used to trade three classes of index options during an early morning session. CBOE*direct* is designed, however, to handle a full range of products that currently trade on CBOE's floor.

A. Overview of CBOEdirect

Any CBOE member that chooses to participate on the SBT System must apply with the Exchange to act as an SBT market maker, SBT broker, or proprietary trader (collectively, ''SBT traders'').[9] An SBT trader may connect to CBOE*direct* from any place in the United States where it has a workstation and communication link to the Exchange.[10] Orders may be submitted through the current wire order facility (used to send orders to the Exchange's open-outcry auction market), an SBT workstation, or a computer-to-computer link using a new application program interface (''API''). Any SBT trader may submit an order to CBOE*direct;* only an SBT market maker may enter quotes.[11] The SBT System provides SBT traders with the means to electronically hit a bid or take an offer, resulting in either a full or partial execution of the existing bid or offer.[12]

A concept central to the operation of CBOE*direct* is the ''legal width market.'' A legal width market would exist in an option series if the best bid and the best ask available on the SBT System were within a prescribed width.

These widths are as follows:

Bid range	Maximum allowable quote spread
Less than $2.00	$0.25
$2.00–$5.00	0.40
$5.01–$10.00	0.50
$10.01–$20.00	0.80
$20.01–higher	1.00

A legal width market on CBOE*direct* may be established by an unrelated bid and offer. *See* CBOE rule 44.4(b). The appropriate Market Performance Committee may widen the legal width market for one or more option series for a period of time not to exceed the remainder of the existing expiration cycle. *See* CBOE rule 44.4(e). If the committee were to modify the legal width market, an information circular would be issued to provide notice of such modification. *See id.*

The legal width market feature is designed to prevent executions from occurring at unfair or unreasonable prices. For example, a market order for a particular option series would execute immediately only if a legal width market existed in that series at the moment the order was entered. If a legal width market in that series did not exist when the market order was entered, the SBT System would generate a request for quote (''RFQ'')[13][14] in an effort to establish a legal width market.

CBOE*direct* would send the RFQ to: (1) SBT market makers who are logged on to the SBT system and who hold an appointment in the subject option class; and (2) any non-appointed SBT market maker who is quoting in that class at the time of the RFQ. The market makers' responses (*i.e.*, quotes) would be submitted to the SBT book and displayed as they arrived. If the responses were not sufficient to establish a legal width market, the System would continue to hold the market order, repeat the RFQ cycle, and send an alert message to the Help Desk, which then could solicit quotes from the SBT market makers.[15] The Help Desk would have the authority to send a Special RFQ to the SBT market makers that would require a response.[16] However, assuming that the RFQ responses created a legal width market, the order being held by the System would execute in a manner described in section I.H.1. below.

When the SBT System eventually is so enabled, CBOE*direct* would similarly protect a marketable limit order for an options series for which a legal width market did not exist at the time of order entry by running the RFQ cycle before attempting to execute the limit order. Presently, however, a limit order would execute immediately if the limit order were marketable on the SBT book, even if a legal width market did not exist. A fuller description of limit order processing is contained in section I.H.2. below.

CBOE anticipates that, during regular trading hour (''RTH'') sessions,[17]

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text and the accompanying narrative. In Amendment No. 2, CBOE revised the proposed trade nullification rule for CBOE*direct*. In Amendment No. 3, CBOE further modified the proposed trade nullification rule.

[4] *See* Securities Exchange Act Release No. 45829 (April 25, 2002), 67 FR 31002 (''Notice'').

[5] *See* letter from Angelo Evangelou, Legal Division, CBOE, to Nancy Sanow, Division of Market Regulation, Commission, dated March 13, 2003 (''Amendment No. 4''). For the matters addressed in Amendment No. 4, *see infra* section III.

[6] In addition, CBOE submitted a letter to the Division of Market Regulation requesting interpretive guidance under section 11(a) of the Act, 15 U.S.C. 78k(a), and rule 11a2–2(T) thereunder, 17 CFR 240.11a2–2(T). *See* letter from Angelo Evangelou, Legal Division, CBOE, to Catherine McGuire, Division of Market Regulation, Commission, dated March 28, 2003. In response to CBOE's request, staff of the Division of Market Regulation provided interpretive guidance under section 11(a) of the Act. *See* letter from Paula R. Jenson, Division of Market Regulation, Commission, to Angelo Evangelou, Legal Division, CBOE, dated March 31, 2003.

[7] *See* notice, *supra* note 4, 67 FR at 31016–22 (listing the existing Exchange rules in chapters I through XXVII that would apply to CBOE*direct* and indicating those rules that would be supplemented by the CBOE*direct* rules). In Amendment No. 4, CBOE made several revisions to Appendix A.

[8] 17 CFR 240.19b–5. Rule 19b–5 provides that a self-regulatory organization (''SRO'') may operate a pilot trading system without obtaining prior Commission approval for the rules governing such system, provided that the SRO files a Form PILOT with the Commission and meets the other criteria set forth in rule 19b–5. On September 7, 2001, CBOE filed with the Commission a Form PILOT with respect to CBOE*direct*. An SRO may commence operation of a pilot trading system no sooner than 20 days after filing its Form PILOT. See 17 CFR 240.19b–5(e)(1). CBOE commenced operation of the SBT System on October 26, 2001. Rule 19b–5 requires an SRO, within two years of commencing operations of the pilot trading system, to file a proposed rule change pursuant to section 19(b)(2) of the Act, 15 U.S.C. 78s(b)(2), to obtain permanent authority to operate that system. *See* 17 CFR 240.19b–5(f)(1). The proposed rule change that is the subject of this Order was submitted pursuant to that requirement.

[9] *See* CBOE rule 41.2.

[10] *See* CBOE rule 41.3.

[11] Other SBT traders would be prohibited from entering limit orders in the same options series, for the account or accounts of the same or related beneficial owners, in such a manner that the order provider or the beneficial owner(s) effectively would be operating as a market maker by holding itself out as willing to buy and sell option contracts on a regular or continuous basis. *See* CBOE rule 43.6(c).

[12] *See* notice, *supra* note 4, 67 FR at 31037–38.

[13][14] See CBOE rule 40.1(m).

[15] *See* CBOE rule 43.7(b).

[16] *See id.;* CBOE rule 40.1(n).

[17] *See* CBOE rule 40.1(*l*) (definition of ''regular trading hour session'').

multiple SBT market makers would continuously quote actively traded products, while less actively traded products would be quoted through the RFQ process.[18] The Exchange indicated, however, that when the SBT System is used during an extended trading hour (''ETH'') session, most products likely would be quoted through RFQs.[19]

B. Market Participants

1. Market Makers

An SBT market maker is a CBOE member who is either an SBT standard market maker, an SBT designated primary market maker (''DPM''), or an SBT lead market maker (''LMM''). An applicant for registration as an SBT market maker must file an application with the Exchange's Membership Department; the Exchange's Membership Committee may approve or disapprove the applicant's registration as an SBT market maker.[20] A registered SBT market maker may apply for an appointment in one or more classes of option contracts traded on CBOE*direct*. The appropriate Market Performance Committee may arrange two or more classes of options into groupings and make appointments to those groupings rather than to individual classes. The appropriate Market Performance Committee may suspend or terminate any appointment of an SBT market maker or make additional appointments whenever, in the Committee's judgment, the interests of a fair and orderly market would best be served by such action.[21]

With respect to each class of options for which it holds an appointment, an SBT market maker has a continuous obligation to engage, to a reasonable degree under the existing circumstances, in dealings for its own account when there exists or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class. An SBT market maker is expected to perform the following activities in the course of maintaining a fair and orderly market:

- Competing with other SBT market makers to improve markets in all series of options class in which the SBT market maker holds an appointment;
- Making markets which, absent changed market conditions, will be honored for the number of contracts entered into the SBT System in all series of options classes in which the SBT market maker holds an appointment; and
- Updating market quotations in response to changed market conditions in all series of options classes in which the SBT market maker holds an appointment.[22]

In addition, at least 75% of an SBT market maker's total contract volume on CBOE*direct* must be in options classes in which it holds an appointment.[23]

Furthermore, SBT market makers are required to respond to a certain percentage of RFQs that they receive. The appropriate Market Performance Committee has the authority to determine the percentage of RFQs to which an SBT standard market maker would be required to respond, which percentage may not be less than 75%,[24] and may vary the RFQ response rate on a series-by-series basis.[25] SBT DPMs and LMMs are subject to higher requirements and must respond to 98% of the RFQs that they receive.[26] An SBT market maker would be credited for an RFQ response only if: (1) The SBT market maker responds to the RFQ with a two-sided market within a number of seconds designated by the appropriate Market Performance Committee; (2) the quote width is equal to or narrower than a legal width market; [27] (3) the quote size is at least equal to the minimum size specified by the appropriate Market Performance Committee and in any case is at least five contracts; and (4) the SBT market maker provides a continuous market for 30 seconds, or the quote is filled before the 30-second period expires.[28] The SBT market maker could change its quote during this period but could not cancel it to receive credit for the response.[29]

On CBOE*direct*, a market maker may also be a designated primary market maker (''DPM'') or a lead market maker (''LMM''). The Exchange's SBT DPM Committee may assign an SBT DPM to a particular option class.[30] Different members could be assigned to be the SBT DPM for the same option class during different trading sessions.[31] If the SBT DPM Committee does not appoint an SBT DPM in a given class, the appropriate Market Performance Committee could appoint one or more SBT LMMs.[32] If more than one SBT LMM is appointed, they would function as the SBT LMM on a rotating basis in accordance with a schedule set by the appropriate Market Performance Committee.[33] SBT LMMs would have responsibilities similar to SBT DPMs.[34]

The obligations of SBT DPMs and LMMs are greater than those of SBT standard market makers.[35] SBT DPMs and LMMs are obligated, for example, to provide opening quotes for all series in their allocated classes.[36] The appropriate Market Performance Committee also could require that an SBT DPM or LMM provide continuous quotations in some or all of the series of its appointed classes.[37] Furthermore, SBT DPMs and LMMs are required to handle public customer orders that are not executed on the System due to the fact that there is a better quote on another exchange, and to accord priority to such public customer orders over their own principal transactions (unless the customer who placed the order has consented to not being accorded such priority).[38]

2. Brokers

An SBT broker is an individual (either a member or a nominee of a member organization) who is registered with the Exchange for the purpose of accepting and executing on CBOE*direct* orders

[18] *See* notice, *supra* note 4, 67 FR at 31038.

[19] In addition, the appropriate SBT Trading Committee may determine to limit the kinds of orders that may be traded during an ETH session, even if such order types may be traded during an RTH session. *See* CBOE rule 43.2(b). CBOE has represented that it would distribute an information circular indicating any committee determination to limit the order types that may be traded during an ETH session. Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Elizabeth King, Division of Market Regulation, Commission, on June 21, 2002 (''June 21 conversation'').

[20] *See* CBOE rule 44.2(a).

[21] *See* CBOE rule 44.3(a).

[22] *See* CBOE rule 44.4(a)(1). In Amendment No. 4, the Exchange clarified SBT market makers' obligations by incorporating into CBOE rule 44.4(a)(1) the provisions of its existing CBOE rule 8.7 (setting forth market makers' obligations on the Exchange floor), modified to take into account differences between making markets on a physical floor and on an electronic platform.

[23] *See* CBOE rule 44.4(a)(2).

[24] *See* CBOE rule 44.4(b). The response rate would be computed as the number of times the SBT market maker made a credited response, divided by the number of RFQs to which the market maker was obligated to respond. *See* notice, *supra* note 4, 67 FR at 31039. In addition, the appropriate Market Performance Committee could, depending on the liquidity in any of the underlying markets during an ETH session, determine not to impose an RFQ response requirement, or impose an RFQ response rate lesser than the one applicable during regular trading hours. *See* CBOE rule 44.4(d).

[25] *See* CBOE rule 44.4(e).

[26] *See* CBOE rules 44.4, Interpretation .01(a)(4) and 44.14(a)(4).

[27] *See supra* note 13.

[28] *See* CBOE rule 44.4(b).

[29] *See id.*

[30] *See* CBOE rule 44.12.

[31] *See* CBOE rule 44.16.

[32] *See* CBOE rule 44.3, Interpretation .01.

[33] *See id.*

[34] *See* CBOE rule 44.4, Interpretation .01(a).

[35] *See* CBOE rule 41.1(a)(2).

[36] *See* CBOE rules 44.4, Interpretation .01(a)(2) and 44.14(a)(2).

[37] *See id.*

[38] *See* CBOE rules 44.14(b)(6) and 44.4, Interpretation .01(a)(6).

received from members, registered broker-dealers, or public customers. As with brokers operating in the Exchange's open-outcry auction market, an SBT broker would not be permitted to accept an order from any source other than a member or a registered broker-dealer, unless he or she were approved to transact business with the public in accordance with CBOE rule 9.1.[39]

SBT brokers would have the same obligations as brokers on the Exchange's auction market to use due diligence in the representation of orders for which they act as agent. SBT brokers may use an SBT workstation or an API to enter, cancel, cancel/replace, and maintain orders; hit bids and take offers; submit RFQs; and enter cross notifications and proposed cross orders.

3. Proprietary Traders

A proprietary trader is a CBOE member who enters orders as principal for a non-market-maker proprietary account.[40] A proprietary trader may use an SBT workstation or an API to enter, cancel, cancel/replace, and maintain orders; hit bids and take offers; and submit RFQs.

4. Clearing Firm Brokers

A clearing firm broker is an individual who represents the clearing firm of a particular SBT market maker and has the authority to take certain actions with respect to that market maker's use of the SBT System.[41] A clearing firm broker may request the CBOE Help Desk to force the logout of an SBT trader when, for example, that trader has financial difficulty. In addition, the forced logout of an SBT trader could be necessary if technical difficulties prevented the trader from logging off on his or her own.

C. Priority

The proposed CBOE*direct* rules do not prescribe a single allocation methodology. Instead, the rules give the appropriate SBT Trading Committee authority to apply various allocation priorities. CBOE has represented that it would issue a regulatory circular specifying the allocation rules that would govern each option class.[42]

There would be two basic types of trade allocation methodologies:

• *Price-Time Priority.* Under this method, resting orders in the SBT book would be prioritized according to price and time. If two or more orders were at the best price, priority among these orders would be afforded in the sequence in which they were received by the System.[43]

• *Pro Rata Priority.*[44] Under this method, resting orders in the SBT book would be prioritized according to price. If there were two or more orders at the best price, trades would be allocated proportionally according to their size.[45] The executable quantity would be allocated to the nearest whole number, with fractions one-half or greater rounded up and fractions less than one-half rounded down.[46]

In addition to these allocation methodologies, the appropriate SBT Trading Committee could determine to overlay, on a class-by-class basis and in any order, any or all of the following additional market participant priorities (''priority overlays''):[47]

1. *Public Customer.* If this were the only priority overlay in effect, the highest bid and lowest offer would have priority, except that a public customer order would have priority over a non-public customer order at the same price. If other priority overlays were also in effect, priority would be established in the sequence designated by the appropriate SBT Trading Committee. In either case, if there were two or more public customer orders for the same option series at the same price, priority would be afforded to these orders in the sequence in which they had been received by the System, even if the *pro rata* allocation method were the designated allocation method. For purposes of this provision, a ''public customer order'' is an order for an account in which no CBOE member, non-member participant in a joint venture with a member, or non-member broker-dealer (including a foreign broker-dealer) has an interest.[48]

2. *Market Turner.* The ''market turner'' is the SBT trader who is the first to enter an order or quote at a better price than the previous best book price, and the order or quote was continuously in the market until it traded.[49] If market turner priority were the only priority overlay in effect, the market turner would have priority at the highest bid or lowest offer that it had established. If other priority overlays were also in effect, priority would be established in the sequence designated by the appropriate SBT Trading Committee. In either case, market turner priority at a given price would remain with the order once it had been earned. For example, if the market moved in the same direction as the marker turner had moved the market, and then the market moved back to the market turner's original price, the market turner would retain priority at the original price.

3. *Trade Participation Right.* SBT DPMs and LMMs may be granted a trade participation right to trade against up to 40% of an incoming order,[50] even though the order and/or quote of the SBT DPM or LMM do not have the highest priority. If other priority overlays were also in effect, priority would be established in the sequence designated by the appropriate SBT Trading Committee. All of the following conditions would apply to the SBT DPM or LMM trade participation right:

• The order and/or quote of the SBT DPM or LMM must be at the best price.[51]

• An SBT DPM or LMM may not be allocated a total quantity greater than the quantity than it was quoting at that price.[52]

• If pro rata priority is in effect and the SBT DPM's or LMM's allocation of an order pursuant to its trade participation right is greater than its percentage share of the quotes/orders at the best price at the time that the trade participation right is granted, the SBT DPM or LMM may not receive any further allocation of that order.[53]

• If the trade participation right priority overlay and the market turner priority overlay are both in effect and the SBT DPM or LMM were the market turner, market turner priority would not apply.[54]

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[39] *See* CBOE rules 41.1(a)(5) and 45.1.

[40] *See* CBOE rule 41.1(a)(6).

[41] *See* CBOE rule 45.11.

[42] *See* notice, *supra* note 4, 67 FR at 31026.

[43] *See* CBOE rule 43.1(a)(1). For examples of how the price-time allocation method would operate, *see* notice, *supra* note 4, 67 FR at 31027–28.

[44] In Amendment No. 4, CBOE changed the name of this allocation methodology from ''combined price-time and size priority'' to ''*pro rata* priority.''

[45] *See* CBOE rule 43.1(a)(2). For examples of how this allocation method would operate, *see* notice, *supra* note 4, 67 FR at 31028–31.

[46] If there were two SBT traders that were both entitled to an additional one-half contract and there were only one contract remaining to be distributed, the additional contract would be distributed to the SBT trader whose quote or order had time priority. *See* CBOE rule 43.1(a)(2).

[47] *See* CBOE rule 43.1(b).

[48] *See* CBOE rule 43.1(b)(1).

[49] *See* CBOE rule 40.1(i).

[50] *See* CBOE rules 43.1(b); 44.4, Interpretation .01(b); and 44.15. However, the participation of an SBT DPM or LMM in an order may exceed 40%, depending on the allocation rules in effect. *See id.* Assume, for example, that price-time priority is in effect. An SBT DPM or LMM could receive up to 40% of an incoming order due to its trade participation right, then receive an additional portion of the incoming order if it has an order or quote on the SBT book that has the highest time priority at the best price. If *pro rata* priority were in effect, an SBT DPM or LMM could receive up to 40% of an incoming order due to its trade participation right, then receive an additional portion of the incoming order if its percentage of the total volume being quoted at the best price exceeds 40%.

[51] *See* CBOE rule 43.1(b)(3)(A).

[52] *See* CBOE rule 43.1(b)(3)(B).

[53] *See id.*

[54] *See* CBOE rule 43.1(b)(3)(C).

• If price-time priority were in effect and the SBT DPM or LMM had a quote and one or more orders at the same price, any contacts executed as part of the SBT DPM/LMM's trade participation right would trade with the highest priority quote/order(s) of the SBT DPM or LMM.[55]

• The trade participation right may not be in effect unless the public customer priority overlay is in effect in a priority sequence ahead of the trade participation right.[56] Thus, public customer orders at the best price would be executed before an SBT DPM or LMM trades by virtue of any trade participation right.

• If other priority overlays are in effect and designated as higher priorities than the SBT DPM or LMM trade participation right, the participation right would apply only to any remaining balance of an order after all higher priorities were satisfied.[57]

D. States of Trading

1. Pre-Opening

The pre-opening state would last for some period of time (as determined by the appropriate SBT Committee) before the opening of the underlying security.[58] During this state, CBOE*direct* would accept quotes and orders but no trading would take place.[59] The System would disseminate information about resting orders in the SBT book that remained from the prior business day and any orders and quotes sent before the opening.[60] After the primary market for the underlying security disseminates the opening trade or the opening quote for the underlying security, the System would send a notice to SBT market makers with an appointment in that class who then may submit their opening quotes.[61] The SBT DPM or LMM for that option class would be required to submit opening quotes.[62]

2. Opening

The SBT System would begin the opening procedure at a randomly selected time within a number of seconds after receiving the underlying security's opening price.[63] For some time after the notice of the underlying security's opening price is sent, the System would calculate and provide the expected opening price (''EOP'') based on the current resting orders and quotes during an EOP period.[64] The length of the EOP period would be established by the appropriate SBT Trading Committee and would be no less than five seconds and no more than one minute.[65] After the EOP period, the System would enter a lock interval during which quotes and orders could be submitted but would not be included in the opening trade. The lock interval would be a period of time not to exceed four seconds. At this time, the SBT System would establish the opening price, which would be the ''market clearing'' price that would leave bids and offers that could not trade with each other.

The System would process the series of a class in random order.[66] The series of a class may not open all at the same time. The System would not open a series if: (1) There were no legal width market; (2) the opening price were not within a range determined by the appropriate SBT Trading Committee (*e.g.*, the upper boundary of the acceptable range may be 125% of the highest quote offer and the lower boundary may be 75% of the lowest quote bid);[67] or (3) the opening trade would leave a market order imbalance.[68] If a series does not open, the System would commence the RFQ process in an effort to alleviate the conditions that caused the series not to open.[69]

As the opening price is determined by series, the System would change the product state of the series to ''trading'' and disseminate to OPRA and the SBT participants the opening quote and the opening trade price, if any.[70]

3. Trading

During this state, the series would trade freely. All order types and quotes would be accepted, except for opening-only contingency orders.[71]

4. Trading Halts

CBOE will use the same criteria to halt trading on CBOE*direct* that they use to halt trading on CBOE's floor.[72] In addition, the SBT System may be programmed (as determined by the appropriate SBT Trading Committee) to automatically halt trading with respect to an equity option if a trading halt has been declared for the underlying security in the primary market.[73] However, when the System is operated during an ETH session, there may not be a primary market trading the underlying security. In such cases, the appropriate SBT Trading Committee would determine in advance whether to have the System automatically halt trading with respect to the options if there is no primary market for the underlying security in the ETH session and if trading in the underlying security has been halted in another market trading the underlying security during an ETH session.[74] Whenever trading has been halted, trading may be resumed whenever two trading officials determine that a fair and orderly market may be maintained.[75]

5. Closed

CBOE*direct* would change the state to ''closed'' at a pre-determined time depending on the closing time of the

[55] *See* CBOE rule 43.1(b)(3)(D).

[56] *See* CBOE rule 43.1(b)(3)(E).

[57] *See* CBOE rule 43.1(b)(3)(F).

[58] *See* CBOE rule 42.3(a). CBOE has represented that it would distribute an information circular indicating the pre-opening period of time that it establishes. June 21 conversation.

[59] *See* CBOE rule 42.2(a). However, spread orders and contingency orders (except for opening-only orders) would not participate in the opening or in the determination of the opening price. *See* CBOE rule 42.3(a). CBOE has represented that it would distribute an information circular indicating the pre-opening period of time that is established by the Exchange. June 21 conversation.

[60] *See id*. CBOE could determine to disseminate this information for free to any SBT trader interested in trading the product. Alternately, CBOE could determine to impose a fee for such information. In the latter case, the fee proposal would have to be filed with the Commission pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b). Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Nancy Sanow and Michael Gaw, Division of Market Regulation, Commission, on October 23, 2002 (''October 23 conversation'').

[61] *See* CBOE rule 42.3(a).

[62] *See id*. SBT standard market makers generally would not be required to provide opening quotes, except in the circumstances described in proposed CBOE rule 42.3(b).

[63] *See* CBOE rule 42.3(a). In the case of trading during an ETH session, the System could open the class without having received the underlying security's opening price. *See id*.

[64] *See* CBOE rule 42.3(c).

[65] *See id*. CBOE has represented that it would distribute an information circular indicating the period that is established by the Committee. June 21 conversation.

[66] *See* CBOE rule 42.3(d).

[67] CBOE has stated that this provision is designed to prevent orders that rest on the SBT book between sessions from being executed at a price far from the prevailing quote at the opening of the next session. Telephone call between Angelo Evangelou, Legal Division, CBOE, and Michael Gaw, Division of Market Regulation, Commission, on December 9, 2002. CBOE has represented that it would publicize the range set by the committee in an information circular. *Id*.

[68] *See* CBOE rule 42.3(f).

[69] *See* CBOE rule 42.3(g). The RFQ generated by the SBT System in this case would include size. The RFQs generated by the System in market and limit order processing also would include size. October 23 conversation.

[70] *See* CBOE rule 42.3(e).

[71] *See* CBOE rule 42.2(c).

[72] Specifically, CBOE rules 6.3, 6.3B, or 24.7 will apply to trading on CBOE*direct*. *See* Appendix A. Originally, CBOE proposed that new, different provisions would govern trading halts on the SBT System. In Amendment No. 4, CBOE deleted most of these proposed provisions and instead proposed to apply existing CBOE rule 24.7 to trading halts on CBOE*direct*.

[73] *See* CBOE rule 43.4(b). The System would send status alerts to OPRA for a product that is halted. *See* notice, *supra* note 4, 67 FR at 31025.

[74] *See* CBOE rule 43.4(b).

[75] *See id*.

underlying security. Trading would cease but the System would continue to accept certain order types (such as market orders, which would be held by the System for participation in the opening of the next SBT session).[76] At some designated time, as determined by the Exchange, the System would stop accepting orders and would enter into end-of-session procedures as described in CBOE rule 42.4.[77]

6. Fast Markets and Non-Firm Markets

A fast market may be declared in one or more option classes. A fast market may be declared by the System automatically if the System loses an underlying security feed.[78] A fast market also may be declared by two trading officials whenever, in their judgment, an influx of orders or other conditions or circumstances would impair the operation of a fair and orderly market. In determining whether to declare a fast market, the trading officials may consider, among other things, impending news, increases in trading volume that threaten the capacity of the System, and the loss of an underlying security feed.[79] Regular trading conditions may be resumed when two trading officials believe that such action is warranted or, if the System had made the fast market declaration, if the underlying security feed has been restored.[80]

CBOE may designate the market in an option to be ''non-firm'' if two trading officials determine that the level of trading activities or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing, and making available to quotation vendors the data for the option in a manner that accurately reflects the current state of the market on CBOE*direct.* If a market is declared non-firm, the Exchange would provide notice that its quotations are not firm by appending an appropriate indicator to such quotations, and two trading officials would have the authority to direct that one or more trading rotations be employed or to take such other actions as are deemed necessary in the interest of maintaining a fair and orderly market. The Exchange would monitor the activity or conditions that caused the declaration of a non-firm market, and two trading officials would be required to review the condition of such market at least every 30 minutes. Regular trading procedures would be resumed by the Exchange when two trading officials determined that the conditions supporting a non-firm market declaration no longer existed. The Exchange would provide notice that its quotations were once again firm by removing the indicator from its quotations. However, if the conditions supporting a non-firm market declaration could not be managed utilizing the prescribed procedures, two trading officials would halt trading in the class or classes so affected.[81]

There is a significant difference between a ''non-firm'' market and a fast market: Only in a non-firm market would responsible brokers and dealers be relieved of their obligations under the Exchange's firm quote rule, as applicable to CBOE*direct,*[82] and the Commission's firm quote rule.[83] In a fast market that is not also a non-firm market, the firm quote obligations would continue to apply.

E. Firm Quote Obligations on CBOE*direct*

Each responsible broker or dealer, as defined in rule 11Ac1–1 under the Act,[84] must communicate to the Exchange its bids and offers in accordance with rule 11Ac1–1, and a bid or offer submitted by a responsible broker or dealer must be firm pursuant to rule 11Ac1–1 for the number of contracts specified in such bid or offer, subject to certain exceptions.[85] A responsible broker or dealer would be relieved of its firm quote obligations under rule 11Ac1–1 and Exchange rules if any of the following conditions existed: [86]

- The level of trading activities or the existence of unusual market conditions is such that the Exchange is incapable of collecting, processing, and making available to quotation vendors the data for the option in a manner that accurately reflects the current state of the market on the Exchange and, as a result, the market in the option is declared to be ''non-firm'' pursuant to CBOE rule 43.14(b);
- A system malfunction or other circumstance impairs the Exchange's ability to disseminate or update market quotes in a timely and accurate manner;
- A trading rotation is in progress; or
- Any of the circumstances set forth in paragraph (c)(3) of rule 11Ac1–1 [87] exists.

Within 30 seconds of receipt of an order to buy or sell an option series in an amount greater than the size associated with the responsible broker's or dealer's bid or offer, that portion of the order equal to the size associated with the responsible broker's or dealer's bid or offer will be executed, and the bid or offer price will be revised.[88]

F. Trade Nullification

The SBT System rules provide for the ability to nullify a trade through a negotiated or mandated trade nullification procedure.

1. Negotiated Trade Nullification

A CBOE*direct* trade could be nullified if both parties to the transaction agreed to the nullification.[89] Negotiation could be conducted through the SBT System's messaging facility that would allow a party to exchange messages with its contraparty of a particular trade. The System would preserve the anonymity of the parties, although one party could voluntarily disclose its identity to the other party. When both parties to a trade have agreed to a trade nullification, one party must contact the Help Desk. The Help Desk then would confirm the agreement and promptly nullify the trade, notify the parties involved, disseminate cancellation information in prescribed OPRA format, and re-establish orders and their priorities in the SBT book on a best-efforts basis.

2. Mandated Trade Nullification

An SBT trader may have a trade nullified by two trading officials if a documented request is made within five minutes of execution (or 15 minutes if the request is on behalf of a public customer) and one of five following conditions is met:

- The trade resulted from a verifiable disruption or malfunction of an Exchange execution, dissemination, or communication system that caused a quote/order to trade in excess of its disseminated size (*e.g.*, a quote/order that is frozen, because of an Exchange system error, and traded repeatedly); [90]

[76] *See* CBOE rule 42.2(e).

[77] *See id.* CBOE has represented that it would issue an information circular regarding the designated time that the SBT System would stop accepting orders and enter into end-of-session procedures. December 5 conversation.

[78] *See* CBOE rule 43.4(a)(1).

[79] *See* CBOE rule 43.4(a)(2).

[80] *See* CBOE rule 43.4(a)(1)–(2).

[81] *See* CBOE rule 43.14(b).

[82] CBOE rule 43.14(a).

[83] 17 CFR 240.11Ac1–1.

[84] 17 CFR 240.11Ac1–1.

[85] *See* CBOE rule 43.14(a). The Commission notes that an SBT market maker is permitted to display a single quote and one or more orders at the same time. All orders and quotes of a responsible broker or dealer that are displayed on CBOE*direct* will be subject to the Commission's Firm Quote rule.

[86] *See* CBOE rule 43.14(c)(1).

[87] 17 CFR 240.11Ac1–1(c)(3)

[88] *See* CBOE rule 43.14(c)(2).

[89] *See* CBOE rule 43.5(a).

[90] *See* CBOE rule 43.5(b)(1). For example, assume that an SBT market maker enters a quote of 4.00–4.30, 20x20. Another SBT trader hits the market maker's bid at 4.00 for the full size of 20 contracts. Also assume that the SBT System fails to remove the market maker's bid from the SBT book, even

• The trade resulted from a verifiable disruption or malfunction of an Exchange dissemination or communication system that prevented an SBT trader from updating or canceling a quote/order for which the SBT trader is responsible, where there is Exchange documentation providing that the SBT trader sought to update or cancel the quote/order; [91]

• The trade resulted from an erroneous print disseminated by the underlying market that is later canceled or corrected by that underlying market, where the erroneous print resulted in a trade higher or lower than the average trade in the underlying security during the two-minute time period before and after the erroneous print by an amount at least five times greater than the average quote width for the underlying security during the time period encompassing two minutes before and after the erroneous print;[92]

• The trade resulted from an erroneous quote in the primary market for the underlying security that has a spread of at least $1.00 and at least five times greater than the average quote width for the underlying security during the time period encompassing two minutes before and after the dissemination of such quote; [93] or

• The execution price of the trade is higher or lower than the theoretical price for the series by an amount equal to at least two times the maximum bid/ask spread allowed for the option under proposed CBOE rule 44.4, so long as such amount is $0.50 or more (or $0.25 or more for options priced under $3.00).[94]

Upon nullification, the Help Desk promptly would notify the parties, disseminate cancellation information in prescribed OPRA format, and re-establish orders and their respective priorities on the SBT book on a best-efforts basis.[95]

Any determinations made under the trade nullification rule could be appealed pursuant to chapter 19 of the Exchange's rules.[96]

*G. How Trades Are Executed on CBOE*direct

1. Market Orders

a. Market Order Processing

Non broker-dealer market orders to buy or sell options on CBOE*direct* will not be automatically executed by the System at prices inferior to the best bid or offer on another national securities exchange, as those best prices are identified by the System.[97] In addition, the SBT System would protect a market order for a given option series by executing it against the best bid or offer only if there were a legal width market in that series.[98] The System would match market orders against orders at the best price in the SBT book and against the other orders behind the best price at varying prices until the order is fully executed or a legal width market no longer exists.[99] CBOE expects that there would be a legal width market for most series at most times—at least during an RTH session—and thus that most market orders on CBOE*direct* would execute immediately.[100]

If there is no legal width market when the order is entered—or if the market order is not executed in full because a legal width market no longer exists—the System would hold the order (or any remaining portion thereof) in queue, send an RFQ,[101] and inform the originator of the market order about the order's status.[102] In this case, the RFQ would include the market order quantity but not whether the order was a buy or a sell.[103] RFQ responses would be sent to the SBT book.[104] The System then would execute the market order if:

• During the RFQ response time, the best quote becomes a certain prescribed percentage (as set by the appropriate SBT Trading Committee) of a legal width market; [105]

• The System receives a limit order on the same side of the market as the market order that could match the best bid or offer and at least one legal width quote has been received; [106] or

• A certain prescribed percentage of the SBT market makers currently providing quotes in the class (the percentage to be set by the appropriate SBT Trading Committee) respond to the RFQ with legal width markets.[107]

If the market order could be executed under any of the three conditions above and there is a market order on the opposite side, the System would execute the market orders with each other.[108]

If none of the three conditions noted above were satisfied but a legal width market existed at the end of the RFQ period, the market order would execute against the booked order with the highest priority.[109] However, if the System were holding a market order and the RFQ process did not yield a legal width market, the Exchange's Help Desk could solicit quotes and require a response from SBT market makers.[110]

b. Market Order Price

If a market order is executed before the RFQ process is completed under any of the three conditions set forth above, it would trade at the price of the highest priority contraside quote or order in the SBT book. However, if a market order could be executed pursuant to any of the three conditions and there were one or more market orders on the opposite side, the System would execute the market orders against each other at a price determined as follows: [111]

• At the middle of the best bid/offer in the SBT book, if the middle price is a price that may be entered on the System; or

• If the middle price is not a price that could be entered on the System, at the next such price that is closer to the last trade price for the series.

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though it has been taken out completely. A second SBT trader sees the ''frozen'' bid for 20 at 4.00 and also trades against it. In this case, the second trade could be nullified under CBOE rule 43.5(b)(1). Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Nancy Sanow, Division of Market Regulation, Commission, on February 20, 2003 (''February 20 conversation'').

[91] *See* CBOE rule 43.5(b)(2).

[92] *See* CBOE rule 43.5(b)(3).

[93] *See* CBOE rule 43.5(b)(4).

[94] *See* CBOE rule 43.5(b)(5). The theoretical price of an option would be defined as the last bid/offer price, just prior to the trade, from the exchange providing the most volume in the option or, if there are no quotes for comparison, the theoretical price would be determined by two trading officials. *See id.*

[95] *See* CBOE rule 43.5(b).

[96] *See id.*

[97] *See* CBOE rule 43.7.

[98] *See* CBOE rule 43.7(a)(1).

[99] *See* id.

[100] *See* notice, *supra* note 4, 67 FR at 31033 n.26.

[101] The RFQ would be sent to any SBT market maker who held an appointment in that option class and to any non-appointed SBT market maker who is quoting in that option class at the time the RFQ is sent. *See* CBOE rule 40.1(m).

[102] *See* CBOE rule 43.7(a)(2).

[103] *See* CBOE rule 43.7(a)(3). The only instance that an RFQ would disclose whether the intended transaction is a buy or a sell is if the SBT System generated an RFQ to remedy an order imbalance. October 23 conversation.

[104] *See* CBOE rule 43.7(a)(3). Also, market orders generally have execution priority over limit orders. However, a limit order may be executed ahead of the market order if, during the pendency of an RFQ, an order is entered on the other side of the market that satisfies the order's limit price. *See* CBOE rule 43.1(g).

[105] *See* CBOE rule 43.7(a)(3)(A). CBOE has represented that it would issue an information circular regarding the designated percentage that would trigger this provision. December 5 conversation. The market order would trade with the best-priced quote or order on the SBT book.

[106] *See* CBOE rule 43.7(a)(3)(B). The market order would trade with the best priced quote or order on the SBT book. However, if no legal width market existed at the time the limit order were received, the incoming limit order would execute ahead of the market order. *See id.;* CBOE rule 43.1(g).

[107] *See* CBOE rule 43.7(a)(3)(C).

[108] *See* CBOE rule 43.7(a)(4).

[109] Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Michael Gaw, Division of Market Regulation, Commission, on September 25, 2002.

[110] *See* CBOE rule 43.7(b).

[111] *See* CBOE rule 43.7(a)(4).

If one or more incoming RFQ responses could execute against a market order as well as any limit orders that were already on the SBT book at a particular price and the incoming responses are of large enough quantity to fill all of the older limit orders, all of those orders would be filled at the price of the older limit orders.[112] If the responses could execute against a market order and one or more older limit orders, but the responses are not of large enough quantity to fill all of the older limit orders, the market order would be filled at the minimum price interval ahead of the older limit orders.[113]

c. Market Orders During Trading Halts

If trading were halted in a series while a market order for an option in that series were on hold waiting for RFQ responses, CBOE*direct* would operate as follows:

- If the market order were a good-'til-canceled order, the System would hold and execute it at the next opening (whether on the same day or the next day).
- If the market order were a day order, the System would execute it at re-opening if trading resumed on the same day.
- If trading did not resume on the same day, the System would purge the market order as part of the end-of-day procedures.[114]

2. Limit Order Processing

Non-broker-dealer marketable limit orders to buy or sell options on CBOE*direct* will not be automatically executed by the System at prices inferior to the best bid or offer on another national securities exchange, as those best prices are identified in the System.[115] Broker-dealer limit orders, non-broker-dealer limit orders that are not marketable, and limit orders in options that are not traded on another national securities exchange will be processed as follows.

As presently configured, CBOE*direct* will process limit orders by matching them against the best prices available in the SBT book under the priority rules set forth in CBOE rule 43.1. If no booked order matched the incoming limit order, the limit order would be held in the SBT book and could trade against later-submitted orders.[116]

In the future, CBOE*direct* will be enabled to provide additional protection for limit orders by allowing a limit order to be executed only if there is a legal width market in that series.[117] If a legal width market did not exist but the limit order could otherwise execute against the best bid or offer, the System would put the order in queue and send an RFQ.[118] The RFQ would include the order quantity but not whether the order was a buy or sell. Quote responses would be exposed in the SBT book as they were received. The System would execute the limit order if:

- During the RFQ response time, the best quote becomes a certain prescribed percentage (*e.g.*, 75%, as set by the appropriate SBT Trading Committee[119] of a legal width market;[120]
- The System receives a market or limit order (independent of the RFQ responses) on the opposite side that would match the original limit order, and a legal width market exists;[121]
- A certain prescribed percentage of the SBT market makers that currently are receiving RFQs (the percentage to be set by the appropriate SBT Trading Committee[122]) respond to the RFQ, or when the RFQ period expires and there is at least one quote response.[123]

If a limit order for a certain series were queued, subsequent limit orders for the same series and side would be queued behind the first order to ensure that they were processed in time sequence.[124] Subsequent market orders for the same series and side also would be queued.[125] If a legal width market remained upon completion of the limit order processing, the market order would be executed against orders resting in the SBT book.[126] If a legal width market did not exist, market order processing would begin in accordance with market order processing rules, discussed above.[127]

3. Contingency Orders

CBOE*direct* currently can handle all-or-none, fill-or-kill, immediate-or-cancel, stop, and stop limit orders. The System is not yet ready to process opening-only, minimum volume, and market-on-close orders,[128] although such orders are contemplated by the proposed CBOE*direct* rules, once the System is enabled to handle them.[129] Contingency orders (except for opening-only orders) would not participate in the opening trade or in the determination of the opening price.[130]

A contingency order (except for an immediate-or-cancel order or a stop limit order the stop price of which has been hit) would be placed last in priority order, regardless of when it was entered into the SBT System.[131] If customer priority were afforded to a particular option class, a public customer contingency order would have priority over a non-public-customer contingency order but would be behind all other orders.[132]

4. Spread Orders

Once the SBT System has been so enabled and the Commission has approved the necessary rules, SBT traders would have the ability to enter spread orders, the legs of which are options of the same underlying security.[133] However, spread orders may not be entered on the System at this time.

H. Facilitation and Solicitation of Orders by SBT Brokers

On the SBT System, an SBT broker would not be permitted to execute as principal an order that it represents as agent unless the agency order were first exposed on the System for at least 30 seconds, or the broker utilizes the applicable crossing procedure described below.[134] In addition, an SBT broker would be required to expose on the System an order that it represented as agent for at least 30 seconds before such order could be executed in whole or in part by orders solicited from members or non-member broker-dealers to transact with such order.[135] Described below are an interim crossing procedure and a permanent crossing procedure, which would replace the interim procedure at some time in the future.[136]

[112] *See* CBOE rule 43.7(a)(3)(B)(ii)(aa).

[113] *See* CBOE rule 43.7(a)(3)(B)(ii)(bb).

[114] *See* CBOE rule 43.7(d).

[115] *See* CBOE rule 43.8.

[116] *See id.*

[117] *See* CBOE rule 43.8A(a).

[118] *See* CBOE rule 43.8A(b). The SBT trader that submitted the limit order could override the RFQ and enter the limit order into the SBT book. *See id.*

[119] CBOE has represented that it would announce the percentage set by the committee in an information circular. December 5 conversation.

[120] *See* CBOE rule 43.8A(d)(1). The original limit order then would trade with the best priced quote or order on the SBT book. *See id.*

[121] *See* CBOE rule 43.8A(d)(2). The original limit order then would trade with the incoming market or limit order. *See id.*

[122] CBOE has represented that it would announce the prescribed percentage that would trigger this provision in an information circular. December 5 conversation.

[123] *See* CBOE rule 43.8A(d)(3). The original order then would trade with the best priced quote or order on the SBT book. *See id.*

[124] *See* CBOE rule 43.8A(e).

[125] *See id.*

[126] *See id.*

[127] *See id.*

[128] *See* Amendment No. 4.

[129] *See* CBOE rule 43.9.

[130] *See* CBOE rule 42.3(a).

[131] *See* CBOE rules 43.1(c) and 43.9.

[132] *See* CBOE rule 43.1(c).

[133] *See* CBOE rule 43.6(a).

[134] *See* CBOE rule 43.12(a).

[135] *See* CBOE rule 43.12(b).

[136] *See* CBOE rules 43.12A and 43.12B. CBOE rule 43.12C(a) provides that it would be a violation of

1. Interim Crossing Procedure

Under CBOE*direct*'s interim crossing procedure, an SBT broker that wishes to cross two original orders of at least 50 contracts or to facilitate an original order of at least 50 contracts must first send an RFQ with the size of the orders to be crossed.[137] The RFQ response period will be established by the SBT Trading Committee and will not be less than ten seconds.[138]

Within a time period after the RFQ response period has expired (such time period to be established by the SBT Trading Committee and not to exceed ten seconds [139], the SBT broker must expose one of the orders to the SBT book.[140] If the exposed order is not completely taken out by other SBT traders by the end of the exposure period, the SBT broker could enter the opposite order to cross the balance of the exposed order.[141]

2. Permanent Crossing Mechanism

In the future, CBOE*direct* will provide for a participation right for SBT brokers who wish to cross orders. As with the interim procedure, an SBT broker first would have to submit an RFQ for a size equal to the quantity to be crossed.[142] The SBT market makers receiving the RFQ would have a response period for a length of time (such time period to be established by the SBT Trading Committee, but no less than ten seconds [143] to enter orders or quotes that matched or improved upon the existing quotations on the System.[144] Within a time period after the RFQ response period expires (such time period to be established by the SBT Trading Committee and which may be no longer than 20 seconds [145]), the SBT broker would enter the terms of the proposed cross transaction.[146] The required terms would include the terms of the original order and the proposed facilitation order (or two original orders), a proposed crossing price, the quantity of the original order that the SBT broker would be willing to facilitate (in the case of a facilitation cross), and a designation of which order (in the case of a cross of two customer orders) is to be exposed to the market after the SBT broker received the guaranteed crossing percentage.[147] The customer order would be the exposed order in a facilitation cross.[148]

At the time the cross transaction is entered or the System:

- A legal width market would have to exist for the particular series to be crossed; and
- The proposed cross price would have to be between the best bid and offer displayed by the System.[149]

After accepting the cross transaction, the System would immediately cross 40% of the two orders. The System would expose in the SBT book the contracts remaining in the designated order for a period of ten seconds. The order's price and the remaining quantity would be disclosed but there would be no indication that the order was part of an impending cross. The System would place the opposite order on hold as a shadow order that would not be visible except to the submitter.[150] As long as the exposed order is the highest priority order at the best price, other SBT traders could trade against it during the ten-second exposure period.[151]

If, at the end of the ten-second exposure period the order has not yet been fully traded, and the exposed order is at the best price and has the highest priority, the System would execute the remainder of the order against the shadow order.[152] If, however, the exposed order is not the highest priority order at the market, the System automatically would cancel the remainder of the exposed order and the shadow order and send the SBT broker a message that the crossing transaction is completed. If the exposed order has a quantity remaining after the crossing transaction is completed and is the highest priority order at the market, it would remain in the SBT book.

3. Interpretation Relating to Crossing Procedure

The availability of the crossing mechanism would not alter a member's best execution duty to obtain the best price for its customer. Moreover, CBOE proposes to make it explicit in its rules that it would be a violation of an Exchange member's duty of best execution to its customer if it were to cancel or withhold a customer order to avoid execution of the order a better price.[153] Accordingly, if a member were to cancel or withhold a customer order when there was a superior price available on the System, and subsequently enter the order at an inferior price after the better price were no longer available without attempting to obtain that better price for its customer, there would be a presumption that the member did so to avoid execution of the customer order in whole or in part at the better price.[154]

I. Additional System Functionality

1. Entry and Maintenance of Orders and Quotes

All SBT traders, including SBT market makers, may enter orders into the System for any option class. However, only SBT market makers may enter quotes. An SBT market maker may have only a single quote for any particular option series but may enter multiple orders in the same series, regardless of whether it has a quote in that series displayed on the System. However, the SBT System would distinguish between an SBT market maker's quotes and orders and credit only the quotes towards the market maker's quoting obligations.[155]

An SBT market maker may enter a quote in one of two ways: manually or through an autoquote facility.[156] Unlike in the open-outcry system, the Exchange will not provide an autoquote facility to SBT market makers. However, SBT market makers may use their proprietary autoquote systems to submit quotes through the API.

CBOE rules 43.12, 43.12A, and 43.12B for an SBT broker to be a party to any arrangement designed to circumvent CBOE rule 43.12A or rule 43.12B by providing an opportunity for a customer, member, or non-member broker-dealer to execute against agency orders handled by the SBT broker immediately upon their entry into the System.

[137] *See* CBOE rule 43.12B(a).

[138] *See id.* CBOE has represented that it would announce the length of the response period set by the committee in an information circular. December 5 conversation.

[139] CBOE has represented that it would announce the length of the exposure period set by the committee in an information circular. December 5 conversation.

[140] *See* proposed CBOE rule 43.12B(b).

[141] *See* CBOE rule 43.12B(c).

[142] *See* CBOE rule 43.12A(a)(1).

[143] CBOE has represented that it would issue an information circular to publicize the time period established by the appropriate SBT Trading Committee. June 21 conversation.

[144] *See* CBOE rule 43.12A(a)(2).

[145] CBOE has represented that it would issue an information circular to publicize the time period established by the appropriate SBT Trading Committee. June 21 conversation.

[146] *See* CBOE rule 43.12A(a)(3).

[147] *See id.*

[148] *See id.*

[149] *See* CBOE rule 43.12A(a)(4). An SBT DPM or LMM would not be entitled to receive its participation right because a crossing transaction would occur at a price between the best bid and offer previously established. *See* CBOE rule 44.15(b).

[150] *See* CBOE rule 43.12A(a)(5).

[151] *See* CBOE rule 43.12A(a)(6).

[152] *See* CBOE rule 43.12A(a)(7).

[153] *See* CBOE rule 43.12A, Interpretation .01.

[154] *See id.*

[155] However, an SBT market maker would receive credit for an RFQ response only by submitting a quote and not two unrelated orders. Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Nancy Sanow and Michael Gaw, Division of Market Regulation, Commission, on September 30, 2002.

[156] *See* notice, *supra* note 4, 67 FR at 31039.

Depending on how a quote or order is modified, the quote or order could change priority position as follows: [157]

- If the price is changed, the changed side would lose priority position and would be placed behind all orders of the same type at the same price.
- If quantity of one side is changed, the unchanged side would retain its priority position.
- If the quantity of one side is decreased, that side would retain its priority position.
- If the quantity of one side is increased, that side would lose its priority position and would be placed behind all orders of the same type at the same price.

2. Time in Force of Orders/Quotes

The appropriate SBT Trading Committee would have the authority to determine which order types may be accepted at the various product states and session states.[158] Once the System is so enabled, customers would be able to specify that their day orders or good-'til-canceled orders are to be transferred between one CBOE trading session and the next, and they could determine to have their orders represented only during ETH sessions, only during RTH sessions, or carry over from one session to the next.[159]

3. Automatic Quote Regeneration

CBOE*direct* eventually will allow an SBT market maker to regenerate its quote where the bid or offer to be regenerated is a defined number of ticks worse than the bid or offer that had been hit.[160] The market maker would pre-set the System with the number of ticks worse by which its quote would regenerate.[161]

If an SBT market maker has the System regenerate its quote and the regenerated quote could immediately execute against the same incoming order that traded against the original quote, that portion of the regenerated quote equal to the original size executed against the market maker's original bid or offer would take priority over all other interest at the regenerated price, with respect to the balance of the incoming order, except in one circumstance. That circumstance would be if public customer priority was applicable to that option class and there were a public customer order at the same price as the regenerated bid or offer. The portion of a regenerated quote that is not executed would be placed in a priority position consistent with the time that the quote was regenerated.[162]

In Amendment No. 4, CBOE provided the following example to demonstrate the operation of the quote regeneration function:

Assume that price-time priority is in effect, with the public customer priority overlaid. The System receives a market order to sell 50 contracts (''Incoming Order''). The best bid is MM A's $3 bid for 20 contracts. The Incoming Order exhausts the $3 bid. The next best bid is $2.90 for 100 contracts consisting of MM B for 70 contracts, Customer A for 5 contracts, and MM A's regenerated quote for 25 contracts (its pre-determined regeneration size). The remaining 30 contracts of the Incoming Order would be filled as follows: 5 to the Customer, 20 to MM A, and 5 to MM B. After the Incoming Order is filled, the best bid would be 2.90 for 70 contracts with the following priority: MM B for 65 contracts and MM A for 5 contracts.

4. Quote Risk Monitor Function

CBOE indicated that SBT market makers are exposed to certain risks not present in an open-outcry trading environment: an SBT market maker could have a large number of its quotes hit by a set of incoming orders within a few seconds. Thus, the SBT market maker could find itself taking on a large position before it had an opportunity to assess this position and possibly change its quotes.[163] CBOE*direct*'s quote risk monitor feature is intended to permit an SBT market maker to manage its risk by automatically deleting the market maker's quotes in a class when the System determines that trades against the market maker's quotes have reached a defined number of contracts within a defined period of time. An SBT market maker may configure the System to set these limits with respect to its own quotes. In determining whether to delete quotes pursuant to this feature, the System would consider only trades against the SBT market maker's resting quotes, not trades that the SBT market maker itself initiates by hitting a bid or taking an offer.[164]

5. Managing Message Traffic

The Exchange may set limits on the quote traffic that is sent to the SBT System to prevent the System from becoming overloaded. However, CBOE has noted that, to the extent that the Exchange allows for varying quote traffic limits by SBT traders, such limits shall be objectively determined and submitted to the Commission for approval pursuant to section 19(b) of the Exchange Act.[165]

In addition, the Exchange may limit the number of SBT market makers that may access the SBT System through an API (or the number of messages sent by market makers accessing the System through an API) to protect the integrity of the System.[166] Furthermore, the Exchange may impose restrictions on the use of a computer connected through an API if it believed that such restrictions were necessary to ensure the proper performance of the System.[167] CBOE has represented that these limitations would be solely for the purpose of protecting the integrity of the System and would not be used in a discriminatory or arbitrary fashion.[168]

CBOE has represented that it does not intend to allocate bandwidth to each SBT trader, and that the System would not programmatically limit the number of messages that an SBT trader may send.[169] To minimize the potential of a particular SBT trader to burden the System unnecessarily, CBOE has stated that it wishes to be able to: (1) specify the number of quotes over a certain time period that may be sent free by an SBT trader, or (2) impose a fee per message for sending a number that is clearly above the free number and for producing a ratio of quotes to trades over a certain time period that is higher than what would be considered a reasonable ratio.[170]

J. Intermarket Price Protection

Non-broker-dealer market and marketable limit orders would not be automatically executed on CBOE*direct* at prices inferior to the best bid or offer on another national securities exchange, as those best prices are identified in the System.[171] If there is a better quote on

[157] *See* CBOE rule 43.1(f).

[158] *See* CBOE rule 43.3(a). At the discretion of the appropriate SBT Trading Committee, and once the System is so enabled, any of the following order types may be accommodated on CBOE*direct:* market orders, limit orders, cancel orders, cancel replace orders, day orders, good-for-session orders, good-'til-canceled orders, and contingency orders. *See* CBOE rule 43.2(a). *See also supra* notes 128 to 129 and accompanying text. CBOE has represented that it would issue an information circular regarding the types of orders that will be accommodated on CBOE*direct.* February 20 conversation.

[159] *See* CBOE rule 43.3(b).

[160] *See* CBOE rule 44.5(b). The Exchange would determine the number of ticks below the original price at which the quote may be regenerated and publicize this determination in an information circular. December 5 conversation.

[161] *See id.*

[162] *See* CBOE rule 43.1(e).

[163] *See* Notice, *supra* note 4, 67 FR at 31040.

[164] *See* CBOE rule 44.5(c).

[165] *See* CBOE rule 44.5(d).

[166] *See* CBOE rule 44.6.

[167] *See* id.

[168] *See* notice, *supra* note 4, 67 FR at 31040–41.

[169] *See* notice, *supra* note 4, 67 FR at 31040.

[170] *See id.* Any proposal to charge such a fee would have filed with the Commission pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b). *See infra* note to and accompanying text.

[171] *See* CBOE rules 43.7 and 43.8. The System would have access to the OPRA quote stream and be programmed not to automatically execute a trade in an options series if the System identifies a better

another exchange, the SBT DPM or LMM would be required to handle the order manually.[172] CBOE represented its view that the SBT DPM or SBT LMM handling public customer orders under these circumstances would be acting as agent for such orders.[173] Accordingly, the SBT DPM or LMM would be required to accord priority to such public customer order over its own orders as principal, unless the customer who placed the order has consented to not being accorded such priority.[174] Finally, to comply with its obligations under the Options Linkage Plan, CBOE rules 6.80 through 6.85 [175] would apply to trading on the SBT System.

K. Trade Reporting and Data Dissemination

1. Executed Orders

The System would send executed orders to the Exchange's Trade Match System as matched trades. The System would send fill reports for executed orders to the SBT workstations for display to SBT traders.[176]

2. Internal Dissemination of Quote and Best Bid/Offer

Any subscriber to CBOE*direct* would be able to view the System's best bid and offer for any options series traded on the System.[177] The System would send quote/order information—*i.e.*, series, price, and size—to the SBT workstations that are trading a given class.

3. Dissemination of Quotes to OPRA

The series and price of an option would be disseminated for each quote; the size of the quote also would be disseminated. Every change to CBOE*direct*'s best bid or ask would generate a quote report to OPRA and/or some other network that has been approved by the Commission.[178] Changes in best quote and size due to all-or-none or fill-or-kill contingency orders would not result in a message to OPRA to update the CBOE*direct* quote.[179]

4. Last Sale Information

CBOE*direct* would internally disseminate last sale information—including series, price, and size—to subscribers that have indicated interest in a given class.[180] All SBT market makers assigned to a given class would be provided this information, but other individuals and firms could subscribe to this information as well.[181] CBOE*direct* also would disseminate last sale information externally to OPRA and/or another distribution network to the extent permitted by agreement or by rule.

5. Booked Order Dissemination

When an SBT trader requests information for an option class, the System would provide the information that presents the SBT book's best bids and asks and the aggregate size for each series of the class requested.[182] CBOE could add or delete categories of disseminated information as it deemed appropriate.[183] Although CBOE believes that such information generally would be available, it may determine not to provide such information if the System were nearing its message capacity and degradation of the System could result. CBOE may charge fees for such information; different fees may be charged to different categories of SBT traders.[184]

II. Amendment No. 4

The foregoing discussion incorporated revisions proposed in Amendment No. 4 to the proposed rule change. Specifically, in Amendment No. 4, CBOE:

- Revised the definitions of ''fill-or-kill'' and ''immediate-or-cancel'' orders to clarify that such orders must be filled immediately upon receipt or canceled;
- Clarified the definitions of ''RFQ'' and ''Special RFQ'' and explained why RFQs would be sent only to SBT market makers;
- Added a provision that SBT DPMs and LMMs will not receive any trade participation right until public customers' orders at the best price have been executed, and clarified that an SBT DPM's or LMM's trade participation right will apply only to the portion of an order remaining after all higher priorities are satisfied;
- Substantially revised the trade nullification procedures to include specific objective criteria as to when a trade may be broken;
- Specified that non-broker dealer market orders and marketable limit orders will not be automatically executed at prices inferior to the best bid or offer on another exchange, as those best prices are identified in the System;
- Added provisions requiring SBT brokers to expose orders that they represent as agent for at least 30 seconds or, if appropriate, to use the crossing mechanism;
- Revised the crossing procedures to require orders to be for at least 50 contracts to be eligible for the crossing mechanism, to establish minimum time periods for which such proposed crosses must be exposed, and to specify that cross transactions may be effected only in increments equal to or greater than the Exchange's minimum quoting increments;
- Added an interpretation regarding a member's duty of best execution, prohibited circumvention of the rules on crossing orders, and represented that CBOE will surveil for violations of the crossing rules;
- Added a rule relating to responsible brokers' and dealers' firm quotation obligations in CBOE*direct* and eliminated the application of CBOE rule 8.51, the firm quote requirements of trading crowds on the floor, to SBT market makers;
- Revised the obligations of SBT standard market makers and SBT DPMs and LMMs, including adding requirements relating to RFQ response rates;
- Eliminated the special rules relating to the processing of spread orders;
- Deleted a rule relating to the Exchange's position that information sent over the SBT System is the Exchange's proprietary information;
- Represented that CBOE rule 4.18 requires SBT market makers to maintain information barriers with any affiliates that may act as a specialist or market

price for that series in another market that participates in the OPRA plan. Telephone conversation between Angelo Evangelou, CBOE, and Michael Gaw, Division of Market Regulation, Commission, on August 16, 2002. Current CBOE rules would not permit another exchange's quotes to be excluded from the best prices identified by the System. Telephone conversation between Angelo Evangelou, Legal Division, CBOE, and Elizabeth King, Division of Market Regulation, Commission, on February 21, 2003.

[172] *See* CBOE rules 44.4, Interpretation .01(a)(6) and 44.14(b)(6).

[173] *See* Amendment No. 4. The Commission notes that the Exchange committed to file in the near future a proposed rule change under section 19(b) of the Act to expressly state that the SBT DPM and LMM act as agent when handling customer orders manually.

[174] *See id.*

[175] *See* Securities Exchange Act Release No. 47294 (January 31, 2003), 68 FR 6527 (February 7, 2003) (approving SR-CBOE–2002–61).

[176] *See* notice, *supra* note 4, 67 FR at 31026.

[177] *See* CBOE rule 46.1(a).

[178] The Commission notes that the OPRA plan does not presently permit an options exchange to disseminate quotes to another network without also disseminating such quotes to OPRA.

[179] *See* notice, *supra* note 4, 67 FR at 31041.

[180] *See* CBOE rule 46.1(b).

[181] *See id.*

[182] *See* CBOE rule 46.1(c).

[183] *See id.* For example, CBOE could determine to provide book depth to a certain number of levels, but later determine to reduce the number of levels provided as circumstances warranted. Telephone conversation between Angelo Evangelou and Andy Lowenthal, CBOE, and Nancy Sanow and Michael Gaw, Division of Market Regulation, Commission, on November 7, 2002.

[184] Any proposal to charge such a fee would have to filed with the Commission pursuant to section 19(b) of the Act, 15 U.S.C. 78s(b).

maker in any security underlying the options for this the CBOE member acts as an SBT market maker;

• Represented that CBOE believes that, when an SBT DPM or LMM is required to handle customer orders under rules 44.14(b)(6) or 44.4.01(a)(6), the DPM or LMM is acting as an agent with respect to those public customer orders;

• Explained the priority accorded to regenerated quotes;

• Clarified that trading officials will use the same criteria to halt trading on the SBT System as is used for CBOE's trading floor;

• Revised Appendix A, which sets forth the existing CBOE rules that also will apply to CBOE*direct,* by including, among others, CBOE rule 3.22, Temporary Access; CBOE rule 4.19, Prohibition Against Harassment, and the rules in section E to chapter VI, Intermarket Linkage; and

• Made other minor, technical changes to the proposed CBOE*direct* rules and to certain existing CBOE rules to accommodate the establishment of the SBT System.

III. Discussion

The Commission finds that the proposed rule change, as amended, is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange.[185] In particular, the Commission finds that the proposal is consistent with section 6(b)(5) of the Act,[186] which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade; to facilitate transactions in securities; to remove impediments to and perfect the mechanisms of a free and open market and a national market system; and, in general, to protect investors and the public interest. Although the Commission did not receive any comments on the proposed rule change, it believes that several aspects of the proposed rules governing CBOE*direct* merit greater discussion.

A. RFQs and Market Maker Quoting Obligations

For each options series traded on CBOE's floor today, a single quotation is disseminated that reflects the aggregate trading interest of one or more customers and/or crowd participants, including the DPM and market makers. DPMs generally are required to make continuous markets in the option classes for which they serve as DPM. By contrast, the CBOE*direct* rules do not require SBT DPMs and LMMs to make continuous markets.[187] Therefore, it is possible that, at a particular point in time, CBOE will not have a disseminated market for a particular option. Instead, the current market for a particular product may be available only through the RFQ process. The Commission believes that CBOE*direct*'s reliance on RFQs as a means of price discovery when the orders and quotes on the SBT book are not sufficient to satisfy trading demand is consistent with the Act.

CBOE's rules require SBT market makers to fulfill certain requirements as market makers. Specifically, SBT market makers, among other things, are required to have at least 75% of their total contract volume on the SBT System in options classes to which they are appointed. In addition, SBT standard market makers are required to respond to at least 75% of the RFQs that they receive, and SBT DPMs and LMMs are required to respond to at least 98% of the RFQs that they receive. Moreover, RFQ responses must meet certain parameters for them to count toward the SBT market maker's quote response obligations.[188]

Market makers receive certain benefits for carrying out their duties. For example, a lender may extend credit to a broker-dealer without regard to the restrictions in Regulation T if the credit is to be used to finance the broker-dealer's activities as a specialist or market maker on a national securities exchange.[189] The Commission believes that an SBT market maker must have an affirmative obligation to hold itself out as willing to buy and sell options for its own account on a regular or continuous basis to justify this favorable treatment. In this regard, the Commission believes that CBOE's rules impose such affirmative obligations on SBT market makers.

B. Trade Participation Right for SBT DPMs and LMMs

The CBOE*direct* rules allow the Exchange to award SBT DPMs and LMMs a participation right of up to 40% of the portion of an order remaining after orders and quotes of other market participants with higher priority have been satisfied, provided that the DPM or LMM has a quote or order at the best price. The Commission continues to believe that it is consistent with the Act to guarantee a DPM or LMM the right to trade ahead of other market makers, even when the DPM or LMM has not otherwise established priority. These guarantees are intended to provide an incentive for market makers to assume the extra responsibilities assigned to DPMs and LMMs, such as the obligation to provide opening quotes in assigned classes, to respond to a greater percentage of RFQs than SBT standard market makers, and to handle public customer orders when there is a better price on another market.

The Commission recognizes that a large guaranteed participation right will erode the incentive of other market makers to make competitive markets. Thus, the Commission must weigh whether a proposed participation right adequately balances the aim of rewarding the specialist or primary market maker with the aim of leaving a sizeable enough portion of the incoming order for the other market makers quoting at the same price.[190] The Commission has previously taken the position that a trade participation right that does not exceed 40%, including any guaranteed percentage of the trade to be accorded to any other trade participant, is not inconsistent with the Act.[191]

Finally, CBOE proposed that public customer orders at the best price be filled before an SBT DPM or LMM receives its trade participation right.[192] Although, as discussed below, the Commission does not believe that customers who may electronically generate orders must be accorded priority over market makers who are not acting as agent with respect to these customers, the Commission does believe it is appropriate for customer orders to have priority over a specialist's trade participation right.

C. Priority and Trade Allocation Methodology

The Commission considers each of the priority and trade allocation rules

[185] In approving the proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[186] 15 U.S.C. 78f(b)(5).

[187] *See* CBOE rules 44.4, Interpretation .01(a)(4) and 44.14(a)(4). The appropriate Market Performance Committee may, but is not required to, require an SBT DPM or LMM to provide continuous quotes in some or all of its appointed option series. *See id.*

[188] *See supra* notes 27 to 29 and accompanying text.

[189] *See* 12 CFR 221.5(c)(6).

[190] *See* Securities Exchange Act Release No. 43100 (July 31, 2000), 65 FR 48778, 48787–90 (August 9, 2000) (''Phlx 80/20 Proposal'') (Commission requested comment on whether the proposal by the Philadelphia Stock Exchange to establish an 80% specialist guarantee would be consistent with the Act).

[191] *See, e.g.*, Securities Exchange Act Release No. 45936 (May 15, 2002), 67 FR 36279, 26280 (May 23, 2002); Securities Exchange Act Release No. 42835 (May 26, 2000), 65 FR 35683, 35685–66 (June 5, 2000); Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388, 11398 (March 2, 2000); Phlx 80/20 Proposal, 67 FR at 48787–88.

[192] *See* CBOE rule 43.1(b)(3)(E).

(*i.e.*, price-time priority or pro rata priority) proposed for CBOE*direct* to be consistent with the Act. In addition, the Commission believes that each of the priority overlays (*i.e.*, public customer, marker turner, and SBT DPM and LMM trade participation right) is consistent with the Act. In making its determination that these priority rules are consistent with the Act, the Commission considered it critical that an SBT DPM or LMM cannot receive its trade participation right before any public customer orders at the same price are executed in full.

The SBT Trading Committee has the ability, but is not required, to grant customers the highest priority at a particular price level. Currently, in the rules governing trades on CBOE's floor, customer orders displayed on the limit order book are given priority over broker-dealer orders and market maker quotes.[193] This is essential under CBOE's rules because the DPM is the agent for orders resting in the limit order book and, therefore, consistent with general agency law principles, CBOE's rules accord priority to those resting limit orders. In contrast, an SBT market maker is not required to act as agent with respect to a limit order entered into CBOE *direct*.[194] Moreover, the CBOE's rules do not prohibit customers from electronically generating orders for entry into the CBOE*direct* book as they do for orders eligible for the Exchange's Retail Automatic Execution System.[195] The Commission, therefore, believes that it is consistent with the Act for the CBOE*direct* rules not to provide in all approaches that public customer orders have priority over market maker quotes and orders.

D. Obligations Under the Linkage Plan

SBT DPMs and LMMs will be required to handle public customer orders when there is a better quote on another exchange. In addition, to comply with its obligations under the Options Linkage Plan,[196] CBOE rules 6.80 through 6.85 will apply to the SBT System.[197] It appears that these provisions satisfy CBOE's obligations under the Options Linkage Plan.

E. Internalization and Crossing Transactions

As the Commission has noted,[198] with multiple trading of options, individual options markets are under significant pressure to attract or retain business. One approach to increasing business on an exchange is to allow members a preference in trading with customer orders that they bring to the exchange. These preferences can have the effect of reducing intramarket price competition when a right to receive a portion of the trade is guaranteed to a member based on its status as an order provider rather than to reward market makers for providing the best quotes. If exchange rules do not provide a fair opportunity for market participants to compete for orders based on price, there is a disincentive to provide competitive quotes on the exchange and thus price competition may suffer. Eventually, if execution guarantees to particular exchange members become too great, the number of competitive market makers could diminish, thereby impeding intramarket price competition. As a result, the prices available on a market could deteriorate—ultimately harming investors.

The CBOE*direct* rules include an interim crossing procedure, which does not provide for any guarantee to the SBT broker facilitating the order, and a regular crossing procedure, which will provide for a guarantee to the SBT broker facilitating the order. The eligible order size for using either crossing procedure is 50 contracts. The crossing procedures require the SBT broker to initiate the process by submitting an RFQ with size to SBT market makers who are registered in that class. Both the interim and regular crossing procedures set forth minimum time periods that these SBT market makers are given to respond to the RFQ. The RFQ will be anonymous; no SBT trader will be able to learn the identity of the SBT broker who is crossing the order. The Commission believes that this anonymity is an important difference between CBOE*direct* and floor-based auction markets. The automated, non-personal nature of the SBT System provides no opportunity for agreements between the facilitating firm and the trading crowd whereby, for example, the trading crowd agrees not to break up a firm's proposed facilitations in exchange for the firm's agreement to bring order flow to the exchange.

In the regular crossing procedure, an SBT broker seeking to facilitate an order is guaranteed a participation right if, at the end of the RFQ response period, the broker improves the price that the customer would receive by entering a proposed cross at a price between the best bid and offer. The participation right of the SBT broker seeking to internalize the order when using the regular crossing procedure would be set at 40%.[199] The remaining 60% of the order would be entered on the SBT book as a limit order at the proposed crossing price. All participants in the SBT System would be able to trade with this limit order at the proposed price or at an improved price. The Commission believes that the time periods required by the regular CBOE*direct* crossing procedure would afford SBT market makers an adequate amount of time in which to respond to the RFQ during the initial response period and for all participants in CBOE*direct* to compete for 60% of the order during the exposure period that followed. In the interim crossing procedure, the exposure period would give CBOE*direct* participants an opportunity to compete for 100% of the order before the SBT broker could participate.

In addition, with respect to orders that do not qualify for, or for which the SBT broker has chosen not to use, the interim or regular crossing procedures, an SBT broker would have to expose such orders on the System for at least 30 seconds before executing any part of the order as principal. Similarly, orders

[193] *See* CBOE rule 6.45(a)(i) and (b). *See also* CBOE rule 6.74(d)(ii) (giving public customer orders represented in the trading crowd priority over other participants in the context of crossing transactions).

[194] The SBT DPM or LMM, however, would act as agent when handling an order when there is a better price on another market.

[195] *See* CBOE rule 6.8A(a). CBOE has confirmed in its cover letter to Amendment No. 4 that CBOE rule 6.8A does not apply to CBOE*direct*.

[196] Because of concerns about the increasing likelihood of intermarket trade-throughs of customer orders in the options markets following the widespread expansion of multiple trading, the Commission in October 1999 ordered the options exchanges to work together to file a national market system plan for linking the options markets (''Options Linkage Plan''). *See* Securities Exchange Act Release No. 42029 (October 19, 1999), 64 FR 57674 (October 26, 1999). The Commission approved an initial Options Linkage Plan in July 2000. *See* Securities Exchange Act Release No. 43086 (July 28, 2000), 65 FR 48023 (August 4, 2000). The Commission subsequently approved amendments to that plan in May 2002 that set forth phase one of the plan's implementation, providing for automatic execution of orders routed to from one options exchange to another, and phase two, to implement all other linkage functionality. *See* Securities Exchange Act Release No. 46001 (May 30, 2002), 67 FR 38687 (June 5, 2002). Implementation of phase one began on January 31, 2003, and implementation of phase two must occur no later than April 30, 2003. *See id.*, 67 FR at 38688.

[197] *See* Securities Exchange Act Release No. 47294 (January 31, 2003), 68 FR 6527 (February 7, 2003) (adopting rules for CBOE relating to the Options Linkage Plan).

[198] *See* Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11388, 11395 (March 2, 2000) (Order approving registration of International Securities Exchange LLC as a national securities exchange) (''ISE Order'').

[199] *See* CBOE Rule 43.12(a)(5). The Commission notes that in this context the SBT DPM or LMM would not be entitled to a trade participation right because the crossing transaction must occur at an improved price, which by its terms must be a better price than the previously established bid or offer of the SBT DPM or LMM.

must be exposed on the System for at least 30 seconds before they may be executed by orders solicited from members and non-member broker-dealers. These rules ensure that the crossing procedures and the limitations on facilitation described above are not circumvented.

The CBOE*direct* rules also would prevent an SBT broker from being party to any arrangement designed to circumvent the proposed crossing rules by providing an opportunity for another party to execute against an agency order immediately after the broker had entered the order in the SBT System.[200] The Commission believes that the prohibition on such arrangements is important, because an SBT broker and a third party could otherwise use CBOE*direct* to execute their orders with each other, without exposing these orders to other trading interest. The Commission believes that this prohibition should prove helpful in curbing a firm's ability to internalize order flow.[201]

Finally, the proposed rules also include an interpretation stating that a violation of a member's duty of best execution would be presumed if the member were to cancel or withhold a facilitation order to avoid execution of the order at a better price.[202] Use of the crossing mechanism would not modify a member's best execution duty to its customer. The Commission believes that this interpretation is important to ensure that SBT brokers who propose to facilitate orders as principal fulfill their duty of best execution. In the Commission's view, withholding or withdrawing an order to be facilitated—that could benefit from price improvement available from other market participants—simply to avoid executing the order at the superior price would be a violation of the broker's best execution duty.[203]

As a national securities exchange, CBOE is required to enforce its members' compliance with their best execution obligations. The Commission notes that when a SBT broker enters a facilitation transaction into the crossing mechanism and then cancels the remainder of the customer order after the 40% of the order is executed, this could indicate—depending on the circumstances—that the broker originally overstated the size of the customer order and, with the 40% execution, effectively internalized 100% of the customer order. This situation would not be consistent with the SBT system's crossing rules. CBOE has committed to surveil for instances when a SBT broker immediately cancels the crossing transaction once 40% of the order is executed. The Commission notes that if, after receiving the responses to an RFQ, the SBT broker elects not to enter the transaction into the crossing mechanism because he or she is unwilling to facilitate the customer order at the requisite price between the best bid and offer displayed by the System, depending on the circumstances, the SBT broker may have a best execution obligation to enter the customer order into the System to execute against the appropriate best response to the RFQ.

The Commission finds that the rules proposed by CBOE relating to crossing and internalization of orders on the SBT System are consistent with the Act. The Commission believes that these rules will promote intramarket price competition by providing SBT traders with a reasonable opportunity to compete for a significant percentage of the incoming order and, therefore, will protect investors and the public interest.

*F. Simultaneous Trading of the Same Security on CBOE*direct *and the Exchange Floor*

CBOE has not proposed any rules that would govern order handling and order priority if the same option were traded simultaneously on CBOE*direct* and on CBOE's floor-based market. Accordingly, the Commission is not approving the use of CBOE*direct* to trade any security during a trading session in which such security is trading on CBOE's floor-based market.[204] The Commission believes that trading the same option classes on the floor and on the SBT System at the same time raises several issues under the Act that CBOE must address—by filing one or more proposed rule changes pursuant to section 19(b) of the Exchange Act [205]—before the Commission could approve concurrent trading of the same option classes.

G. Trade Nullification Procedures and the Firm Quote Rule

The rules governing CBOE*direct* provide for the ability of one or both parties to a transaction to nullify the trade. Both parties to the trade can agree to have a trade nullified and, in that case, the CBOE*direct* rules prescribe that certain procedures be followed for negotiated trade nullification.

The rules also provide for a procedure whereby an SBT trader may request two trading officials to nullify a trade. Specifically, a trade may be nullified by one party to the transaction if a documented request is made within five minutes or, in the case of a public customer order, within 15 minutes of execution, and one of the following conditions is satisfied: (1) There is a verifiable disruption or malfunction in Exchange systems that cause a quote/order to trade in excess of its disseminated size or that prevent an SBT trader from updating or canceling its quote/order; (2) the trade resulted from an erroneous print in the underlying security that resulted in a trade higher or lower than the average trade in the underlying security by a specified factor; (3) the trade resulted from an erroneous quote in the primary market for the underlying when certain other conditions are met; or (4) the execution price of the trade is higher or lower than the theoretical price for the series by a specified factor. A party to the trade that disagrees with the trade nullification can appeal the determination under Chapter XIX of the Exchange's rules.

The Commission considers that in most circumstances trades that are executed between parties should be honored. On rare occasions, the price or other terms of the executed trade are such that they are ''clearly erroneous,'' suggesting that it is unrealistic to expect that the parties to the trade had come to a meeting of the minds regarding the terms of the transaction. In the Commission's view, abrogating a trade should occur under specific and objective circumstances only. The trade nullification rule for CBOE*direct* contains specific and objective criteria with respect to the circumstances when a trade can be nullified, which helps to ensure that the rule would be applied in a fair and non-discriminatory manner. In addition, the conditions under which a trade can be nullified indicate that the error would be ''clearly erroneous,'' *i.e.*, the terms of the trade clearly were outside of the norm for other trades that were executed within a proximate time frame. In addition, the CBOE*direct* rule on trade nullification contains clear procedures on how the trade would be nullified and provides a time frame within which a request to nullify a trade must be made. Finally, the trade nullification rule specifies the procedures to be followed for an appeal by a party who disagrees with the result.

[200] *See* CBOE rule 43.12C(a).

[201] The Commission previously approved a similar provision as part of the ISE's rules. *See* ISE rule 400, Supplementary Material; ISE Order, 65 FR at 11400.

[202] *See* CBOE rule 43.12A, Interpretation .01.

[203] *See* ISE Order, 65 FR at 11398 (discussing a similar provision in the ISE rules).

[204] In Amendment No. 4, the Exchange eliminated the text of its proposed rule 43.10 regarding the trading of spread orders on CBOE*direct*.

[205] 15 U.S.C. 78s(b).

In light of the foregoing, the Commission believes that the trade nullification rule for CBOE*direct* is appropriate.

H. Integrated Market Making and Side-by-Side Market Making

Under the Commodity Futures Modernization Act of 2000,[206] futures contracts on single securities and narrow-based security indexes may now be traded under the joint jurisdiction of the Securities and Exchange Commission and the Commodity Futures Trading Commission. The Commission understands that SBT traders who may make markets in options on CBOE*direct* also may make markets in security futures that are based on the same underlying security or may have an affiliate that engages in such trading. In addition, SBT traders who effect transactions in a particular option may be affiliated with market makers or specialists who trade the underlying security (*i.e.,* ''integrated market making''). The Exchange has indicated that CBOE Rule 4.18, which governs the use of material, non-public information, would apply to members trading on CBOE*direct*. The Exchange represented that this rule would require a SBT market maker to maintain information barriers—that are reasonably designed to prevent the misuse of material, non-public information by such member—with any affiliates that may act as a specialist or market maker in any security underlying the options for which the CBOE member acts as a SBT market maker. The Commission believes that the requirement that there be an information barrier between the SBT market maker and its affiliates with respect to transactions in the option and the underlying security serve to reduce the opportunity for unfair trading advantages or misuse of material, non-public information.

I. Managing Message Traffic

CBOE has indicated that it may, in the future, be necessary to set limits on the message traffic on the SBT System to prevent it from becoming overloaded. For example, CBOE has stated that it may have to limit the number of SBT market makers that may access the SBT System through an API, or limit the number of messages sent by market makers accessing the System through an API, to protect the integrity of the System.[207] Furthermore, CBOE has indicated that it may have to impose restrictions on the use of a computer connected through an API if it believed that such restrictions were necessary to ensure the proper performance of the System.[208] In addition, CBOE has stated that it wishes to be able to: (1) Specify the number of quotes over a certain time period that may be sent free by an SBT trader, or (2) impose a fee per message for sending a number that is clearly above the free number and for producing a ratio of quotes to trades over a certain time period that is higher than what would be considered a reasonable ratio.[209] Finally, CBOE has indicated that it intends to charge fees for RFQs that exceed a certain ratio of requests-to-trades.[210]

Trading options in an electronic environment presents greater capacity burdens than does the electronic trading of equity securities. For every equity security, there potentially exists dozens of overlying options, each series having a different expiration date or strike price. The continuous quoting of options, therefore, generates far more message traffic than the continuous quoting of equity securities. The Commission acknowledges that an electronic options exchange has a legitimate interest in ensuring that the amount of message traffic passing through the facilities of that exchange does not become so great as to compromise system performance. However, the Commission expects CBOE to file with the Commission, in accordance with the procedural requirements of section 19(b) of the Act[211] and the substantive requirements of section 6(b) of the Act,[212] any proposal to throttle message traffic. The Commission notes in particular that any such proposal by the Exchange must not permit unfair discrimination between CBOE*direct* participants.[213] Section 6(b) also requires that any dues, fees, or other charges imposed by a national securities exchange must be fair and reasonable and allocated equitably.[214]

J. Accelerated Approval

Pursuant to section 19(b)(2) of the Act,[215] the Commission may not approve any proposed rule change, or amendment thereto, prior to the 30th day after the date of publication of notice of the filing thereof, unless the Commission finds good cause for so doing and publishes its reasons for so finding. The Commission hereby finds good cause for approving the proposal, as amended by Amendment No. 4, prior to the 30th day after publishing notice of the amended proposal in the **Federal Register**. Many of the revisions made to the proposal in CBOE's Amendment No. 4 are modeled on existing CBOE floor rules or the rules of the ISE. The Commission previously approved these CBOE rules and ISE rules and therefore believes that accelerating such rules for CBOE*direct* is appropriate because these revisions do not raise new regulatory issues. Other revisions, although not based on existing ISE or CBOE rules, were not material to the overall proposal. The Commission believes that no purpose would be served by delaying approval of the proposal until those additional revisions had been published for comment, particularly in light of the fact that no comments were received in response to the notice. Therefore, the Commission finds that good cause exists to accelerate approval of the amended proposal.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 4, including whether the amendment 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 filings will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–00–55 and should be submitted by May 1, 2003.

V. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[216] that the proposed rule change (SR–CBOE–00–55), as amended, is approved on an accelerated basis.

[206] Pub. L. No. 106–554, Appendix E, 114 Stat. 2763.

[207] *See* CBOE rule 44.6.

[208] *See id.*

[209] *See* notice, *supra* note 4, 67 FR at 31040.

[210] *See* notice, *supra* note 4, 67 FR at 31039.

[211] 15 U.S.C. 78s(b).

[212] 15 U.S.C. 78f(b).

[213] *See* 15 U.S.C. 78f(b)(5).

[214] *See* 15 U.S.C. 78f(b)(4).

[215] 15 U.S.C. 78s(b)(2).

[216] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[217]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8730 Filed 4–9–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47623; File No. SR–NASD–2003–65]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend the Pilot Period for the Regulatory Fee and the Trading Activity Fee

April 3, 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 March 31, 2003, the National Association of Securities Dealers, Inc. (''NASD'') 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 NASD. The NASD filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission.[5] 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 proposes to extend the pilot period for the Trading Activity Fee (''TAF'') through April 15, 2003. The TAF (as originally proposed in SR–NASD–2002–98) is in effect, and is set to expire on April 1, 2003.[6] The NASD is requesting the Commission approve SR–NASD–2002–148, granting permanent approval of the TAF, before the expiration of the TAF pilot on April 15, 2003.[7] If the Commission does not approve SR–NASD–2002–148 before the expiration of the TAF pilot on April 15, 2003, the trading fee component of the member regulatory pricing structure will revert to Section 8 of Schedule A to the NASD By-Laws, as amended.

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 NASD 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. The 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

On July 24, 2002, the NASD filed SR–NASD–2002–98, which proposed a new member regulatory pricing structure, including the TAF, to replace the existing trading fee contained in section 8 of Schedule A to the NASD By-Laws.[8] SR–NASD–2002–98 is currently in effect. Assessments under the TAF were effective as of October 1, 2002, payable January 15, 2003.[9] On October 18, 2002, the NASD established a sunset provision whereby the TAF established by SR–NASD–2002–98 would cease to exist after December 31, 2002.[10] Upon expiration of SR–NASD–2002–98, the member regulatory pricing structure was to revert to Section 8 of Schedule A to the NASD By-Laws, as amended.

On December 24, 2002, the NASD extended the TAF pilot through March 1, 2003. On February 28, 2002, the NASD again extended the TAF pilot through April 1, 2003. With the instant proposed rule change, the NASD is extending the TAF pilot through April 15, 2003, to allow the Commission additional time to review issues presented by the proposal to make the TAF permanent (SR–NASD–2002–148). The NASD requests that the Commission approve SR–NASD–2002–148 before the expiration of the TAF pilot on April 15, 2003.

2. Statutory Basis

The NASD believes that the proposed rule change is consistent with the Act, including section 15A(b)(5),[11] which requires, among other things, that the NASD's rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that the NASD operates or controls.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD 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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments on this proposed rule change were neither solicited nor received. Written comments, however, have been solicited by publication in the **Federal Register** of SR–NASD–2002–98, SR–NASD–2002–147, SR–NASD–2002–148, SR–NASD–2002–182, and SR–NASD–2003–26.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[12] and Rule 19b-4(f)(6) thereunder.[13]

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[217] 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).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Commission waived the five-day pre-filing notice requirement. *See* Rule 19b–4(f)(6)(iii). 17 CFR 240.19b–4(f)(6)(iii). The NASD also asked the Commission to waive the 30-day operative delay.

[6] *See* Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002) (SR–NASD–2002–98). *See also* Securities Exchange Act Release Nos. 47112 (December 31, 2002), 68 FR 824 (January 7, 2003) (SR–NASD–2002–182) and 47436 (March 4, 2003), 68 FR 11422 (March 10, 2003) (SR–NASD–2003–26).

[7] *See* Securities Exchange Act Release No. 46817 (November 12, 2002), 67 FR 69785 (November 19, 2002)(SR–NASD–2002–148).

[8] Securities Exchange Act Release No. 46416 (August 23, 2002), 67 FR 55901 (August 30, 2002) (SR–NASD–2002–98). *See also* Securities Exchange Act Release No. 46417 (August 23, 2002), 67 FR 55893 (August 30, 2002) (SR–NASD–2002–99). The NASD also published three *Notices to Members* describing the proposed changes and addressing interpretive questions posed by NASD members. *See Notices to Members 02–41* (July 2002), *02–63* (September 2002), and *02–75* (November 2002).

[9] Member firms were required to pay the TAF in accordance with the pilot program (for the first quarter starting October 1, 2002) by no later than January 15, 2003, and thereafter, on a monthly basis.

[10] At the same time, the NASD filed a new proposed rule change (SR–NASD–2002–148), substantially similar to SR–NASD–2002–98, but filed under section 19(b)(1) of the Act, to allow for additional comment.

[11] 15 U.S.C. 78o–3(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

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.

The NASD has requested that the Commission waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Acceleration of the operative date will allow the TAF pilot to operate without interruption through April 15, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[14]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–65 and should be submitted by May 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8732 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

[14] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47631; File No. SR–NASD–2003–64]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend for an Additional Six-Month Period a Pilot Rule To Require Industry Parties in Arbitration To Waive Application of Contested California Arbitrator Disclosure Standards, Upon the Request of Customers and Associated Persons With Claims of Statutory Employment Discrimination

April 3, 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 March 31, 2003, the National Association of Securities Dealers, Inc. (''NASD'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by NASD. NASD has designated the proposed rule change as constituting a ''non-controversial'' rule change pursuant to Rule 19b–4(f)(6) under the Act,[3] which renders the proposal effective upon receipt of this filing by 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

NASD is proposing to extend the pilot rule in IM–10100, paragraphs (f) and (g), to require industry parties in arbitration to waive application of contested California arbitrator disclosure standards, upon the request of customers (and, in industry cases, upon the request of associated persons with claims of statutory employment discrimination), for a six-month pilot period.

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 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 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

The proposed rule change extends for an additional six months a pilot rule that was approved by the Commission for a six-month period ending March 30, 2003.[4] NASD's statement of purpose is contained in the Commission's Approval Order. In that Approval Order, at footnote 9, the Commission stated:

> If the outcome of the lawsuit is that the California Standards do not apply to NASD arbitration, waivers would no longer be necessary. Cases in which arbitrators were appointed pursuant to waivers would continue to their conclusion. If the lawsuit has not concluded at the expiration of the six-month pilot period, NASD may request an extension.

The litigation discussed in the Approval Order has not concluded, and NASD now is a party to additional litigation relating to application of the California Standards. Accordingly, NASD is now requesting an extension of the pilot for an additional six months (or until the pending litigation has resolved the question of whether or not the California Standards apply to NASD arbitration). NASD requests that the pilot be extended for six months beginning on March 31, 2003.

In addition, NASD has made one change to its model waiver agreement. In light of questions raised by practitioners, the first sentence of the waiver agreement has been amended to delete reference to federal or state laws other than the California Standards. NASD proposes to begin using the amended waiver agreement upon the operative date of the pilot extension for all cases in which none of the parties has yet signed the prior NASD waiver agreement. This change will not affect any parties that already have signed the prior NASD waiver agreement, or any cases in which some of the parties have signed the prior NASD waiver agreement. If any party in an ongoing case has signed the prior NASD waiver agreement, then all other parties will use the same agreement.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(6).

[4] Exchange Act Release No. 46562 (September 26, 2002), 67 FR 62085 (October 3, 2002).

2. Statutory Basis

NASD believes that the proposed rule change is consistent with the provisions of section 15A(b)(6) of the Act,[5] which requires, among other things, that NASD'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 expediting the appointment of arbitrators under the waiver, at the request of customers (and, in industry cases, associated persons with claims of statutory employment discrimination), will allow those parties to exercise their contractual rights to proceed in arbitration in California, notwithstanding the confusion caused by the disputed California Standards.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD 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, as amended.

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

NASD has designated the proposed rule change as one that: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate. Therefore, the foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(f)(6) thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further the purposes of the Act.

Pursuant to Rule 19b–4(f)(6)(iii) under the Act,[8] the proposal may not become operative for 30 days after the date of its filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the self-regulatory organization must file notice of its intent to file the proposed rule change at least five business days beforehand. NASD has requested that the Commission waive the five-day pre-filing requirement and the 30-day operative delay so that the proposed rule change will become immediately effective upon filing.

The Commission believes that waiving the five-day pre-filing provision and the 30-day operative delay is consistent with the protection of investors and the public interest.[9] Waiving the pre-filing requirement and accelerating the operative date will merely extend a pilot program that is designed to provide investors with a mechanism to resolve disputes with broker—dealers. During the period of this extension, the Commission and NASD will continue to monitor the status of the previously discussed litigation. For these reasons, the Commission designates that the proposed rule change as effective and operative immediately.

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 NASD. All submissions should refer to File No. SR–NASD–2003–64 and should be submitted by May 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8733 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78o–3(b)(6).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 240.19b–4(f)(6)(iii).

[9] For purposes of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47634; File No. SR–NASD–2003–60]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Extend the Pilot Period for Nasdaq PostData and the Associated Fees Assessed under NASD Rule 7010(s)

April 4, 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 March 27, 2003, the National Association of Securities Dealers, Inc. (''NASD''), through its subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq''), 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 Nasdaq. Nasdaq filed the proposal pursuant to section 19(b)(3)(A) of the Act,[3] and rule 19b–4(f)(6) thereunder,[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

NASD proposes to extend through September 30, 2003, the pilot period for Nasdaq PostData and the associated fees assessed under NASD rule 7010(s). Nasdaq is making no substantive changes to the pilot program, other than to extend its operation through September 30, 2003. The text of the proposed rule change is available at Nasdaq and at the Commission.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6). The Commission waived the five-day pre-filing notice requirement.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

On January 11, 2002, the Commission approved, as a 12-month pilot, the creation of Nasdaq PostData, a voluntary trading data distribution facility, accessible to NASD members, buy-side institutions, and market data vendors through the NasdaqTrader.com Web site.[5] On January 17, 2003, Nasdaq extended that pilot through February 28, 2003.[6] On March 14, 2003, Nasdaq reestablished the pilot, and extended its operation through March 31, 2003.[7] Nasdaq now proposes to extend the pilot through September 30, 2003. Nasdaq proposes no other changes to the pilot at this time.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A(b)(5)[8] and 15A(b)(6)[9] of the Act. Section 15A(b)(5) requires the equitable allocation of reasonable fees and charges among members and other users of facilities operated or controlled by a national securities association. Section 15A(b)(6) requires rules that foster cooperation and coordination with persons engaged in facilitating transactions in securities and that are not designed to permit unfair discrimination between customers, issuers, brokers or dealers. Nasdaq believes that this program involves a reasonable fee assessed only to users and other persons utilizing the system and will provide useful information to all direct and indirect subscribers on a non-discriminatory basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq 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

Written comments were neither solicited nor 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 proposed rule change does not:

(i) Significantly affect the protection of investors or the public interest;

(ii) Impose any significant burden on competition; and

(iii) Become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to section 19(b)(3)(A) of the Act[10] and rule 19b–4(f)(6) thereunder.[11] 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.

Nasdaq has asked the Commission to waive the 30-day operative delay. The Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Such waiver will allow the pilot to operate without interruption through September 30, 2003. For these reasons, the Commission designates the proposal to be effective and operative upon filing with the Commission.[12]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to file number SR–NASD–2003–60 and should be submitted by May 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8808 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

[5] *See* Securities Exchange Act Release No. 45270 (January 11, 2002), 67 FR 2712 (January 18, 2002) (SR–NASD–99–12).

[6] *See* Securities Exchange Act Release No. 47210 (January 17, 2003), 68 FR 3912 (January 27, 2003) (SR–NASD–2003–02).

[7] *See* Securities Exchange Act Release No. 47503 (March 14, 2003), 68 FR 13745 (March 20, 2003) (SR–NASD–2003–35) (Proposal to reestablish pilot retroactive to March 1, 2003, and extend its operation through March 31, 2003).

[8] 15 U.S.C. 78o–3(b)(5).

[9] 15 U.S.C. 78o–3(b)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47629; File No. SR–OCC–2002–21]

Self-Regulatory Organizations; the Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating to Delivery Dates

April 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 28, 2002, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval.

[1] 15 U.S.C. 78s(b)(1).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends OCC's rule 902, which obligates a delivering clearing member to deliver the underlying security or securities against payment of the aggregate purchase price on the designated delivery date.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in item III below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposed rule change modifies rule 902, which obligates a delivering clearing member to deliver the underlying security or securities against payment of the aggregate purchase price on the ''delivery date.''[3] The delivery date is the third business day following (1) the day on which an exercise notice is accepted by OCC (in the case of options) or (2) the maturity date (in the case of security futures). A different delivery date, however, may be designated by OCC for property that is deliverable following a contract adjustment or by the Board of Directors if such action is required in the public interest or to meet unusual conditions. The proposed rule change allows OCC's Board to delegate its authority to set a different delivery date to OCC's Chairman, Management Vice Chairman, or President or delegate of such officer.

The need to set a different delivery date will generally result from unexpected events such as trading suspensions or delistings that cause NSCC to temporarily remove the underlying security from its CNS System.[4] Delivery and payment obligations that cannot be settled through NSCC must be settled on a broker-to-broker basis under OCC's rules. Delaying settlement in these instances allows for more time to gather and validate necessary relevant information (*e.g.*, if and when NSCC will again make the underlying security CNS-eligible). Convening an emergency meeting of the Board on the same day that OCC learns of a suspension or delisting is very difficult if not impossible. Granting the designated individuals the authority to delay settlement would provide OCC with greater flexibility in responding to these and other unexpected or unusual events.

OCC believes that the proposed rule change is consistent with section 17A of the Act because it would provide OCC with greater flexibility to respond to unusual conditions in order to ensure the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–OCC–2002–21. This file number should be included on the subject line if e-mail is used. To help us process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of FICC. All submissions should refer to the File No. SR–OCC–2002–21 and should be submitted by May 1, 2003.

IV. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder and particularly with the requirements of section 17A(b)(3)(F).[5] Section 17A(b)(3)(F) requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission believes that the proposed rule change is consistent with this requirement because it will improve OCC's ability to deal with unexpected events which effects the delivery and payment obligations of the underlying securities resulting from the exercise and assignment of option contracts. As a result, the proposed rule change should assist OCC in meeting its obligations to provide for the prompt and accurate clearance and settlement of securities transactions.

OCC has requested that the Commission approve this rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause for approving the proposed rule change prior to the 30th day after publication of notice because such approval would immediately give OCC the flexibility it needs to delay the delivery date to address unusual conditions.

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of section 17A of the Act and the rules and regulations thereunder applicable.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR–

[2] The Commission has modified parts of these statements.

[3] The delivery date is also referred to in OCC's rules as the ''exercise settlement date.'' OCC rule 101E.(4).

[4] Settlement of exercised and assigned or matured contracts requiring the physical delivery of the underlying security generally occurs at NSCC pursuant to arrangements between NSCC and OCC. OCC rule 913.

[5] 15 U.S.C. 78q–1(b)(3)(I).

OCC–2002–21) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8734 Filed 4–9–03; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–47630; File No. SR–Phlx–2003–14]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Net Capital Calculation for Broker-Dealer Accounts

April 3, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and rule 19b–4[2] thereunder, notice is hereby given that on March 19, 2003, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') submitted to 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 Phlx. 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 Phlx rule 722(c)(5) (''Broker-Dealer Accounts'') to clarify that the haircut requirements of Exchange Act rule 15c3–1[3] must be considered in computing the net capital of a broker-dealer that is extending margin to another broker-dealer and to harmonize it with other exchanges' rules.[4]

Below is the text of the proposed rule change. Proposed new language is *italicized*. Proposed deletions are in [brackets].

Rule 722. Margin Accounts[5]

* * * * *

5. Broker-Dealer Accounts. A member organization may carry the proprietary account of another broker-dealer, which is registered with the Securities and Exchange Commission, upon a margin basis which is satisfactory to both parties, provided the requirements of Regulation T of the Board of Governors of the Federal Reserve System are adhered to and the account is not carried in a deficit equity condition. The amount of any deficiency between the equity maintained in the account and the [margin required by the other provisions of this rule] *haircut requirements calculated pursuant to rule 15c3–1 of the Exchange Act,* shall be deducted in computing the Net Capital of the member organization under *rule 15c3–1 of the Exchange Act and* rule 703.

* * * * *

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 Exchange proposes to amend Phlx rule 722(c)(5) (''Broker-Dealer Accounts''), to clarify that the haircut requirements of Exchange Act rule 15c3–1[6] must be considered in computing the net capital of a broker-dealer extending margin to another broker-dealer. As amended, Phlx rule 722(c)(5) would be substantially similar to CBOE rule 12.3(g).

Currently, Phlx rule 722 sets forth the rules governing the margin that must be maintained in margin accounts of customers of Phlx members, whether such customers are members themselves, partners of members, member firms, member corporations or stockholders therein, or non-members. Phlx rule 722(c) sets forth certain exceptions to the general margin requirements. Phlx rule 722(c)(5) provides that an Exchange member may carry the proprietary account of another broker-dealer registered with the Commission, on a margin basis that is satisfactory to both parties (''broker-to-broker margin''); provided however, that the parties adhere to Regulation T of the Board of Governors of the Federal Reserve System,[7] and the account is not carried in a deficit condition.

Phlx rule 722(c)(5) further provides that the amount of any deficiency between the equity maintained in the account and the ''margin required by the other provisions of'' Phlx rule 722 shall be deducted in computing the net capital of the Phlx member carrying the account of another registered broker-dealer. The Phlx believes that this language does not accurately reflect that the haircut requirements specified in Exchange Act rule 15c3–1[8] must also be considered in computing such Phlx member's net capital.

Accordingly, the Phlx proposes to delete the phrase ''margin required by the other provisions of,'' and clarify in its rule that the haircut requirements calculated pursuant to Exchange Act rule 15c3–1 will be used to calculate the net capital of a Phlx member carrying the margin account of a registered broker-dealer customer. The Phlx notes that the CBOE and NYSE each has adopted a similar change to its margin rules.

2. Statutory Basis

The Phlx believes that the proposed rule change harmonizes the margin treatment between Phlx's rule and analogous CBOE and NYSE rules. As such, the Phlx believes that its proposal is consistent with section 6(b) of the Act[9] in general, and furthers the objectives of section 6(b)(5) of the Act[10] in particular, in that it is designed to perfect the mechanism of a free and open market and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

This proposed rule change does not impose any burden on competition that

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.15c3–1.

[4] *See* Securities Exchange Act Release No. 46716 (October 24, 2002), 67 FR 66434 (October 31, 2002) (SR–CBOE–2002–59) (relating to margin requirements for broker-dealer accounts). The Phlx notes that Chicago Board Options Exchange (''CBOE'') rule 12.3(g) is substantially similar to New York Stock Exchange, Inc. (''NYSE'') rule 431(e)(6)(A). *See* Securities Exchange Act Release No. 42453 (February 24, 2000), 65 FR 11620 (March 3, 2000) (SR–NYSE–1997–27) (order approving a proposed rule change affecting the margin calculation for broker-dealer accounts).

[5] The phrase, ''Rule 722. Margin Accounts'', reflects the correction of a typographical error from the rule text that Phlx submitted with the proposed rule change. Telephone conversation between Mark I. Salvacion, Director and Counsel, Phlx, and Tim Fox, Attorney, Division of Market Regulation, Commission on April 3, 2003.

[6] 17 CFR 240.15c3–1.

[7] 12 CFR 220.1 *et seq.*

[8] 17 CFR 240.15c3–1.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

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 either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Phlx has designated the foregoing proposed rule change as effecting a change that: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days from the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[11] Accordingly, the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [12] and rule 19b–4(f)(6) thereunder.[13] At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–Phlx–2003–14 and should be submitted by May 1, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 03–8731 Filed 4–9–03; 8:45 am]

BILLING CODE 8010–01–P

[11] As required under Securities Exchange Act rule 19b–4(f)(6)(iii), the Phlx provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the filing date or such shorter period as designated by the Commission. *See* Prefiling Notice of Proposed Rule Change (SR–Phlx–2003–14), dated March 11, 2003.

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4332]

Bureau of Educational and Cultural Affairs Request for Grant Proposals for a Project To Support Training in Public Administration and Public Policy Development in Montenegro

SUMMARY: The Office of Global Educational Programs of the Bureau of Educational and Cultural Affairs announces an open competition for a project to support training in public administration and public policy development in Montenegro. Public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3) may submit proposals to train faculty, students, administrators, public officials, and other practitioners in this field. Applicants are encouraged to propose creative strategies to target the training needs of current and future public administrators and policy-makers in Montenegro within the general guidelines provided in this document. Applicants are also invited to propose one or more partner institution(s) in Montenegro with which to cooperate in project implementation, and should explain why each institutional partner is appropriate to the objectives of the project.

Program Information

Overview: The project will support training in public administration and public policy development for current and future public administrators and policy-makers in Montenegro. One grant will be awarded in an amount not to exceed approximately $270,000 for a period of up to three years to support this training effort through exchanges of faculty, students, non-government organization representatives, public administrators, or public officials. Activities may include any appropriate combination of teaching, consultation, study, distance education, and outreach.

The fundamental objective of the project is to provide participants in Montenegro with skills in public administration and public policy development with an emphasis on practical training for local government administration. The project should provide program participants from Montenegro with the necessary tools to strengthen Montenegro's managerial capacity and its decision-making processes, especially at the local level.

Applicants may propose to pursue this objective in ways that reflect their own institutional strengths as well as the interests, needs, and capacities of the institutional partner(s) in Montenegro. For example, applicants may propose to develop a curriculum in public administration and public policy development and to design and organize in-service training workshops for currently employed administrators and officials based on the curriculum and related training materials. Applicants may also propose to develop curriculum, materials, and training for students preparing for careers as public servants and administrators or as policy analysts and policy developers. Other project designs and emphases may also be proposed. Applicants are invited to propose appropriate topics based on consultations with their counterparts in Montenegro and their knowledge of local needs. Topics of potential interest include decentralization, resource allocation strategies, anti-corruption practices, transparency in government, financial management and control, budgeting and accounting, procurement, organizational development, local government management, taxation, and strategic planning.

U.S. Institution and Participant Eligibility

In the United States, participation in the program is open to accredited colleges and universities as well as other organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c). Applications from consortia or other combinations of U.S. colleges and universities are eligible. The lead U.S. organization in the consortium or other combination of cooperating institutions is responsible for submitting the application. Each application must document the lead organization's authority to represent all U.S. cooperating partners.

Participants who are traveling under the Bureau's grant funds may include teachers, researchers, public

administration practitioners, public officials, advanced students who are teaching or research assistants, and educational administrators.

Foreign Institutional and Participant Eligibility

The applicant is invited to propose a university or one or more other not-for-profit entities in Montenegro that are willing to serve as the institutional partner for this project. Secondary foreign partners may include relevant governmental and non-governmental organizations, as well as non-profit service, educational, or professional organizations concerned with issues in public administration training. The program must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

If the proposed project would occur within the context of a previous or ongoing project, the proposal should explain how the request for Bureau funding would build on the current or prior relationship or complement previous and concurrent projects, which must be listed and described with details about the amounts and sources of external support. Previous projects should be described in the proposal, and the results of the evaluation of previous cooperative efforts should be summarized.

Budget Guidelines

The Bureau anticipates awarding one grant not to exceed approximately $270,000 under this grant competition. Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding; therefore, organizations that can not demonstrate at least four years experience in conducting international exchanges are ineligible to apply under this competition.

Applicants must submit a comprehensive budget for the entire project. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Funds will be awarded for a period up to three years to defray the costs of exchanges, to provide educational materials, to increase library holdings, to develop workshops for public managers and to improve Internet connections. Administrative costs should be reasonable and should be kept to the lowest possible level without jeopardizing the effectiveness of project administration and oversight. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/A/S/U–03–19.

FOR FURTHER INFORMATION CONTACT: Contact the Humphrey Fellowships and Institutional Linkages Branch, Office of Global Educational Programs, Bureau of Educational and Cultural Affairs; ECA/A/S/U, Room 349, SA–44; U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, phone (202) 260–6797, fax: (202) 401–1433, e-mail: *murbina@pd.state.gov* to request a Solicitation Package. The Solicitation Package contains detailed award criteria, required application forms, specific budget instructions, and standard guidelines for proposal preparation. Please specify Bureau Program Officer Maria Urbina on all other inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Deadline for Proposals

All proposal copies must be received at the Bureau of Educational and Cultural Affairs by 5 p.m. Washington, DC time on Friday, May 30, 2003. Faxed documents will not be accepted at any time. Documents postmarked the due date but received on a later date will not be accepted. Each applicant must ensure that the proposals are received by the above deadline.

Applicants must follow all instructions in the Solicitation Package. The original and 8 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/S/U 03–19, Program Management, ECA/EX/PM, Room 534, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. These documents must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. The Bureau will transmit these files electronically to the Public Affairs Section at the US Embassy in Belgrade and to the Branch Public Affairs Section in Podgorica for their review, with the goal of reducing the time it takes to include these comments in the Bureau's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 6Z, including the oversight of Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of

forms, record-keeping, reporting and other requirements.

The Grantee organization will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD–SA–44, Room 734, 301 4th Street, SW., Washington, DC 20547. Telephone: (202) 401–9810. FAX: (202) 401–9809.

Review Process

The Bureau will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the public diplomacy section of the U.S. Embassy in Belgrade including the branch office in Podgorica. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for an assistance grant award resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

(1) Broad and Enduring Significance of Project Objectives

Project objectives should have significant and ongoing results for the participating institutions and for the surrounding communities by providing a deepened understanding of critical issues in public administration in Montenegro. Proposals should exhibit originality, substance, precision, and relevance to the Bureau's mission.

(2) Creativity and Feasibility of Strategy To Achieve Project Objectives

Strategies to achieve project objectives should be feasible and relevant to the transition process in the public sector of Montenegro and should be realistic within the projected budget and timeframe. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. The agenda and plan should be consistent with project objectives.

(3) Institutional Commitment to Cooperation

The proposed project should demonstrate significant understanding of the institutional and training needs and capacities of the partner institutions in Montenegro together with a strong commitment of the partner institutions, during and after the period of grant activity, to cooperate with one another in the mutual pursuit of institutional objectives.

(4) Project Impact

The proposed project should demonstrate significant potential long-term impact on public administration practices in Montenegro.

(5) Support of Diversity

Proposals should demonstrate substantive support of the Bureau's policy on diversity by explaining how issues of diversity are included in project objectives for all institutional partners. Issues resulting from differences of race, ethnicity, gender, religion, geography, socio-economic status, or physical challenge should be addressed during project implementation. In addition, project participants and administrators should reflect the diversity within the societies which they represent (*see* the section of this document on ''Diversity, Freedom and Democracy Guidelines''). Proposals should also discuss how the various institutional partners approach diversity issues in their respective communities or societies.

(6) Project Evaluation

Proposals should include a plan and methodology to evaluate the degree to which project objectives have been addressed, both while the project is underway and at its conclusion. The final project evaluation should include an external evaluation component and should provide observations about the project's influence within the participating institutions as well as the surrounding communities.

(7) Cost-effectiveness

Administrative and program costs should be reasonable and appropriate with cost sharing provided by all participating institutions within the context of their respective capacities. We view cost sharing as a reflection of institutional commitment to the project.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation. The funding authority for the program cited above is provided through the Support for East European Democracies (SEED) Act of 1989.

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures.

Dated: April 3, 2003.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 03–8840 Filed 4–9–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

In the Matter of the Commuter Air Carrier Authority of Samoa Aviation, Inc.

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause (Order 2003–4–6), Docket OST–2003–14871.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order that (1) finds that Samoa Aviation, Inc., has failed to demonstrate that it continues to meet the Department's fitness standards, and (2) revokes the company's commuter air carrier authority.

DATES: Persons wishing to file objections should do so no later than April 18, 2003.

ADDRESSES: Objections and answers to objections should be filed in Docket and addressed to the Department of Transportation Dockets (M–30, Room PL–401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Ms. Delores King, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2343.

Dated: April 4, 2003.

Read C. Van De Water,

Assistant Secretary for Aviation and International Affairs.

[FR Doc. 03–8812 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–62–M

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Federal Highway Administration

Amendment to Supplemental Draft Environmental Impact Statement for the South Corridor Portion of the South/North Transit Corridor Project in the Portland, OR Metropolitan Area (Affects the Downtown Portland Segment Only)

AGENCY: Federal Transit Administration (FTA) and Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Intent (NOI) to prepare an Amended Supplemental Draft Environmental Impact Statement.

SUMMARY: The FTA and the FHWA, in cooperation with Portland Metro and Tri-County Metropolitan Transportation District of Oregon (TriMet), (hereinafter ''agencies'') published a Supplemental Draft Environmental Impact Statement (hereinafter ''SDEIS'') in accordance with the National Environmental Policy Act (hereinafter ''NEPA'') in December 2002 for transit improvements in the South/North Transit Corridor (hereinafter the ''South Corridor Project'') of the Portland, Oregon metropolitan region. The North Corridor Interstate MAX FEIS was published and the project is under construction. Conditions have changed since the South/North DEIS and the South Corridor Project SDEIS were published. The agencies now intend to prepare an amendment to that SDEIS for transit improvements in the downtown Portland segment only.

The purpose of this new Notice of Intent is to re-notify interested parties of the intent to prepare an Amendment to the SDEIS (hereinafter referred to as ''ASDEIS'') and invite participation in the study. This study will focus on the impacts of adding the downtown Portland Transit Mall LRT alignment to the I–205 Light Rail Transit Project, a part of the South Corridor Project. The I–205 Light Rail Transit Project proposes to implement a major high capacity transit improvement in the South Corridor part of the South/North Corridor, that maintains livability in the metropolitan region, supports land use goals, optimizes the transportation system, is environmentally sensitive, reflects community values and is fiscally responsive. Three transit alternatives (described below) will be evaluated in the ASDEIS.

Meeting Dates: Agency Coordination Meeting: an agency coordination meeting will be held on April 22 at 1 pm, at the Portland Building Room C, 1120 SW Fifth Avenue, Portland, Oregon. *Public Information Meeting:* a public information meeting will be held on April 22 from 4 to 7 pm at the Portland Building Room C, 1120 SW Fifth Avenue, Portland, Oregon. The Portland Building is accessible to persons with disabilities. Any individual with a disability who requires special assistance, such as a sign language interpreter, should contact Kristin Hull at (503) 797–1864, at least 48-hours in advance of the meeting in order for Metro to make necessary arrangements.

FOR FURTHER INFORMATION CONTACT: *Agency Coordination meeting:* contact Sharon Kelly, Metro EIS Manager at (503) 797–1753 or (e-mail) *KellyS@Metro.dst.or.us,* Rebecca Reyes-Alicea, FTA Community Planner at (206) 220–4464 or (e-mail) *rebecca.reyes-alicea@fta.dot.gov,* Elton Chang, FHWA Environmental Engineer at (503) 587–4710 or *elton.chang@fhwa.dot.gov. Public Information meeting:* contact Kristin Hull, Metro Public Involvement Coordinator at (503) 797–1864 or (e-mail) *Hull@Metro.dst.or.us. Written Comments* should be sent to Sharon Kelly, South Corridor Project, Metro, 600 NE Grand Avenue, Portland, OR 97232. Additional information on the South Corridor Project can also be found on the Metro Web site at: *http://www.metro-region.org.*

SUPPLEMENTARY INFORMATION:

I. Notice of Intent

This new NOI to prepare an ASDEIS is being published at this time to re-notice interested parties due to the changes that have occurred since the initial NOI (October 1993), publication of the South/North DEIS (February 1998), publication of the North Corridor Interstate MAX Light Rail Project FEIS (October 1999), and publication of the South Corridor Project SDEIS (December 2002). The project proponents are re-examining the downtown Portland Mall Alignment in the downtown Portland segment of the South Corridor. The FHWA and the FTA are Federal Co-Lead agencies. Because the study is primarily a transit study, FTA regulations and guidance will be used for the analysis and preparation of the ASDEIS.

II. Study Area

The South Corridor generally encompasses the southeast quadrant of the Portland, Oregon metropolitan area, including downtown Portland, Southeast Portland neighborhoods, the City of Milwaukie, the City of Gladstone, the City of Oregon City and urban unincorporated Clackamas County (east of the Willamette River). The focus of this supplemental study will be in the downtown Portland area.

III. Alternatives

Three Alternatives will be evaluated in the SDEIS. The *No-Build Alternative* will provide the basis for comparison of the build alternative. The No-Build Alternative includes the existing transportation system plus multi-modal transportation improvements that would be constructed under the Regional Transportation Plan Financially Constrained Transportation Network. The *I–205 Light Rail Alternative with the Cross Mall* includes 6.5 miles of new light rail transit connecting to the existing light rail system at Gateway and extending south along I–205 to the Clackamas Town Center area and then continuing into downtown Portland using the existing Eastside MAX line called the Cross Mall. The *I–205 Light Rail Alternative with the Portland Mall* includes 6.5 miles of new light rail transit connecting to the existing light rail system at Gateway and extending

south along I–205 to the Clackamas Town Center area and, in the north, includes a section continuing into downtown Portland using the Portland Mall Alignment. There is a terminus option at SW Main Street and design option of using Island Stations with this alternative.

IV. Probable Effects

FTA, FHWA, Metro and TriMet will evaluate all significant transportation, environmental, social and economic impacts of the alternatives. Primary issues include: support of state, regional and local land use and transportation plans and policies, cost effective expansion of the transit system, preservation of capacity enhancement options of I–205, neighborhood impacts and environmental sensitivity. The impacts will be evaluated for both the construction period and for the long-term period of operation. Measures to mitigate any significant impact will be developed.

Issued on: March 31, 2003.

Richard Krochalis,

Regional Administrator, Region X, Federal Transit Administration.

Elton Chang,

Environmental Engineer, Oregon Division, Federal Highway Administration.

[FR Doc. 03–8692 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Docket No. RSPA–03–14448: Notice 3]

Pipeline Safety: Qualification of Pipeline Personnel

AGENCY: Office of Pipeline Safety, Research and Special Programs Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: The Research and Special Programs Administration's (RSPA) Office of Pipeline Safety (OPS) will conduct a public meeting to discuss progress in implementing the operator qualification (OQ) rule for gas and hazardous liquid pipelines. OPS will continue to develop the protocols and supplementary guidance materials, and provide continued opportunities for public comment. A record of previous public meetings on Qualification of Pipeline Personnel that were held in San Antonio, TX; Houston, TX; and Phoenix, AZ, are available in this docket (RSPA–03–14448).

DATES: The public meeting will be held on Wednesday, April 23, 2003, beginning at 8:30 a.m., ending at 4 p.m.

ADDRESSES: The public meeting will be held at the Double Tree Hotel Atlanta-Buckhead, 3342 Peachtree Road, Atlanta, GA 30326 (telephone: 404/231–1234, fax: 404/231–5236, Web: *http://www.doubletreebuckhead.com.* The deadline for making a hotel reservation is April 11, 2003, (refer to the U.S Department of Transportation (DOT) (Operation Qualification Group block for government rates).

This meeting is free and open to the public. You may register electronically for this meeting at: *http://primis.rspa.dot.gov/meetings.* The program will continue to address the 13 issues generated by the first public meeting held in January 2003, and will be open for technical input. Discussion will include protocols and explanation of changes, supplementary guidance, definitions of terms, and development of a national consensus standard. Persons wishing to make a presentation or statement at the meeting should notify Janice Morgan, (202) 366–2392, no later than April 14, 2003.

Although we encourage persons wishing to comment on operator qualification and inspection protocols to participate in the public meeting, written comments will be accepted. You may submit written comments on operator qualification and inspection issues by mail or delivery to the Dockets Facility, DOT, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. The Dockets Facility is open from 10 a.m. to 5 p.m., Monday through Friday, except on Federal holidays. You should submit the original and one copy. Anyone who wants confirmation of receipt of their comments must include a stamped, self-addressed postcard. You may also submit comments to the docket electronically. To do so, log on to the Internet Web address at *http://dms.dot.gov* and select ''Help'' for instructions on electronic filing of comments. All written comments should identify the Docket Number RSPA–03–14448; Notice 3.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comments (or signing the comments, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (volume 65, number 70; pages 9477–78), or you may visit http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: You may contact Richard Sanders at (405) 954–7214 or (405) 954–7219, regarding the agenda of this public meeting. General information about OPS programs may be obtained by accessing OPS's Internet home page at *http://ops.dot.gov.*

Information on Services for Individuals with Disabilities: For information on facilities or services for individuals with disabilities or to request special assistance, contact Janice Morgan at (202) 366–2392.

SUPPLEMENTARY INFORMATION: The operator qualification rule at 49 CFR 192.801 (for gas pipelines) and at 49 CFR 195.501 (for hazardous liquid pipelines) requires every pipeline operator to have and follow a written qualification program that includes provisions to identify covered tasks and to ensure that all persons performing these tasks are qualified. By October 28, 2002, all gas and hazardous liquid pipeline operators should have completed the qualification of all individuals performing covered tasks on pipeline facilities.

On April 23, 2003, OPS will conduct a public meeting to continue discussions on the progress in implementing the operator qualification rule for gas and hazardous liquid pipelines. The meeting will focus on development of the 13 OQ issues identified at previous public meetings on February 25, 2003, in Houston, TX, and March 25, 2003, in Mesa, AZ, and are as follows:

1. Scope of Operator Qualification.
2. Evaluation of Knowledge, Skills, and Physical Ability.
3. Re-evaluation Intervals.
4. Maintenance versus New Construction.
5. Treatment of Emergency Response.
6. Additional Covered Tasks.
7. Extent of Documentation.
8. Abnormal Operating Conditions.
9. Treatment of Training.
10. Criteria for Small Operators.
11. Direction of Observation of Non-qualified People.
12. Noteworthy Practices.
13. Persons Contributing to an Incident or Accident.

All persons attending the meeting will have an opportunity to comment on operator qualification compliance issues and to question the expert panel on the new operator qualification compliance protocols.

Issued in Washington, DC on April 7, 2003.

Stacey L. Gerard,

Associate Administrator for Pipeline Safety.

[FR Doc. 03–8815 Filed 4–9–03; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF VETERANS AFFAIRS

Adjustments in Rates for Disability Compensation and Dependency and Indemnity Compensation

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by the Veterans' Compensation Cost-of-Living Adjustment Act of 2002, Pub. L. 107–247, the Department of Veterans Affairs (VA) is hereby giving notice of adjustments in certain benefit rates. These adjustments affect the disability compensation and dependency and indemnity compensation (DIC) programs.

DATES: These adjustments are effective December 1, 2002, the date provided by Pub. L. 107–247.

FOR FURTHER INFORMATION CONTACT: Paul Trowbridge, Consultant, Compensation and Pension Service (212B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 273–7218.

SUPPLEMENTARY INFORMATION: Section 2 of Pub. L. 107–247 provides for an increase in each of the rates in sections 1114, 1115(1), 1162, 1311, 1313(a), and 1314 of title 38, United States Code. VA is required to increase these benefit rates by the same percentage as the percentage by which benefit amounts payable under title II of the Social Security Act are increased effective December 1, 2002. In computing increased rates in the cited title 38 sections, fractions of a dollar are rounded down to the nearest dollar. The increased rates are required to be published in the **Federal Register**.

The Social Security Administration has announced a 1.4 percent cost-of-living increase in Social Security benefits effective December 1, 2002. Therefore, applying the same percentage increase, the following rates for VA compensation and DIC programs will be effective December 1, 2002:

DISABILITY COMPENSATION (38 U.S.C. 1114)

Affected statute (evaluation)	Monthly rate
38 U.S.C. 1114(a) (10%)	$104
38 U.S.C. 1114(b) (20%)	$201
38 U.S.C. 1114(c) (30%)	$310
38 U.S.C. 1114(d) (40%)	$445
38 U.S.C. 1114(e) (50%)	$633
38 U.S.C. 1114(f) (60%)	$801
38 U.S.C. 1114(g) (70%)	$1,008
38 U.S.C. 1114(h) (80%)	$1,171
38 U.S.C. 1114(i) (90%)	$1,317

DISABILITY COMPENSATION (38 U.S.C. 1114)

Affected statute (evaluation)	Monthly rate
38 U.S.C. 1114(j) (100%)	$2,193
38 U.S.C. 1114(k)	$81; $2,728; $81; $3,827
38 U.S.C. 1114(l)	$2,728
38 U.S.C. 1114(m)	$3,010
38 U.S.C. 1114(n)	$3,425
38 U.S.C. 1114(o)	$3,827
38 U.S.C. 1114(p)	$3,827
38 U.S.C. 1114(r)	$1,643; $2,446
38 U.S.C. 1114(s)	$2,455

ADDITIONAL COMPENSATION FOR DEPENDENTS (38 U.S.C. 1115(1))

Affected statute	Monthly rate
38 U.S.C. 1115(1)(A)	$125
38 U.S.C. 1115(1)(B)	$215; 64
38 U.S.C. 1115(1)(C)	$85; 64
38 U.S.C. 1115(1)(D)	$101
38 U.S.C. 1115(1)(E)	$237
38 U.S.C. 1115(1)(F)	$198

Clothing Allowance (38 U.S.C. 1162)

$588 per year 1.

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311)

Affected statute	Monthly rate
38 U.S.C. 1311(a)(1)	$948
38 U.S.C. 1311(a)(2)	204
38 U.S.C. 1311(b)	237
38 U.S.C. 1311(c)	237
38 U.S.C. 1311(d)	113

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311(A)(3))

Pay grade	Monthly rate
E–1	$948
E–2	948
E–3	948
E–4	948
E–5	948
E–6	948
E–7	980
E–8	1,035
E–9\1\	1,080
W–1	1,001
W–2	1,042
W–3	1,072
W–4	1,134
O–1	1,001
O–2	1,035
O–3	1,107
O–4	1,171
O–5	1,289
O–6	1,453
O–7	1,570

DIC TO A SURVIVING SPOUSE (38 U.S.C. 1311(A)(3))

Pay grade	Monthly rate
O–8	1,722
O–9	1,843
O–10\2\	2,021

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard, the surviving spouse's monthly rate is $1,165.

[2] If the veteran served as Chairman or Vice Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, the surviving spouse's monthly rate is $2,168.

DIC TO CHILDREN (38 U.S.C. 1313(A))

Affected statute	Monthly rate
38 U.S.C. 1313(a)(1)	$402
38 U.S.C. 1313(a)(2)	$578
38 U.S.C. 1313(a)(3)	$752
38 U.S.C. 1313(a)(4)	$752; $145

SUPPLEMENTAL DIC TO CHILDREN (38 U.S.C. 1314)

Affected statute	Monthly rate
38 U.S.C. 1314(a)	$237
38 U.S.C. 1314(b)	402
38 U.S.C. 1314(c)	201

Dated: April 2, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–8724 Filed 4–9–03; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

President's Task Force To Improve Health Care Delivery for Our Nation's Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans is scheduled for Thursday, April 24, 2003, beginning at 9 a.m. and adjourning at 5 p.m. The meeting will be held in the Jefferson Ballroom of the Radisson Hotel Old Town, 901 North Fairfax Street, Alexandria, VA. The meeting is open to the general public.

The purpose of the President's Task Force to Improve Health Care Delivery for Our Nation's Veterans is to:

(a) Identify ways to improve benefits and services for Department of Veterans Affairs (VA) beneficiaries and Department of Defense (DoD) military retirees who are also eligible for benefits from VA, through better coordination of the activities of the two departments;

(b) Identify opportunities to remove barriers that impede VA and DoD coordination, including budgeting processes, timely billing, cost accounting, information technology, and reimbursement; and

(c) Identify opportunities through partnership between VA and DoD, to maximize the use of resources and infrastructure, including buildings, information technology and data sharing systems, procurement of supplies, equipment and services.

The morning and afternoon sessions of the April 24, meeting will focus on consideration and approval of the Task Force's final report for submission to the President. It is expected that this will be the final meeting of the Task Force.

No time will be allocated at this meeting for receiving oral presentations from the public. Interested parties can provide written comments to Mr. Dan Amon, Communications Director, President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, 1401 Wilson Boulevard, 4th Floor, Arlington, Virginia, 22209.

Dated: April 2, 2003.

By Direction of the Secretary:

R. Philip Riggin,

Committee Management Officer.

[FR Doc. 03–8725 Filed 4–9–03; 8:45 am]

BILLING CODE 8320–01–M

DEPARTMENT OF VETERANS AFFAIRS

Enhanced-Use Lease Development of Property at the Department of Veterans Affairs Medical Center, Minneapolis, MN

AGENCY: Department of Veterans Affairs.

ACTION: Notice of intent of designate.

SUMMARY: The Secretary of the Department of Veterans Affairs (VA) is designating 0.5 acres of underutilized space at the Department of Veterans Affairs Medical Center, Minneapolis, Minnesota, for an enhanced-use leasing development. The Department intends to enter into a 35-year lease of real property with a selected lessee/developer who will finance, design, develop, maintain and manage a Federal Credit Union, at no cost to VA.

FOR FURTHER INFORMATION CONTACT: Vanessa Chambers, Capital Asset Management and Planning Service (182C), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 565–6554.

SUPPLEMENTARY INFORMATION: 38 U.S.C. Section 8161 *et seq.* specifically provides that the Secretary may enter into an enhanced-use lease if he determines that at least part of the use of the property under the lease will be to provide appropriate space for an activity contributing to the mission of the Department; the lease will not be inconsistent with and will not adversely affect the mission of the Department; and the lease will enhance the property or result in improved services to veterans. This project meets these requirements.

Approved: April 2, 2003.

Anthony J. Principi,

Secretary of Veterans Affairs.

[FR Doc. 03–8726 Filed 4–9–03; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 68, No. 69

Thursday, April 10, 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.

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FTR 2003–B1]

eTravel Initiative

Correction

In the issue of Thursday, April 3, 2003, on page 16351, in the second column, in the correction of notice document 03–6662, in paragraph 5., in the fourth line, ''If'' should read, ''It''.

[FR Doc. C3–6662 Filed 4–9–03; 8:45 am]

BILLING CODE 1505–01–D

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Federal Aviation Administration

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.nara.gov/fedreg/plawcurr.html*.

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H.R. 395/P.L. 108–10

Do-Not-Call Implementation Act (Mar. 11, 2003; 117 Stat. 557)

Last List March 10, 2003

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