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DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 278 and 279

RIN 0584–AD23

Food Stamp Program: Administrative Review Requirements—Food Retailers and Wholesalers

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This action revises Food Stamp Program regulations affecting the administrative review process available to retail and wholesale firms participating in the Food Stamp Program. It streamlines and makes technical corrections to this process by amending portions of current regulations. The changes eliminate repetitious, outdated and unnecessary provisions without taking away a firm's right to an administrative review.

DATES: Provisions in this rule are effective September 8, 2003.

FOR FURTHER INFORMATION CONTACT: Questions regarding this rulemaking should be addressed to Karen Walker, Chief, Retailer Management Branch, Benefit Redemption Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia, 22302. Questions may also be data-faxed to the attention of Ms. Walker at (703) 305–1863, or by e-mail to *karen.walker@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant by the Office of Management and Budget and therefore, was not reviewed by that agency under Executive Order 12866.

Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V and related Notice (48 FR 29115), this Program is excluded from the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials.

Executive Order 13132, Federalism

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments and consult with them as they develop and carry out those policy actions. The Food and Nutrition Service (FNS) has considered the impact of this rule that streamlines and makes technical changes to FNS' administrative review process available to retail food stores and wholesale concerns participating in the Food Stamp Program. This rule has no Federalism implications in that procedural changes set forth do not affect State and local governments. This rule does not impose any substantial or direct compliance costs on State and local governments. Therefore, under Section 6(b) of the Executive Order, a federalism summary impact statement is not required.

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). Eric M. Bost, Under Secretary for Food, Nutrition, and Consumer Services, has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities. It eliminates repetitious, outdated and unnecessary provisions; aggrieved businesses will continue to have the right to administrative reviews under this rule.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995, this rule contains information collections that are subject to review and approval by the Office of Management and Budget (OMB). These information collections are approved under OMB number 0584–0520.

FNS published a proposed rule on November 25, 2002, which solicited comments. No comments directly related to this notice were received; however, comments related to the elimination of in-person meetings with administrative review staff were received and are addressed in the Background section of this rule.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. It is not intended to have preemptive effect with respect to any State or local laws, regulations or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the ''Effective Date'' paragraph of the preamble of the final rule. In the Food Stamp Program, the administrative procedures for retailers and wholesalers are as follows: for Program retailers and wholesalers—administrative procedures are issued pursuant to section 14 of the FSA (7 U.S.C. 2023) and 7 CFR part 279.

Public Law 104–4

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law No. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FNS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FNS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or least burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this rule is not economically significant, nor subject

to the requirements of sections 202 and 205 of the UMRA.

Background

This rule revises Food Stamp Program regulations affecting the administrative review process for retail food stores and wholesale food concerns participating in the program. The revisions streamline administrative review rules by eliminating repetitive and unnecessary provisions and consolidating other provisions in 7 CFR parts 278 and 279. These revisions do not change the rights of aggrieved food retailers and wholesale food concerns to request and obtain an administrative review from FNS. This rule also makes technical corrections involving regulatory cites listed in § 278.1.

Only one trade association submitted comments; no other comments were received. One of their comments dealt with program compliance that is beyond the scope of this rule and another comment expressed support for most revisions in the rule as being ''helpful changes that clarify the regulations and the program.'' Their remaining comments relate to the elimination of in-person meetings between aggrieved retailers and administrative review staff.

The commenter questioned the ''not significant'' designation of the rule under Executive Order 12866 in the preamble of the proposed rule and questioned the legality of not submitting it to the Office of Management and Budget (OMB) for review. The Department submitted a workplan with a detailed outline of the proposed rule to OMB for review. OMB designated the proposed rule as ''not significant'' based on that information, which is standard procedure, and no further review of the proposed rule by them was required.

The commenter also questioned the Department's determination under the Regulatory Flexibility Act in the preamble that the rule will not have a significant impact on a substantial number of small businesses. The commenter suggested that eliminating in-person meetings would result in ''more small businesses being barred from the program.'' As stated previously, administrative reviews are based on the facts of the case, not on in-person meetings, and eliminating them will not affect the outcome of reviews; therefore, the Department does not believe this rule will have a significant impact on a substantial number of small businesses.

Content of Request—7 CFR 279.6

Content of request for review: Current regulations at 7 CFR 279.6 include language regarding requests for in-person meetings with administrative review officers. However, there are only three locations where such meetings occur and most firms that request such meetings must travel long distances to participate. The Department believes the travel cost disparity between those retailers located near review offices and those located a long distance away places many retailers at a disadvantage.

The commenter opposed the elimination of in-person meetings feeling it will disadvantage retailers who wish to explain their position in person. The Department makes administrative review determinations based on the documented facts of the case, and whether or not aggrieved retailers meet with review staff has no bearing on the outcome. Firms can and do talk with reviewers by phone as a follow-up to written documentation, but review staff base their determinations on the facts of the case, not on a meeting or phone conversation. Even though very few firms request in-person meetings, the Department believes that offering them gives the impression that stores not able to avail themselves of the meetings are disadvantaged. Therefore, the rule eliminates these meetings. Aggrieved retailers are still able to participate in conference calls with administrative review staff.

Implementation

Provisions of this rulemaking will be implemented 60 days after publication of the rule.

List of Subjects

7 CFR Part 278

Administrative practice and procedure, Banks, Banking, Claims, Food stamps, General line—wholesalers, Groceries, Groceries—retail, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, General line-wholesalers, Groceries, Groceries—retail.

■ Accordingly, 7 CFR parts 278 and 279 are amended as follows:

■ 1. The authority citation for parts 278 and 279 continue to read as follows:

Authority: 7 U.S.C. 2011–2036.

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

§ 278.1 [Amended]

■ 2. In § 278.1:

■ a. Paragraph (k)(1) is amended by removing the reference ''(g) or (h)'' and adding in its place the reference ''(g), (h) or (i)'';

■ b. Paragraph (k)(2) is amended by removing in the first sentence the words ''the Food Stamp Act of 1977, as amended;'' and adding in its place the words ''paragraph (b)(1)(i) of this section;'' and by removing the reference ''(b)(1)(iv)'' and adding in its place the reference ''(b)(1)(vi)'';

■ c. Paragraph (l)(1)(ii) is amended by removing the reference ''(g), or (h)'' and adding in its place the reference ''(g), (h) or (i)'';

■ d. Paragraph (l)(1)(iii) is amended by removing the words ''the Food Stamp Act of 1977, as amended,'' and adding in its place the words ''paragraph (b)(1)(i) of this section;'' and by removing the reference ''(b)(1)(iv)'' and adding in its place the reference ''(b)(1)(vi)''.

■ e. The reference ''§ 279.5'' is removed in paragraph (l)(2) and the reference ''part 279'' is added in its place; and

■ f. The reference ''§ 278.8'' is removed in paragraph (p) and the reference ''part 279'' is added in its place.

§ 278.6 [Amended]

■ 3. In § 278.6, the reference ''§ 279.5'' is removed wherever it appears in paragraphs (b), (c) and (n), and the reference ''part 279'' is added in its place.

§ 278.7 [Amended]

■ 4. In § 278.7, the reference ''§ 278.8'' is removed in paragraph (f) and the reference ''part 279'' is added in its place.

§ 278.8 [Removed and Reserved]

■ 5. § 278.8 is removed and reserved.

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

■ 6. In part 279:

■ a. The words ''administrative review officer'' are removed wherever they appear and the words ''designated reviewer'' are added in their place; and

■ b. The words ''review officer'' are removed wherever they appear and the words ''designated reviewer'' are added in their place.

■ 7. Subpart A is further amended by removing the word ''—General'' in the Subpart heading.

■ 8. Revise § 279.1 to read as follows:

§ 279.1 Jurisdiction and authority.

A food retailer or wholesale food concern aggrieved by administrative action under § 278.1, § 278.6 or § 278.7 of this chapter may, within a period stated in this Part, file a written request for review of the administrative action with FNS. On receipt of the request for

review, the questioned administrative action shall be stayed pending disposition of the request for review, except in the case of a permanent disqualification as specified in § 278.6(e)(1) of this chapter.

(a) *Jurisdiction.* Reviewers designated by the Secretary shall act for the Department on requests for review filed by food retailers or wholesale food concerns aggrieved by any of the following actions:

(1) Denial of an application or withdrawal of authorization to participate in the program under § 278.1 of this chapter;

(2) Disqualification under § 278.6 of this chapter, except that a disqualification for failure to pay a civil money penalty shall not be subject to administrative review and a disqualification imposed under § 278.6(e)(8) of this chapter shall not be subject to administrative or judicial review;

(3) Imposition of a fine under § 278.6 of this chapter;

(4) Denial of all or part of any claim asserted by a firm against FNS under § 278.7(c), (d), or (e) of this chapter;

(5) Assertion of a claim under § 278.7(a) of this chapter; or

(6) Forfeiture of part or all of a collateral bond under § 278.1 of this chapter, if the request for review is made by the authorized firm. FNS shall not accept requests for review made by a bonding company or agent.

(b) *Authority.* The determination of the designated reviewer shall be the final administrative determination of the Department, subject, however, to judicial review under section 14 of the Food Stamp Act and subpart B of this part.

§§ 279.2 through 279.4 [Removed]

■ 9. Remove §§ 279.2 through 279.4.

§§ 279.5 through 279.11 [Redesignated]

■ 10. Subpart B is further amended by redesignating §§ 279.5 through 279.9 as §§ 279.2 through 279.6, respectively.

§ 279.2 [Amended]

■ 11. Amend newly redesignated § 279.2 as follows:

■ a. The heading of paragraph (a) is amended by removing the word ''Addressing'' and adding in its place the word ''Submitting''.

■ b. Paragraph (a) is further amended by removing the words ''Room 304''.

■ c. Paragraph (c) introductory text is amended by removing the words ''with the Director, Administrative Review Division,''.

§ 279.3 [Amended]

■ 12. Remove the last two sentences of paragraph (b) in newly redesignated § 279.3.

■ 13. Amend newly redesignated § 279.4 as follows:

■ a. Paragraph (a) is amended by revising the first two sentences and by removing the last sentence;

■ b. Paragraph (c) is revised; and

■ c. Paragraph (d) is removed.

The revisions read as follows:

§ 279.4 Action upon receipt of a request for review.

(a) Upon receipt of a request for review of administrative action, the administrative action shall be held in abeyance until the designated reviewer has made a determination. However, permanent disqualifications for trafficking shall not be held in abeyance and shall be effective immediately as specified in 278.6(b)(2) of this chapter.

* * *

* * * * *

(c) *Extensions of time.* Upon timely written request to FNS by the firm requesting the review, FNS may grant extensions of time if, in FNS' discretion, additional time is required for the firm to fully present information in support of its position. However, no extension may be made in the time allowed for the filing of a request for review.

■ 14. Amend newly redesignated § 279.5 as follows:

■ a. The heading of paragraph (a) is amended by removing the word ''officer'',

■ b. Paragraph (b), (c) and (e) are revised; and

■ c. Paragraph (f) is removed and paragraph (g) is redesignated as paragraph (f).

The revisions read as follows:

§ 279.5 Determination of the designated reviewer.

* * * * *

(b) *Review of denial or withdrawal of authorization.* When the action under review is the denial of an application for authorization or the withdrawal of an existing authorization, the designated reviewer shall sustain the action under review; sustain the action under review, but specify a shorter period of time the action will remain in effect; or direct that the action under review be reversed.

(c) *Review of disqualification or civil money penalty or fine.* When the action under review is disqualifying a firm from program participation or assessing a civil money penalty or fine against a firm, the designated reviewer shall: Sustain the action under review; specify a shorter period of disqualification; specify a reduced money penalty or fine; direct that an official warning letter be issued to the firm in lieu of a disqualification, civil money penalty or fine; or, direct that the action under review be reversed. The designated reviewer may change a disqualification of a firm to a civil money penalty if the disqualification would cause a hardship to participating households (except in the case of a permanent disqualification). The designated reviewer, working with the appropriate FNS office, shall determine if circumstances warrant a civil money penalty in accordance with § 278.6 of this chapter.

* * * * *

(e) *Determination notifications.* FNS shall notify the firm of the determination. Such notification will be sent to the representative of the firm who filed the request for review.

* * * * *

■ 15. In newly redesignated § 279.6, revise paragraph (a) to read as follows:

§ 279.6 Legal advice and extensions of time.

(a) *Advice from Office of the General Counsel.*

If any request for review involves any doubtful questions of law, the Benefit Redemption Division shall obtain the advice of the Department's Office of the General Counsel.

* * * * *

Subpart B [Removed]

■ 16. Subpart B is removed.

Subpart C [Redesignated as Subpart B]

■ 17. Subpart C is redesignated as Subpart B.

§§ 279.10 and 279.11 [Redesignated as §§ 279.7 and 279.8]

■ 18. Redesignate §§ 279.10 and 279.11 as §§ 279.7 and 279.8.

§ 279.7 [Amended]

■ 19. Amend newly redesignated § 279.7 as follows:

■ a. Paragraph (a) is amended by removing the reference ''§ 279.8(e)'' and adding in its place the reference ''§ 279.5(e)''.

■ b. Paragraph (b) is amended by removing the words the ''officer or''.

Dated: July 2, 2003.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. 03–17348 Filed 7–9–03; 8:45 am]

BILLING CODE 3410–30–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) has adopted final amendments to its Regulation A to reflect the Board's approval of a decrease in the primary credit rate at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically decreased by formula as a result of the Board's primary credit rate action.

In addition, the Board is inserting a footnote to § 201.51 clarifying that the rates described in that section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs. The Board's amendments also correct a typographical error in § 201.51(c).

DATES: The amendments to part 201 (Regulation A) are effective July 10, 2003. The rate changes for primary and secondary credit were effective on the dates specified in 12 CFR 201.51, as amended.

FOR FURTHER INFORMATION CONTACT: Jennifer J. Johnson, Secretary of the Board (202/452–3259); for users of Telecommunication Devices for the Deaf (TDD) only, contact 202/263–4869.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis (usually overnight). The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

The Board approved requests by the Reserve Banks to decrease by 25 basis points the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby lowering from 2.25 percent to 2 percent the rate that each Reserve Bank charges for extensions of primary credit. As a result of the Board's action on the primary credit rate, the rate that each Reserve Bank charges for extensions of secondary credit automatically decreased from 2.75 percent to 2.50 percent under the secondary credit rate formula. The final amendments to Regulation A reflect these rate changes.

The 25-basis-point decrease in the primary credit rate was associated with a similar decrease in the target for the federal funds rate (from 1.25 percent to 1 percent) approved by the Federal Open Market Committee (Committee) and announced at the same time. A press release announcing these actions indicated that:

> The Committee continues to believe that an accommodative stance of monetary policy, coupled with still robust underlying growth in productivity, is providing important ongoing support to economic activity. Recent signs point to a firming in spending, markedly improved financial conditions, and labor and product markets that are stabilizing. The economy, nonetheless, has yet to exhibit sustainable growth. With inflationary expectations subdued, the Committee judged that a slightly more expansive monetary policy would add further support for an economy which it expects to improve over time.

In addition to amending the primary and secondary credit rates listed in § 201.51 of Regulation A, the Board has added a footnote to § 201.51 to clarify that the rates described in that section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs. The Board uses the unqualified term ''discount rate'' to refer to the primary credit rate.

The Board's amendments to Regulation A also correct the cross-reference to the secondary credit program in § 201.51(c). The current regulation refers to § 201.4(b) when it should refer to § 201.4(c).

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the new primary and secondary credit rates will not have a significant adverse economic impact on a substantial number of small entities because the final rule does not impose any additional requirements on entities affected by the regulation. The insertion of the footnote and correction of the cross-reference also should not adversely affect small entities because they merely clarify the application of § 201.51.

Administrative Procedure Act

The Board did not follow the provisions of 5 U.S.C. 553(b) relating to notice and public participation in connection with the adoption of these amendments because the Board for good cause determined that delaying implementation of the new primary and secondary credit rates, the explanatory footnote, and the cross-reference correction in order to allow notice and public comment would be unnecessary and contrary to the public interest in fostering price stability and sustainable economic growth. For these same reasons, the Board also has not provided 30 days prior notice of the effective date of the rule under section 553(d).

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

■ For the reasons set forth in the preamble, the Board is amending 12 CFR Chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.*, 347a, 347b, 347c, 348 *et seq.*, 357, 374, 374a, and 461.

■ 2. Section 201.51 is amended by revising paragraphs (a), (b), and (c) to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[1]

(a) *Primary credit.* The interest rates for primary credit provided to depository institutions under § 201.4(a) are:

Federal Reserve Bank	Rate	Effective
Boston	2.00	June 25, 2003.
New York	2.00	June 25, 2003.
Philadelphia	2.00	June 26, 2003.
Cleveland	2.00	June 26, 2003.
Richmond	2.00	June 26, 2003.
Atlanta	2.00	June 26, 2003.
Chicago	2.00	June 26, 2003.
St. Louis	2.00	June 26, 2003.
Minneapolis	2.00	June 26, 2003.
Kansas City	2.00	June 25, 2003.
Dallas	2.00	June 26, 2003.
San Francisco	2.00	June 25, 2003.

(b) *Secondary credit.* The interest rates for secondary credit provided to depository institutions under 201.4(b) are:

Federal Reserve Bank	Rate	Effective
Boston	2.50	June 25, 2003.

[1] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

Federal Reserve Bank	Rate	Effective
New York	2.50	June 25, 2003.
Philadelphia	2.50	June 26, 2003.
Cleveland	2.50	June 26, 2003.
Richmond	2.50	June 26, 2003.
Atlanta	2.50	June 26, 2003.
Chicago	2.50	June 26, 2003.
St. Louis	2.50	June 26, 2003.
Minneapolis	2.50	June 26, 2003.
Kansas City	2.50	June 25, 2003.
Dallas	2.50	June 26, 2003.
San Francisco	2.50	June 25, 2003.

(c) *Seasonal credit.* The rate for seasonal credit extended to depository institutions under § 201.4(c) is a flexible rate that takes into account rates on market sources of funds.

* * * * *

By order of the Board of Governors of the Federal Reserve System, July 3, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–17383 Filed 7–9–03; 8:45 am]

BILLING CODE 6210–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–ANE–50–AD; Amendment 39–13222; AD 2003–14–03]

RIN 2120–AA64

Airworthiness Directives; Textron Lycoming Fuel Injected Reciprocating Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), that is applicable to certain Textron Lycoming reciprocating engines with certain Crane/Lear Romec ''AN'' rotary fuel pumps installed. That AD currently requires initial and follow-up torque check inspections of pump relief valve attaching screws. This amendment requires the same initial and follow-up torque check inspections of relief valve attaching screws, and adds as a terminating action, replacement of the affected fuel pump at or before the overhaul interval, with a fuel pump having a new design valve housing. This amendment is prompted by the introduction of a new design pump relief valve housing and associated parts that provide enhanced resistance to fuel leakage, and the need for clarification of the requirements of the current AD. The actions specified by this AD are intended to prevent rotary fuel pump leaks, which could result in an engine failure, engine fire, and damage to or loss of aircraft.

DATES: Effective August 14, 2003. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 14, 2003.

ADDRESSES: The service information referenced in this AD may be obtained from Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327–7080; fax (717) 327–7100. This information may be examined, by appointment, at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norm Perenson, Aerospace Engineer, New York Aircraft Certification Office, FAA, Engine and Propeller Directorate, 10 Fifth Street, 3rd floor, Valley Stream, NY 11581–1200; telephone (516) 256–7537; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 98–18–12, Amendment 39–10728 (63 FR 48571, September 11, 1998, which is applicable to certain Textron Lycoming reciprocating engines with certain Crane/Lear Romec ''AN'' rotary fuel pumps installed was published in the **Federal Register** on December 13, 2002 (67 FR 76702). That action proposed to require the same initial and follow-up torque check inspections of relief valve attaching screws, and add as a terminating action, replacement of the affected fuel pump at or before the overhaul interval, with a fuel pump having a new design valve housing in accordance with Lycoming Service Bulletin (SB) No. 529B, dated June 10, 2002.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comment received.

Request for Additional Alternative Methods of Compliance

One commenter requests that the installation of fuel pumps that were FAA-approved by a supplemental type certificate (STC) issued in October 2002 should be considered as an alternative method of compliance (AMOC) to this AD. The commenter believes these fuel pumps are a direct replacement for the Crane/Lear Romec fuel pumps affected by this AD.

The FAA does not agree. The fuel pumps that were approved by the STC have a different part number than the the Crane/Lear Romec fuel pumps in this AD. Accordingly, the fuel pumps installed under the STC are not subject to the inspections required by this AD and may be installed without an AMOC. Therefore, no changes will be made to the AD.

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Regulatory Analysis

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

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 the 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 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, 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 removing Amendment 39–10728 (63 FR 48571, September 11, 1998) and by adding a new airworthiness directive, Amendment 39–13222, to read as follows:

2003–14–03 Textron Lycoming: Amendment 39–13222. Docket No. 97–ANE–50–AD. Supersedes AD 98–18–12, Amendment 39–10728.

Applicability: This airworthiness directive (AD) is applicable to Textron Lycoming IO–320, LIO–320, IO–360, HIO–360, TIO–360, LTIO–360, GO–435, GO–480, IGO–480–A1B6, IO–540, IGO–540, AEIO–540, HIO–540, TIO–540, LTIO–540, TIGO–541, IO–720, and TIO–720 reciprocating engines, with Crane/Lear Romec RG9080, RG9570, and RG17980 series ''AN'' rotary fuel pumps listed in Table 1 installed. Table 1 follows:

TABLE 1.—APPLICABLE PUMP CROSS REFERENCE LIST

Lear/Romec Series	Textron Lycoming Part Number (P/N)
RG9080F2	68262, 68262–85
RG9080J4A	LW–13909, LW–13909–85
RG9080J6A	LW–14444, LW–14444–85
RG9080J7A	LW–13920, LW–13920–85
RG9080J8A	LW–15740, LW–15740–85
RG9570K1	62E22288
RG9570P/P1	LW–19012
RG17980	74547, 74547–85
RG17980A	76188, 76188–85
RG17980D	76486, 76486–85
RG17980E	77443, 77443–85
RG17980J	78993, 78993–85
RG17980K	LW–11166, LW–11166–85
RG17980P	LW–12534, LW–12534–85
RG17980U	62D21153, 62D21

These engines are installed on, but not limited to fuel injected, reciprocating engine-powered aircraft manufactured by Cessna, The New Piper, Inc., Mooney, Raytheon (Beech), Bellanca, Champion, Partenavia, Rockwell, Schweizer, Enstrom, Aerospatiale (SOCATA), Maule, Aero Commander, Helio, Hiller, and Pacific Aerospace Corp.

Note 1: This AD applies to each engine identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For engines that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) 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 already done.

To prevent rotary fuel pump leaks, which could result in an engine failure, engine fire, and damage to or loss of the aircraft, accomplish the following:

(a) If the Lear/Romec part number (P/N) on rotary fuel pumps, series RG9080, RG9570, or RG17980 has an ''/M'' suffix, the pump has been modified, and no further action is required.

(b) If the P/N does not have an ''/M'' suffix, perform initial and follow-up torque check inspections of pump relief valve attaching screws in accordance with the Accomplishment Instructions of Lycoming Service Bulletin (SB) No. 529B, dated June 10, 2002, as follows:

(1) Within 10 hours time-in-service (TIS), or 30 days after the effective date of this AD, whichever occurs first, perform the initial torque check inspection. If the torque does not meet the specifications in Lycoming SB No. 529B, dated June 10, 2002, tighten screws to the required torque in accordance with that SB.

(2) Perform follow-up torque check inspections at 50 hour intervals TIS, or 6 months since the previous torque check inspection, whichever occurs first. If the torque does not meet the specification in Lycoming SB No. 529B, dated June 10, 2002, during this follow-up inspection, tighten screws to the required torque in accordance with that SB.

(3) Continue the follow-up torque check inspections required by paragraph (a)(2) of this AD until:

(i) The accumulation of 100 hours TIS since the inspection with the torque remaining within the SB specification; or

(ii) The torque meets the SB specification during the initial inspection and a subsequent inspection taking place after accumulating an additional 50 hours TIS also meets the SB specification.

(4) After the accumulation of 100 hours TIS since the inspection with the torque remaining within the SB specification; visually inspect the pump at 50-hour intervals until the pump is replaced with a modified pump (with the ''/M'' after the part number).

(c) Replacement of a rotary fuel pump series RG9080, RG9570, or RG17980, with an unmodified pump (without the ''/M'' after the part number) requires repeating the initial and follow-up inspections in accordance with paragraph (b) of this AD.

Optional Terminating Action

(d) Replacement of a rotary fuel pump series RG9080, RG9570, or RG17980, with a modified pump (with the ''/M'' after the part number) constitutes terminating action for the inspection requirements specified in paragraphs (b)(1) through (b)(4) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(f) 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 aircraft to a location where the requirements of this AD can be done.

Documents That Have Been Incorporated by Reference

(g) The actions must be done in accordance with Lycoming Service Bulletin No. 529B, dated June 10, 2002. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lycoming, 652 Oliver St., Williamsport, PA 17701; telephone (717) 327–7080; fax (717) 327–7100. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

Effective Date

(h) This amendment becomes effective on August 14, 2003.

Issued in Burlington, Massachusetts, on June 30, 2003.

Francis A. Favara,

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

[FR Doc. 03–17019 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–154–AD; Amendment 39–13220; AD 2003–14–01]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 B2, A300 B4, A300 B4–600, A300 B4–600R, A300 F4–600R, A310, A330, and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus airplanes, that requires repetitive inspections for foreign objects between the slider and the girt bar attachment fittings of the

emergency escape slides; a one-time inspection for correct adjustment of the slide release mechanism and the girt bar attachment fittings, which would terminate the repetitive inspections; a one-time test for correct extension of the girt bar through the sliders; and corrective action, if necessary. The actions specified by this AD are intended to prevent failure of an emergency escape slide, which could result in a delayed evacuation in an emergency and consequent injury to passengers or crew. This action is intended to address the identified unsafe condition.

DATES: Effective August 14, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 14, 2003.

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

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

SUPPLEMENTARY INFORMATION: 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 certain Airbus airplanes was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on January 3, 2003 (68 FR 315). That action proposed to require repetitive inspections for foreign objects between the slider and the girt bar attachment fittings of the emergency escape slides; a one-time inspection for correct adjustment of the slide release mechanism and the girt bar attachment fittings, which would terminate the repetitive inspections; a one-time test for correct extension of the girt bar through the sliders; and corrective action, if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request To Revise Compliance Interval

Two commenters request that the proposed AD be revised to change the repetitive interval for inspecting the emergency exit doors for foreign objects. The commenters request that the inspection be required not at the proposed 7-day interval, but only when the door is removed or maintenance is done on the door or slide assembly. The commenters assert that the emergency exit doors are not regularly opened and do not collect debris at the same rate as passenger doors, and that the interior side wall panels of the emergency doors prevent debris from being introduced into the slide release mechanism. The commenters suggest that opening the emergency exit doors every 7 days could accelerate wear of the slider and girt bar attach mechanisms and could increase the amount of dirt, debris, and corrosion introduced into the door mechanism. The commenters further suggest that the visual inspection be included in the aircraft maintenance manual upon installation and other relevant maintenance procedures regarding the emergency exit doors.

The FAA does not agree with the request. The girt bar, sliders, and attachment fittings of the emergecy and passengers doors are identical in design and are located close to the floor. The girt bars of all doors are subject to the same risk of being affected by debris—regardless of how often the doors are opened—because of the open access to the cabin; debris can still reach and affect the girt bar of a closed door. In addition, according to the manufacturer, there is no risk of increased wear on the moving components due to frequent use. Further, the inspection for the emergency doors can be done quickly. No change to the final rule is necessary regarding this issue.

Request To Delay Issuance of AD Pending Revised Procedures

Two commenters request that the FAA delay issuing the AD until an appropriate measuring device can be developed to measure the gap between the sliders and the girt bar. The commenters state that the mechanism is poorly accessible and the measurement procedure requires special skills, tooling, and training to be accomplished consistently. They add that typical measuring tools are impractical due to the mechanism's close proximity to the fuselage door cutout, and the tool depicted in Figure 2, sheet 4, of the service bulletin referenced in the supplemental NPRM is difficult to manufacture with the appropriate dimensional indications.

However, another commenter notes that, because operators had difficulties following the procedures to perform the measurements, Airbus has revised the service information to add work instructions and clarify the procedures to inspect and test the release mechanism attach fittings.

The FAA does not agree with the request to delay issuance of the AD. The service bulletin procedures for checking the slide release mechanism can be complex. As a result, Airbus has improved the instructions in the revised service bulletins (which were described in the supplemental NPRM). Furthermore, the measuring tool shown in Figure 2, sheet 4, of the service bulletins is provided as a typical example of a tool to be used for measuring the extension of the sliders over the girt bar; that tool can be easily made from any sheet of aluminum and is not considered a specific tool. In addition, no specialized training is necessary to perform this measurement. No change to the final rule is necessary regarding this issue.

Conclusion

After careful review of the available data, including the comments noted above, 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 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 supplemental NPRM regarding that material.

Cost Impact

The FAA estimates that there are 103 Model A300 B2, A300 B4, A300 B4–600, A300 B4–600R, A300 F4–600R, A310, and A330 series airplanes of U.S. registry that will be affected by this AD. There are no Model A340 series airplanes currently on the U.S. Register; however, if an affected Model A340 series airplane is imported and placed on the U.S. Register in the future, the cost impact would be the same as for the remaining affected airplanes, as described below.

It will take approximately 2 work hours per airplane to inspect for foreign

objects between the slider and the girt bar attachment fittings, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $12,360, or $120 per airplane, per inspection cycle.

It will take approximately 4 work hours per airplane to determine whether the slide mechanism and girt bar attachment fittings are adjusted correctly, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $24,720, or $240 per airplane.

It will take approximately 4 work hours per airplane to determine whether the girt bar extends through the sliders correctly, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this inspection on U.S. operators is estimated to be $24,720, or $240 per airplane.

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

Regulatory Impact

The regulations 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:

2003–14–01 Airbus: Amendment 39–13220. Docket 2001–NM–154–AD.

Applicability: The following airplanes, certificated in any category:

TABLE 1.—APPLICABILITY

Model—	Listed in Airbus Service Bulletin—
A300 B2 and A300 B4 series airplanes	A300–52–0174, Revision 01, dated August 23, 2002.
A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes	A300–52–6062, Revision 01, dated August 23, 2002.
A310 series airplanes	A310–52–2066, Revision 01, dated August 23, 2002.
A330 series airplanes	A330–52–3064, Revision 01, dated June 12, 2002.
A340 series airplanes	A340–52–4076, Revision 01, dated June 12, 2002.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of an emergency escape slide, which could result in a delayed evacuation in an emergency and consequent injury to passengers or crew, accomplish the following:

Repetitive Inspections for Foreign Objects

(a) At the applicable time specified in paragraph (a)(1) or (a)(2) of this AD: Perform a general visual inspection for foreign objects between the slider and the girt bar attachment fittings of the emergency escape slides according to the applicable service bulletin listed in Table 2 of this AD. Repeat the inspection at least every 7 days until the actions required by paragraph (b) of this AD are done. If any foreign object is found during any inspection required by paragraph (a) of this AD: Before further flight, remove the object and ensure that the girt bar attachment fittings are clean, according to the applicable service bulletin. Table 2 follows:

TABLE 2.—SERVICE BULLETIN REFERENCES FOR REQUIRED ACTIONS

For model—	Do the actions in accordance with Airbus Service Bulletin—
A300 B2 and A300 B4 series airplanes	A300–52–0174, Revision 01, dated August 23, 2002.
A300 B4–600, A300 B4–600R, and A300 F4–600R series airplanes	A300–52–6062, Revision 01, dated August 23, 2002.
A310 series airplanes	A310–52–2066, Revision 01, dated August 23, 2002.
A330 series airplanes	A330–52–3064, Revision 01, dated June 12, 2002.
A340 series airplanes	A340–52–4076, Revision 01, dated June 12, 2002.

(1) For Model A330 and A340 series airplanes: Inspect within 7 days after the effective date of this AD.

(2) For Model A300, A300–600, and A310 series airplanes: Inspect within 550 flight hours after the effective date of this AD.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made 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 removing or opening access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

One-Time Inspection of Slide Release Mechanism and Girt Bar Attachment Fittings

(b) Within 18 months after the effective date of this AD, perform a one-time general visual inspection for correct adjustment of the emergency escape slide release mechanism and the girt bar attachment fittings according to the service bulletin listed in Table 2 of this AD, as applicable. If the slide mechanism or girt bar attachment fittings are not adjusted correctly: Before further flight, adjust them according to the applicable service bulletin. Accomplishment of this inspection and any required corrective actions terminates the repetitive inspections required by paragraph (a) of this AD.

One-Time Inspection of Girt Bar Attachment Fittings

(c) Within 18 months after the effective date of this AD, perform a one-time general visual inspection for correct extension of the emergency escape slide girt bar through the sliders, according to the service bulletin listed in Table 2 of this AD, as applicable. If the girt bar does not extend correctly: Before further flight, rework the girt bar or replace the girt bar assembly with a new assembly, according to the applicable service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(f) The actions must be done in accordance with Airbus Service Bulletin A300–52–0174, Revision 01, dated August 23, 2002; Airbus Service Bulletin A300–52–6062, Revision 01, dated August 23, 2002; Airbus Service Bulletin A310–52–2066, Revision 01, dated August 23, 2002; Airbus Service Bulletin A330–52–3064, Revision 01, dated June 12, 2002; or Airbus Service Bulletin A340–52–4076, Revision 01, dated June 12, 2002; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(g) This amendment becomes effective on August 14, 2003.

Note 4: The subject of this AD is addressed in French airworthiness directives 2002–296(B) and 2002–297(B), both dated June 12, 2002; and 2002–525(B), dated October 16, 2002.

Issued in Renton, Washington, on June 30, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17313 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–322–AD; Amendment 39–13221; AD 2003–14–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model CL–600–2B19 (Regional Jet series 100 & 400) airplanes, that requires a one-time inspection of the aft edge of the left and right main windshields to determine whether a certain placard is installed, and corrective actions if necessary. This action is necessary to prevent stress-related cracking of the windshields, and subsequent excessive frequency of abnormal procedures specified in the airplane flight manual and/or an emergency descent be accomplished, which poses an increased risk to passengers and crew members. This action is intended to address the identified unsafe condition.

DATES: Effective August 14, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 14, 2003.

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

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

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 certain Bombardier Model CL–600–2B19 series airplanes was published in the **Federal Register** on May 20, 2002 (67 FR 35461). That action proposed to require a one-time inspection of the aft edge of the left and right main windshields to determine whether a certain placard is installed, and corrective actions if necessary.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for Notice of Proposed Rulemaking (NPRM)

One commenter supports the NPRM.

Request To Withdraw NPRM

One commenter, the windshield manufacturer, requests that the NPRM be withdrawn. The commenter states

that it has invested a significant amount of time and resources to resolve the root cause of cracking of the windshields in service. The commenter also states that it has worked closely with the airplane manufacturer, operators, and regulatory agencies worldwide to resolve the cracking of the windshields in an expeditious manner. The commenter strongly believes that the issuance of an NPRM is unwarranted in light of its efforts, and the fact that the NPRM only affects, at most, 18 windshields. The commenter believes that these 18 windshields will be modified or replaced no later than December 31, 2002.

The FAA, while applauding the windshield manufacturer's efforts to resolve the cracking of the ply of the windshields, does not agree that the NPRM should be withdrawn. In issuing an AD, our intent is not to penalize the original equipment manufacturer, but to act in the interest of safety, and to ensure that all applicable airplanes conform to the corrective actions. While it is understandable that a manufacturer would like to minimize any adverse implications regarding the safety of its products, we reiterate that the purpose of an AD is to correct an identified unsafe condition in an airplane, regardless of where it is or what it is caused by. In essence, the AD serves to protect the flying public from the consequences of the unsafe condition. The AD also serves to protect the manufacturer from the liability that would be faced should the unsafe condition not be corrected. Until an AD is issued, there is no legal basis for requiring U.S. operators to comply with those actions. The AD is the vehicle for ensuring, by law, that all affected operators perform the necessary actions that will address the identified unsafe condition. In light of this, we have determined that this AD is appropriate and warranted.

Two commenters note that the ''Background Information'' section in the preamble of the NPRM states, ''Until a new design for the main windshield can be developed by the manufacturer and approved by the FAA, operators have requested procedures for modifying the existing windshields to address the identified unsafe condition and to improve service performance.'' The commenters state that such wording implies that a new design for the windshield does not exist.

The commenters point out that redesigned windshields, Bombardier part numbers (P/N) 601R33033–13 and –14 (PPG P/N NP139321–9 and –10 for spares), are already available and have been in service for some time on recently manufactured airplanes. According to one of the commenters, those windshields incorporated certain changes that would minimize the potential for structural ply fracture, and that, since their introduction, over 525 have been installed on in-service airplanes. One of the commenters believes that the identified unsafe condition has been successfully addressed by the current production configuration (*i.e.,* main windshield units having Bombardier P/N 601R33033–13 or –14) and with windows currently in service on which Bombardier Service Bulletin 601R–56–004, dated August 16, 2001 (which is referenced in the NPRM as the appropriate source of service information for the proposed actions), has been done.

From these comments, we infer that the commenters are requesting that the NPRM be withdrawn. We do not agree. As discussed previously, this AD is the vehicle for ensuring, by law, that all affected operators perform the necessary actions that will address the identified unsafe condition.

The commenters are correct that main windshield units having Bombardier P/N 601R33033–13 or –14 have been in service for some time. Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, has approved Bombardier Service Bulletin 601R–56–003, Revision B, dated July 20, 2001, which describes procedures for replacing the main windshield units having P/N 601R33033–9 and –10 with units having Bombardier P/N 601R33033–13 or –14. However, the service bulletin does not specify Bombardier P/N 601R33033–13 or –14 as replacement parts for windshields having P/Ns 601R33033–1, –2, –5, and –6. In addition, Canadian airworthiness directive CF–2001–35R1, dated September 27, 2001, which this AD parallels, does not mandate Service Bulletin 601R–56–003. We also find that it will be less costly for operators to do the actions required by this AD than the replacement specified in Service Bulletin 601R–56–003.

In light of these findings, we have determined that this AD is appropriate and warranted. However, under the provisions of paragraph (b) of the final rule, we may consider requests for approval of an alternative method of compliance if sufficient data are submitted to substantiate that such a design change would provide an acceptable level of safety.

Request To Delete Reference to Unsafe Condition

One commenter requests that all references to ''unsafe condition'' in the NPRM be deleted. The commenter states that the main windshield, pre-mod configuration, on Model CL–600–2B19 (Regional Jet series 100 & 400) airplanes does not exhibit an unsafe condition. The commenter also states that any unsafe condition would result from the flight deck crew being required to operate the airplane in a non-standard manner, not from the windshield itself. The commenter is concerned that the reference to an ''unsafe condition'' will create a negative impression about the Bombardier regional jets.

We do not agree. The individual ply of the windshields on the affected Model CL–600–2B19 (Regional Jet series 100 & 400) airplanes has cracked at an unacceptable rate. When such cracking has occurred, abnormal procedures specified in the airplane flight manual and/or an emergency descent of the airplane have been accomplished at an excessive frequency, which exposed the airplane and its occupants to unacceptable risks. Furthermore, of the significant number of single-ply fractures that have occurred, there was one reported case of the First Officer's windshield cracking (inner ply) during cruise flight and pieces of glass falling on the flightcrew. In addition, TCCA issued Canadian airworthiness directive CF–2001–35R1, dated September 27, 2001, in order to reduce the risk exposure that resulted from airplane emergency descent performed as a result of the cracking of the windshield ply. TCCA issued that airworthiness directive in order to ensure the continued airworthiness of these airplanes in Canada. As such, we have determined that, while cracking of the windshield may not result in loss of pressurization of the airplane, if the flightcrew follows necessary procedures, the need to predictably and routinely rely on those procedures, together with the risk of injury to the flightcrew, presents an unsafe condition.

Two commenters do not agree with the statement of unsafe condition specified in the NPRM (*i.e.,* to prevent failure of the main windshields due to stress-related cracking, which could cause cabin depressurization and emergency descent, and adversely affect continued safe flight of the airplane). The commenters state that the results of fail-safe testing demonstrate the structural integrity of the windshield with all three plies fractured. The commenters conclude that, while a ply

fracture may interrupt the normal flight scenario, this stress-cracking issue would not result in loss of cabin pressurization.

Based on the reasons described previously, one of the commenters also requests that the word ''failure'' in the statement of unsafe condition be replaced with either ''ply fracture'' or ''cracking issue.'' The commenter has ''strong concerns'' with the use of the word ''failure'' to describe the events that occurred. The commenter states that the events can more accurately be described as single-ply fractures, and that the use of the word failure implies that the windshield can result in an unsafe condition.

From these comments, we infer that the commenter is requesting that the unsafe condition specified in the NPRM be revised. We agree. As of January 1, 2001, there have been approximately 292 windshield units returned to the windshield manufacturer due to structural ply failures. None of these windshield breakage incidents resulted in loss of pressurization of the airplane. Therefore, we agree with the commenters that stress-related cracking of the windshields would not result in loss of pressurization. We have revised the final rule to specify the unsafe condition as ''to prevent stress-related cracking of the windshields, and subsequent excessive frequency of abnormal procedures specified in the airplane flight manual and/or an emergency descent be accomplished, which poses an increased risk to passengers and crew members.''

Request To Revise Applicability

One commenter requests that PPG P/Ns NP139321–1 through –6 inclusive be included in the applicability of the NPRM. The commenter states such a change will ensure that all parts are covered.

We do not agree. This AD parallels the applicability of Canadian airworthiness directive CF–2001–35R1, dated September 27, 2001, and the effectivity of Bombardier Service Bulletin 601R–56–004, dated August 16, 2001 (which is referenced in this AD as the appropriate source of service information for accomplishing the required actions). Paragraph 1.M, ''Relationship Chart,'' of Bombardier Service Bulletin 601R–56–004 lists the corresponding PPG P/Ns for the affected Bombardier windshields. So, the relationship between the PPG and Bombardier P/Ns is well established. Therefore, no change to the final rule is necessary in this regard.

Revise Cost Impact

One commenter states that the work hour estimate for accomplishing the modification service bulletin is grossly underestimated. The commenter expects to utilize two mechanics with an elapsed time of seven hours to accomplish the modification. The commenter also states that, contrary to the 339 airplanes listed as affected in the worldwide fleet in the Cost Impact section of the NPRM, there are 476 airplanes within the potential affected worldwide fleet of which 282 are currently under U.S. registry.

From this comment, we infer that the commenter is requesting that the Cost Impact section of the NPRM be revised. We agree partially. We do not agree with the commenter that the required inspection takes seven hours. As stated in the Cost Impact section of the NPRM, ''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.'' The specific action for this AD is the required inspection, which is also indicated in the Cost Impact section. In addition, Bombardier Service Bulletin 601R–56–004, dated August 16, 2001, which is referenced in this AD as the appropriate source of service information for accomplishing the required actions, specifies 1 work hour for accomplishing the inspection.

We agree with the commenter that the number of affected airplanes is higher than previously approximated; the cost impact information, below, has been revised accordingly.

Explanation of Change to Applicability

We have revised the applicability of the final rule to identify model designations as published in the most recent type certificate data sheet for the affected models.

Explanation of Change to Labor Rate

We have reviewed the figures we have used over the past several years to calculate AD costs to operators. To account for various inflationary costs in the airline industry, we find it necessary to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The cost impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Conclusion

After careful review of the available data, including the comments noted above, we have determined that air safety and the public interest require the adoption of the rule with the changes described previously. We have determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

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 until final action is identified, at which time the FAA may consider further rulemaking.

Cost Impact

There are approximately 476 Model CL–600–2B19 (Regional Jet series 100 & 400) airplanes of the affected design in the worldwide fleet. We estimate that 282 airplanes of U.S. registry will be affected by this AD.

We estimate that it will take approximately 1 work hour per airplane to accomplish the inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the required inspection is estimated to be $18,330, or $65 per airplane.

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

Should an operator be required to accomplish the corrective actions, it will take approximately 1 work hour per airplane to accomplish at an average labor rate of $65 per work hour. Required parts will be provided by the

manufacturer at no cost to the operator. Based on these figures, the cost impact of the corrective actions is estimated to be $65 per airplane.

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:

AD 2003–14–02 Bombardier, Inc. (Formerly Canadair): Amendment 39–13221. Docket 2001–NM–322–AD.

Applicability: Model CL–600–2B19 (Regional Jet series 100 & 400) airplanes; certificated in any category; serial numbers 7003 and subsequent; equipped with main windshield units, part numbers 601R33033–1, –2, –5, –6, –9, or –10.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent stress-related cracking of the windshields, and subsequent excessive frequency of abnormal procedures specified in the airplane flight manual and/or an emergency descent be accomplished, which poses an increased risk to passengers and crew members; accomplish the following:

Inspection and Corrective Action

(a) For airplanes equipped with windshield units that have accumulated fewer than 2,500 total flight cycles as of the effective date of this AD: Within 6 months after the effective date of this AD, accomplish a one-time general visual inspection of the aft edges of the left and right main windshields to determine whether a placard having part number (P/N) CSB–NP–139321–002–1 is installed, per the Accomplishment Instructions of Bombardier Service Bulletin 601R–56–004, dated August 16, 2001.

(1) If a placard having P/N CSB–NP–139321–002–1 is installed, no further action is required by this AD.

(2) If a placard having a part number other than CSB–NP–139321–002–1 is installed, before further flight, accomplish the corrective actions (including modifying the main windshields by replacing nine of the hi-lok pins installed in the lower forward corner of the windshields with hi-lok pins having a reduced diameter shank, installing a placard having the correct part number on the inner retainer near the part identification placard located along the aft edge of the window, and replacing any torn or deformed gasket), per the Accomplishment Instructions of the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made 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.''

Note 3: Bombardier Service Bulletin 601R–56–004, dated August 16, 2001, references PPG Industries, Inc., Service Bulletin CSB–NP–139321–002, Revision C, dated July 31, 2001, as an additional source of service information for accomplishment of the modification of the left and right main windshields.

Alternative Methods of Compliance

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

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

Special Flight Permit

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

Incorporation by Reference

(d) The actions shall be done in accordance with Bombardier Service Bulletin 601R–56–004, dated August 16, 2001. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in Canadian airworthiness directive CF–2001–35R1, dated September 27, 2001.

Effective Date

(e) This amendment becomes effective on August 14, 2003.

Issued in Renton, Washington, on July 1, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17312 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–152–AD; Amendment 39–13223; AD 2003–14–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, 737–300, 737–400, 737–500, 737–600, 737–700, 737–800, 737–900, 757–200, and 757–300 Series Airplanes; and McDonnell Douglas Model DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain transport category airplanes as listed above. This action requires modification of the reinforced flight deck door installed on the airplane. This action is necessary to prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the flight deck door. If an airplane crewmember is in close proximity to the flight deck door when the decompression panel opens, the decompression panel could hit and injure the crewmember. This action is intended to address the identified unsafe condition.

DATES: Effective July 25, 2003.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of July 25, 2003.

Comments for inclusion in the Rules Docket must be received on or before September 8, 2003.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–152–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: *9-anm-iarcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–152–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 or 2000 or ASCII text.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or C & D Aerospace, 5701 Bolsa Avenue, Huntington Beach, California 92647–2063. This information may be examined 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.

FOR FURTHER INFORMATION CONTACT: Ron Atmur, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5224; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received several reports of incidents involving the reinforced flight deck door on certain Boeing Model 737–300, 737–500, 737–800, and 757–200 series airplanes. In these incidents, slamming the flight deck door caused the decompression latch to release and the decompression panel in the door to open. This condition, if not corrected, could result in the decompression panel hitting and injuring an airplane crewmember, if the crewmember is in close proximity to the flight deck door when the decompression panel opens.

The decompression latches for the reinforced flight deck doors on certain Boeing Model 737–200, 737–400, 737–600, 737–700, 737–900, and 757–300 series airplanes; and certain McDonnell Douglas Model DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes; are identical to those on the affected Model 737–300, 737–500, 737–800, and 757–200 series airplanes. Therefore, all of these models may be subject to the same unsafe condition.

The subject reinforced flight deck doors meet the ballistics and intrusion resistance security requirements of Section 25.795 (''Security Considerations'') of the Federal Aviation Regulations (14 CFR 25.795) when the door is properly closed, latched, and locked. The possibility that the decompression panel may open if the door is slammed shut is unrelated to the flight deck door's ballistics and intrusion resistance characteristics.

Explanation of Relevant Service Information

The FAA has reviewed and approved C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003, which applies to certain Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes; and C & D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003, which applies to certain Boeing Model 757–200 and –300 series airplanes. Those service bulletins describe procedures for modifying the reinforced flight deck door by, among other things, modifying the upper and lower pressure relief latch assemblies. The procedures for modifying the upper pressure relief latch assembly include removing the upper pressure relief latch assembly and spacer, installing a new decompression latch strap, reinstalling the existing upper pressure relief latch assembly and spacer, and installing a new pressure relief latch spacer. The procedures for modifying the lower pressure relief latch assembly involve removing the lower pressure relief latch cover, latch assembly, and spacer; installing a new decompression latch strap; reinstalling the existing lower pressure relief latch assembly, spacer, and cover; and installing a new pressure relief latch spacer.

The FAA has also reviewed and approved C & D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003, which applies to certain McDonnell Douglas Model DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes. That service bulletin describes procedures for modifying the reinforced flight deck door by, among other things, installing spacers in the upper and lower pressure relief latch assemblies. The procedures for installing the spacers include removing the upper pressure relief latch strap and the upper and lower pressure relief latch assemblies and spacers, installing new spacers, and reinstalling the existing upper pressure relief latch strap, and the upper and lower pressure relief latch assemblies and spacers.

Accomplishment of the actions specified in the applicable service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires accomplishment

of the actions specified in the applicable service bulletin described previously, except as discussed below under the heading ''Differences Between This AD and the Service Bulletins.'' The actions are required to be accomplished according to the applicable service bulletin described previously.

Operators should note that the illustrations in the service bulletins may be confusing in a way that would lead to the incorrect installation of a strap at the top of the upper pressure relief assembly or on the bottom of the lower pressure relief assembly. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

Explanation of Applicability

This AD identifies McDonnell Douglas model designations as published in the most recent type certificate data sheet for the affected models.

Differences Between This AD and the Service Bulletins

Although the service bulletins recommend accomplishing the modification ''as soon as manpower, facilities, and retrofit kits become available,'' we have determined that a more specific compliance time is necessary to ensure an adequate level of safety for the affected fleet. In developing an appropriate compliance time for this AD, we considered the flight deck door manufacturer's recommendation, the degree of urgency associated with the subject unsafe condition, the number of affected airplanes in the fleet, and the time necessary to perform the modification (1 to 2 work hours). In light of all of these factors, we find that a 90-day compliance time represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety.

Also, the service bulletins include instructions for other modifications to the reinforced flight deck door besides those described previously. However, this AD requires only the modification of the upper and lower pressure relief latch assemblies for the Boeing airplane models identified previously, and the installation of spacers in the upper and lower pressure relief latch assemblies for the McDonnell Douglas airplane models identified previously.

Changes to 14 CFR Part 39/Effect on the 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 (AMOCs). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD.

Determination of Rule's Effective Date

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

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–152–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2003–14–04 Transport Category Airplanes: Amendment 39–13223. Docket 2003–NM–152–AD.

Applicability: The airplanes listed in Table 1 of this AD, certificated in any category. Table 1 of this AD follows:

TABLE 1.—AFFECTED AIRPLANE MODELS

Airplane manufacturer	Airplane model	As listed in C & D Aerospace Service Bulletin
Boeing	737–200, –300, –400, –500, –600, –700, –800, and –900 series.	B221001–52–03, Revision 3, dated March 25, 2003.
Boeing	757–200 and –300 series	B231001–52–02, Revision 4, dated March 19, 2003.
McDonnell Douglas	DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F.	B211200–52–02, Revision 1, dated June 3, 2003.

Compliance: Required as indicated, unless accomplished previously.

To prevent inadvertent release of the decompression latch and consequent opening of the decompression panel in the reinforced flight deck door, which could result in the decompression panel hitting and injuring an airplane crewmember, if the crewmember is in close proximity to the flight deck door when the decompression panel opens, accomplish the following:

Note 1: Where there are differences between this AD and the referenced service bulletins, this AD prevails.

Modification

(a) Within 90 days after the effective date of this AD, modify the reinforced flight deck door according to paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes: Modify the upper and lower pressure relief latch assemblies on the flight deck door by doing all actions specified in and according to paragraphs 3.A., 3.B., and 3.C. of the Accomplishment Instructions of C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

(2) For Boeing Model 757–200 and –300 series airplanes: Modify the upper and lower pressure relief latch assemblies on the flight deck door by doing all actions specified in and according to paragraphs 3.A., 3.B., and 3.C. of the Accomplishment Instructions of C & D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

(3) For McDonnell Douglas DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes: Install spacers in the upper and lower pressure relief latch assemblies of the flight deck door, by doing all actions specified and according to paragraphs 3.A., 3.C., and 3.D. of C & D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003. One latch strap should be installed at the bottom of the upper pressure relief assembly, and a second latch strap should be installed at the top of the lower pressure relief assembly. When properly installed, the strap should cover a portion of the latch hook.

Modifications Accomplished Per Previous Issues of Service Bulletin

(b) Modifications accomplished before the effective date of this AD per a service bulletin listed in paragraph (b)(1), (b)(2), or (b)(3) of this AD; as applicable; are considered acceptable for compliance with the corresponding action specified in paragraph (a) of this AD.

(1) For Boeing Model 737–200, –300, –400, –500, –600, –700, –800, and –900 series airplanes: C & D Aerospace Service Bulletin B221001–52–03, dated December 6, 2002; Revision 1, dated January 2, 2003; or Revision 2, dated February 20, 2003.

(2) For Boeing Model 757–200 and –300 series airplanes: C & D Aerospace Service Bulletin B231001–52–02, dated December 6, 2002; Revision 1, dated January 2, 2003; Revision 2, dated February 20, 2003; or Revision 3, dated March 7, 2003.

(3) For McDonnell Douglas DC–10–10F, DC–10–30, DC–10–30F, DC–10–40, MD–10–30F, MD–11, and MD–11F airplanes: C & D Aerospace Service Bulletin B211200–52–02, dated April 30, 2003.

Parts Installation

(c) As of the effective date of this AD, no person may install, on any airplane, a reinforced flight deck door having any part number listed in the paragraph 1.A. of C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003; B231001–52–02, Revision 4, dated March 19, 2003; or B211200–52–02, Revision 1, dated June 3, 2003; as applicable; unless the door has been modified as required by paragraph (a) of this AD.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(e) Unless otherwise specified in this AD, the actions shall be done in accordance with C & D Aerospace Service Bulletin B211200–52–02, Revision 1, dated June 3, 2003; C & D Aerospace Service Bulletin B221001–52–03, Revision 3, dated March 25, 2003; or C & D Aerospace Service Bulletin B231001–52–02, Revision 4, dated March 19, 2003; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207; or C & D Aerospace, 5701 Bolsa Avenue, Huntington Beach, California 92647–2063. 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 July 25, 2003.

Issued in Renton, Washington, on July 2, 2003.

Vi L. Lipski,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 03–17311 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Oral Dosage Form New Animal Drugs; Phenylbutazone Tablets and Boluses

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by West-Ward Pharmaceutical Corp. The ANADA provides for oral use of phenylbutazone tablets in horses for relief of inflammatory conditions

associated with the musculoskeletal system.

DATES: This rule is effective July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: West-Ward Pharmaceutical Corp., 465 Industrial Way West, Eatontown, NJ 07724, filed ANADA 200–323 for the oral use of Phenylbutazone Tablets in horses for relief of inflammatory conditions associated with the musculoskeletal system. West-Ward Pharmaceutical's Phenylbutazone Tablets are approved as a generic copy of Boehringer Ingelheim Vetmedica's BIZOLIN (phenylbutazone) Tablets, approved under NADA 99–618. The ANADA is approved as of March 28, 2003, and the regulations are amended in 21 CFR 520.1720a to reflect the approval and current format. The basis of approval is discussed in the freedom of information summary.

In addition, West-Ward Pharmaceutical Corp., has not been previously listed in the animal drug regulations as a sponsor of an approved application. At this time, 21 CFR 510.600(c) is being amended to add entries for the firm.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR part 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects 21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 520

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510 and 520 are amended as follows:

PART 510—NEW ANIMAL DRUGS

■ 1. The authority citation for 21 CFR part 510 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

■ 2. Section 510.600 is amended in the table in paragraph (c)(1) by alphabetically adding a new entry for ''West-Ward Pharmaceutical Corp.'' and in the table in paragraph (c)(2) by numerically adding a new entry for ''000143'' to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * *	* *
West-Ward Pharmaceutical Corp., 465 Industrial Way West, Eatontown, NJ 07724.	000143
* * *	* *

(2) * * *

Drug labeler code	Firm name and address
* *	* * *
000143	West-Ward Pharmaceutical Corp., 465 Industrial Way West, Eatontown, NJ 07724
* *	* * *

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

■ 3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

■ 4. Section 520.1720a is amended by adding paragraph (b)(5) to read as follows:

§ 520.1720a Phenylbutazone tablets and boluses.

* * * * *

(b) * * *

(5) No. 000143 for use of 1-gram tablets in horses.

* * * * *

Dated: June 26, 2003.

Andrew J. Beaulieu,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 03–17439 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Salinomycin, Chlortetracycline, and Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Pennfield Oil Co. The ANADA provides for the use of single-ingredient Type A medicated articles containing salinomycin, chlortetracycline, and roxarsone to make three-way combination drug Type C medicated feeds for broiler chickens.

DATES: This rule is effective July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov.*

SUPPLEMENTARY INFORMATION: Pennfield Oil Co., 14040 Industrial Rd., Omaha, NE 68144, filed ANADA 200–355 for use of PENNCHLOR (chlortetracycline), salinomycin, and roxarsone Type A medicated articles to make three-way combination drug Type C medicated feeds for broiler chickens. Pennfield Oil Co.'s ANADA 200–355 is approved as a generic copy of Alpharma, Inc.'s NADA 140–867. The ANADA is approved as of March 31, 2003, and the regulations are amended in 21 CFR 558.550 to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 21 CFR 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9

a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(2) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the congressional review requirements in 5 U.S.C. 801–808.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

■ 1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

■ 2. Section 558.550 is amended by adding paragraph (a)(3); and in paragraph (d)(1)(xv)(*c*) by removing ''and 046573'' and by adding in its place ''and 053389'' to read as follows:

§ 558.550 Salinomycin.

(a) * * *

(3) To 053389 for use as in paragraph (d)(1)(xv) of this section.

* * * * *

Dated: June 26, 2003.

Andrew J. Beaulieu,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 03–17409 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9074]

RIN 1545–AY83

Treatment of Community Income for Certain Individuals Not Filing Joint Returns

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the treatment of community income under Internal Revenue Code section 66 for certain married individuals in community property states who do not file joint Federal income tax returns. The final regulations also reflect changes in the law made by the Internal Revenue Service Restructuring and Reform Act of 1998.

EFFECTIVE DATE: These final regulations are effective July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Robin M. Tuczak, 202–622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in the final regulations has been reviewed and approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) under control number 1545–1770. Responses to this collection of information are required in order for certain individuals to receive relief from the operation of community property law.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number assigned by the Office of Management and Budget.

Estimated total annual reporting burden for 2001 for Form 8857, ''Request for Innocent Spouse Relief'': 21,123 hours.

Estimated average annual burden hours per response: 59 minutes.

Estimated number of responses for 2001 for Form 8857: 21,336.

Requests for relief under section 66(c) constitute less than 1% of the total requests filed using Form 8857.

Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, W:CAR:MP:T:T:SP, Washington, DC 20224.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and return information are confidential, as required by section 6103 of the Internal Revenue Code (Code).

Background

This document contains amendments to 26 CFR part 1 under section 66 of the Code, relating to the treatment of community income for certain individuals not filing joint returns. For rules regarding relief from joint and several liability when a joint return is filed, see section 6015 and the regulations thereunder.

A notice of proposed rulemaking (REG–115054–01) was published in the **Federal Register** (67 FR 2841) on January 22, 2002. No public hearing was requested or held. Written comments responding to the notice of proposed rulemaking were received. After consideration of all the comments, the proposed regulations are adopted as amended by this Treasury Decision. The comments and revisions are discussed below.

Explanation and Summary of Comments

1. General

One commentator suggested that the proposed regulations under section 66 (particularly § 1.66–2) were not helpful, given the community property laws of the commentator's state. This commentator also suggested that the proposed regulations appear to assume that the community property laws of all community property states are the same. The intent of these regulations is not to provide guidance based on the community property laws of any particular state. Instead, the regulations provide guidance on the effect of section 66 on taxpayers' community income as determined under state law. After a determination that an item of income is community income under state law, these regulations provide guidance on the treatment of this income under section 66 for certain individuals not filing joint returns.

One commentator noted that there are fundamental differences between married taxpayers who filed joint returns and request relief from joint and several liability under section 6015 and married taxpayers who filed separate returns and request relief from the Federal income tax liability resulting from the operation of community property law under section 66(c).

The final regulations do not address differences between or make generalizations concerning married taxpayers who file joint returns and those who do not. The final regulations focus on providing guidance on the treatment of community income for certain taxpayers under section 66.

The preamble to the proposed regulations under section 66 references

the spousal notification requirements set forth in regulations under section 6015 and discusses similar notification requirements under section 66. If the IRS grants relief under section 66, the liability of the requesting spouse will shift to the nonrequesting spouse. Thus, notification and participation requirements similar to those applicable in section 6015 cases are also appropriate for section 66 cases. In addition, information provided by a nonrequesting spouse may help to determine the appropriate amount of relief for the requesting spouse, if any.

Similarities between the guidance set forth in the regulations under section 6015 and the regulations under section 66 are due to the similarities in the elements required, or factors considered, in determining relief under these statutes. The analysis set forth in proposed § 1.66–4(a)(2) and (3) regarding knowledge or reason to know and benefit is similar to that contained in § 1.6015–2(c) and (d). The final regulations modify this analysis and adopt commentators' suggestions to the extent that the suggestions are consistent with the statute, legislative history, and case law under section 66(c). These changes are more fully discussed in the comments and explanation under § 1.66–4 below.

2. Section 1.66–1

One commentator stated that § 1.66–1 of the proposed regulations failed to expressly require each of the spouses to report those items of separate income that are attributable to each spouse under applicable state community property laws. Generally, community income is reportable half by each spouse pursuant to *Poe* v. *Seaborn,* 282 U.S. 101 (1930), and section 61. Whether income is separate or community is determined under state law and the income is included in gross income under section 61. The final regulations do not include guidance on how to report income that is not community income under state law, as this would be outside the scope of section 66.

The final regulations clarify in § 1.66–1(a) that the general rule of community property applies to married individuals *domiciled* in community property states. A taxpayer should report income in accordance with the laws of the state in which he or she is domiciled. *United States* v. *Mitchell,* 403 U.S. 190, 197 (1971); *Commissioner* v. *Wilkerson,* 368 F.2d 552, 553 (9th Cir. 1966). For example, a taxpayer who is domiciled in State A, a community property state, should report income in accordance with the community property laws of State A, although she may be living in State B temporarily, due to a work detail, military assignment, etc.

One commentator noted that under § 1.66–1(b), the limitation of the scope of the regulations to married taxpayers was too restrictive. The commentator noted that income earned during a marriage, but received after the dissolution of the marital community, was community income under the laws of the commentator's state. The commentator suggested that section 66 should apply to this income, as it is community income under state law. The final regulations frame the issue in terms of application of section 66 to community income, rather than in terms of marital status.

The final regulations state that section 66 applies only to community income, as defined by state law. The final regulations, however, make a distinction between community income and income from property that was formerly community property but, in accordance with state law, is converted to a form of property that is not community property, such as separate property or property held by joint tenancy or tenancy in common.

Under the laws of certain community property states, property that was community property during the marriage ceases to be community property after the dissolution of the marital community. Conversely, some state laws treat property that was not community property as community property for the limited purpose of dividing assets upon divorce. See *Estate of Mitchell* v. *Mitchell,* 76 Cal. App. 4th 1378 (Cal. Ct. App. 1999). Income from such property is not community income subject to the provisions of section 66. The determination as to whether income from such property is community income may be confusing due to the fact that sometimes courts will refer to the property, using ''universally recognized shorthand,'' as community property. See *Bouterie* v. *Commissioner,* 36 F.3d 1361 (5th Cir. 1994) (in which the court found that the wife did not have community income from community property and the IRS improperly relied on a state court's imprecise use of the term ''community property'' in referring to property that was formerly community property), *rev'g* T.C. Memo. 1993–510.

Thus, in determining whether section 66 applies to income, it is first necessary to determine whether the income is community income under state law. The marital status of the parties likely will be relevant to this initial determination.

3. Section 1.66–2

One commentator noted that it may be difficult to determine whether a transfer of income is a transfer of *earned* income under § 1.66–2(a)(5). A transfer of earned income precludes the reporting of income in accordance with § 1.66–2, even if a taxpayer meets the other requirements of § 1.66–2. The commentator suggested that there should be a presumption under § 1.66–2 that any transfer of income or property is a transfer of earned income. The final regulations adopt this recommendation with respect to transfers of income. It is a logical presumption that income is more likely to be earned than unearned, and that a taxpayer who has unearned income is likely to have earned income as well.

Another commentator suggested that the final regulations clarify the requirement of § 1.66–2 that spouses live apart. The final regulations adopt this recommendation by cross-referencing the definition of members of the same household in § 1.6015–3(b).

The final regulations clarify that, when reporting income in accordance with section 66(a), an individual must report all income in accordance with section 66(a). Section 66(a) does not apply on an item-by-item basis.

4. Section 1.66–3

One commentator recommended that the final regulations emphasize that the IRS may disallow the Federal income tax benefits of any community property law under section 66(b) on an item-by-item basis. Because the proposed regulations already reference ''item of community income'' in every sentence of § 1.66–3, however, the final regulations do not adopt this recommendation.

One commentator suggested that the IRS should assert section 66(b) sparingly, only if ''the * * * spouse had no knowledge whatever of the income * * * and did not benefit from the income in a division of marital assets.'' Section 66(b) allows the IRS to deny the Federal income tax benefits of community property law only when a taxpayer acted as if solely entitled to the income and failed to notify the taxpayer's spouse of the income. The final regulations do not impose additional requirements on the IRS.

Commentators also recommended that the final regulations provide examples of what constitutes treating income as solely one's own and how specific a taxpayer must be when notifying his or her spouse of the nature and amount of the income. The final regulations adopt this recommendation.

5. Section 1.66–4

The proposed regulations describe relief granted under the first sentence of section 66(c) as ''specific relief.'' The final regulations adopt the term *traditional relief* to describe relief granted under this provision. The final regulations retain the term ''equitable relief'' to describe the relief granted under the second sentence of section 66(c).

The proposed regulations require that a spouse requesting relief under § 1.66–4 file a separate return for the taxable year relating to the request. One commentator noted that section 66(c)(1) requires only that an individual not file a joint return. The legislative history of section 66(c) confirms that Congress did not intend to require an individual to file a return to be eligible for relief under this provision. The House Report uses the phrase ''at the time the return was filed (if a return is filed).'' H.R. Rep. No. 98–432, pt. 2, at 1503 (1984). In earlier cases regarding relief under section 66(c), the Tax Court implies that a requesting spouse must file a separate return. See, *e.g.*, *Roberts* v. *Commissioner,* T.C. Memo. 1987–391, *aff'd* 860 F.2d 1235 (5th Cir. 1988). More recent cases, however, specifically state that not filing any return meets the requirement of not filing a joint return. See, *e.g., Ollestad* v. *Commissioner,* T.C. Memo. 1996–139; *Costa* v. *Commissioner,* T.C. Memo. 1990–572. The final regulations adopt the recommendation to limit the requirement to not filing a joint return.

One commentator suggested that the discussion of knowledge and reason to know of an item of community income in § 1.66–4 ignores the low probability that a requesting spouse would have access to accurate information or knowledge regarding what the nonrequesting spouse reported or did not report for Federal income tax purposes. Under section 66(c), a requesting spouse is required to prove, among other things, that ''he or she did not know of, and had no reason to know of, such item of community income'' to obtain traditional relief. The final regulations include a discussion of knowledge and reason to know, as this is an element required by section 66(c)(3). The facts and circumstances considered in making the determination of knowledge or reason to know are consistent with the knowledge and reason to know analysis set forth in case law determining relief under section 66(c).

Additionally, the final regulations include new language regarding the knowledge standard under section 66(c). To more closely track the language of section 66(c), the phrase *item of community income* replaces the term *understatement* when referring to the item about which the requesting spouse has knowledge or reason to know. Finally, the final regulations clarify that knowledge of the source of community income or the income-producing activity, without knowledge of the specific amount of income, is sufficient knowledge to preclude relief under section 66(c). This is consistent with the knowledge and reason to know analysis set forth in case law under section 66(c). See, *e.g.*, *McGee* v. *Commissioner,* 979 F.2d 66, 70 (5th Cir. 1992), *aff'g* T.C. Memo. 1991–510.

Two commentators questioned whether the standard of significant benefit in excess of normal support, which is used in determining whether it is equitable to grant relief under section 6015, is the applicable standard under section 66. One commentator noted that under community property laws, each spouse generally is entitled to half of the income of the other spouse. Under section 66, a requesting spouse essentially is seeking relief for half the income of both spouses, which may have been used to provide normal support to both spouses. Contrast this situation to that under section 6015, which permits a requesting spouse to seek relief from joint and several liability for the tax on all of the income of the nonrequesting spouse. This commentator suggested that the tax liability should be shifted to the nonrequesting spouse only if the nonrequesting spouse has treated the income in a manner inconsistent with the community property regime, for example, has not allowed use of the income for normal support or has transferred no part of the income to the requesting spouse.

A majority of cases decided under section 66(c) make the determination of whether it is equitable to grant relief based on the ''benefit'' received by the requesting spouse, as opposed to the ''significant benefit'' standard applied by courts in determining relief under former section 6013(e) and section 6015(b). See *Beck* v. *Commissioner,* T.C. Memo. 2001–198, *acq.* 2002–49 I.R.B.; *Hardy* v. *Commissioner,* T.C. Memo. 1997–97. The court in *Beck* and *Hardy* cited the legislative history of section 66(c) when discussing benefit under section 66. The legislative history provides that, in determining whether it is equitable to grant relief under section 66(c), the standard is ''whether the [requesting] spouse benefitted from the untaxed income.'' H. Rep. No. 98–432, pt. 2, at 1503 (1984). The final regulations adopt this standard.

One commentator suggested that the time limitations set forth in § 1.66–4 for requesting relief under section 66(c) are not supported by the language of section 66(c). Although the statute itself does not set forth time limitations on the filing of a request for relief, the time limitations in the proposed regulations are supported by the legislative history of the traditional relief provision of section 66(c). Specifically, the House Report explaining traditional relief under section 66(c) states that, in making the determination as to relief, the IRS should consider (among other things) ''whether the defense was promptly raised so as to prevent the period of limitations from running on the other spouse.'' H.R. Rep. No. 98–432, pt. 2, at 1501 (1984). Thus, the final regulations retain the time limitations set forth in the proposed regulations. In contrast, § 1.66–4(j)(2)(ii) sets forth timing requirements for requesting equitable relief that are broader than the requirements applicable to traditional relief because the legislative history of the equitable relief provision does not contain similar timing requirements. Therefore, a requesting spouse who does not meet the time limitations to request traditional relief may be eligible to request equitable relief.

Another commentator noted that perhaps the timeliness of the requesting spouse's request should be only one factor in determining whether to grant traditional relief under section 66(c), as opposed to a threshold requirement. This comment was not adopted because a requesting spouse who does not meet the timing requirements for traditional relief still may receive equitable relief under section 66(c).

One commentator urged that no request for relief under section 66 should be considered premature. There must be some indication that the IRS may determine a deficiency prior to the filing of a request for relief from a deficiency under section 66(c). Thus, the final regulations retain the timing limitations set forth in the proposed regulations regarding premature requests.

The final regulations incorporate an item-by-item approach to relief from the Federal income tax liability resulting from the operation of community property law under section 66(c). If a requesting spouse receives relief under section 66(c), the proposed regulations provide for treatment of *any* community income of the spouses in accordance with the rules provided by section 879(a), which is consistent with the statutory rule under section 66(a). The

final regulations provide that if a requesting spouse receives relief for an item, the rules provided by section 879(a) will govern the treatment of the item. The item-by-item approach adopted in the final regulations is consistent with the statutory language in section 66(c) that states ''such item of community income shall be included in the gross income of the other spouse (and not in the gross income of the individual).'' (Emphasis added.)

Traditionally, section 66(c) provided relief from liability resulting only from items of income, unlike former section 6013(e) and section 6015. The final regulations expand equitable relief under § 1.66–4(b) to include relief for underpayments of tax or any deficiency, including those arising from disallowed deductions or credits. This is consistent with the equitable relief provision in section 66(c).

Special Analyses

It has been determined that these final regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to the regulations, and because the regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Drafting Information

The principal author of the regulations is Robin M. Tuczak of the Office of Associate Chief Counsel (Procedure and Administration), Administrative Provisions and Judicial Practice Division.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by adding an entry in numerical order to the table to read in part as follows:

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

Section 1.66–4 also issued under 26 U.S.C. 66(c). * * *

■ **Par. 2.** Sections 1.66–1 through 1.66–5 are added to read as follows:

§ 1.66–1 Treatment of community income.

(a) *In general.* Married individuals domiciled in a community property state who do not elect to file a joint individual Federal income tax return under section 6013 generally must report half of the total community income earned by the spouses during the taxable year except at times when one of the following exceptions applies:

(1) The spouses live apart and meet the qualifications of § 1.66–2.

(2) The Secretary denies a spouse the Federal income tax benefits resulting from community property law under § 1.66–3, because that spouse acted as if solely entitled to the income and failed to notify his or her spouse of the nature and amount of the income prior to the due date for the filing of his or her spouse's return.

(3) A requesting spouse qualifies for traditional relief from the Federal income tax liability resulting from the operation of community property law under § 1.66–4(a).

(4) A requesting spouse qualifies for equitable relief from the Federal income tax liability resulting from the operation of community property law under § 1.66–4(b).

(b) *Applicability.* (1) The rules of this section apply only to community income, as defined by state law. The rules of this section do not apply to income that is not community income. Thus, the rules of this section do not apply to income from property that was formerly community property, but in accordance with state law, has ceased to be community property, becoming, *e.g.,* separate property or property held by joint tenancy or tenancy in common.

(2) When taxpayers report income under paragraph (a) of this section, *all* community income for the calendar year is treated in accordance with the rules provided by section 879(a). Unlike the other provisions under section 66, section 66(a) does not permit inclusion on an item-by-item basis.

(c) *Transferee liability.* The provisions of section 66 do not negate liability that arises under the operation of other laws. Therefore, a spouse who is not subject to Federal income tax on community income may nevertheless remain liable for the unpaid tax (including additions to tax, penalties, and interest) to the extent provided by Federal or state transferee liability or property laws (other than community property laws). For the rules regarding the liability of transferees, see sections 6901 through 6904 and the regulations thereunder.

§ 1.66–2 Treatment of community income where spouses live apart.

(a) Community income of spouses domiciled in a community property state will be treated in accordance with the rules provided by section 879(a) if all of the following requirements are satisfied—

(1) The spouses are married to each other at any time during the calendar year;

(2) The spouses live apart at all times during the calendar year;

(3) The spouses do not file a joint return with each other for a taxable year beginning or ending in the calendar year;

(4) One or both spouses have earned income that is community income for the calendar year; and

(5) No portion of such earned income is transferred (directly or indirectly) between such spouses before the close of the calendar year.

(b) *Living apart.* For purposes of this section, living apart requires that spouses maintain separate residences. Spouses who maintain separate residences due to temporary absences are not considered to be living apart. Spouses who are not members of the same household under § 1.6015–3(b) are considered to be living apart for purposes of this section.

(c) *Transferred income.* For purposes of this section, transferred income does not include a *de minimis* amount of earned income that is transferred between the spouses. In addition, any amount of earned income transferred for the benefit of the spouses' child will not be treated as an indirect transfer to one spouse. Additionally, income transferred between spouses is presumed to be a transfer of earned income. This presumption is rebuttable.

(d) *Examples.* The following examples illustrate the rules of this section:

Example 1. Living apart. H and W are married, domiciled in State A, a community property state, and have lived apart the entire year of 2002. W, who is in the Army, was stationed in Korea for the entire calendar year. During their separation, W intended to return home to H, and H intended to live with W upon W's return. H and W do not file a joint return for taxable year 2002. H and W may not report their income under this section because a temporary absence due to military service is not living apart as contemplated under this section.

Example 2. Transfer of earned income—de minimis exception. H and W are married, domiciled in State B, a community property state, and have lived apart the entire year of 2002. H and W are estranged and intend to live apart indefinitely. H and W do not file

a joint return for taxable year 2002. H occasionally visits W and their two children, who live with W. When H visits, he often buys gifts for the children, takes the children out to dinner, and occasionally buys groceries or gives W money to buy the children new clothes for school. Both W and H have earned income in the year 2002 that is community income under the laws of State B. H and W may report their income on separate returns under this section.

Example 3. Transfer of earned income—source of transfer. H and W are married, domiciled in State C, a community property state, and have lived apart the entire year of 2002. H and W are estranged and intend to live apart indefinitely. H and W do not file a joint return for taxable year 2002. W provides H $1,000 a month from March 2002 through August 2002 while H is working part-time and seeking full-time employment. W is not legally obligated to make the $1,000 payments. W earns $75,000 in 2002 in wage income. W also receives $10,000 in capital gains income in December 2002. H wants to report his income in accordance with this section, alleging that the $6,000 that he received from W was not from W's earned income, but from the capital gains income W received in 2002. The facts and circumstances surrounding the periodic payments to H from W do not indicate that W made the payments out of her capital gains. H and W may not report their income in accordance with this section, as the $6,000 W transferred to H is presumed to be from W's earned income, and H has not presented any facts to rebut the presumption.

§ 1.66–3 Denial of the Federal income tax benefits resulting from the operation of community property law where spouse not notified.

(a) *In general.* The Secretary may deny the Federal income tax benefits of community property law to any spouse with respect to any item of community income if that spouse acted as if solely entitled to the income and failed to notify his or her spouse of the nature and amount of the income before the due date (including extensions) for the filing of the return of his or her spouse for the taxable year in which the item of income was derived. Whether a spouse has acted as if solely entitled to the item of income is a facts and circumstances determination. This determination focuses on whether the spouse used, or made available, the item of income for the benefit of the marital community.

(b) *Effect.* The item of community income will be included, in its entirety, in the gross income of the spouse to whom the Secretary denied the Federal income tax benefits resulting from community property law. The tax liability arising from the inclusion of the item of community income must be assessed in accordance with section 6212 against this spouse.

(c) *Examples.* The following examples illustrate the rules of this section:

Example 1. Acting as if solely entitled to income. (i) H and W are married and are domiciled in State A, a community property state. W's Form W–2 for taxable year 2000 showed wage income of $35,000. W also received a Form 1099–INT, ''Interest Income,'' showing $1,000 W received in taxable year 2000. W's wage income was directly deposited into H and W's joint account, from which H and W paid bills and household expenses. W did not inform H of her interest income or the Form 1099–INT, but W gave H a copy of the W–2 when she received it in January 2001. W did not use her interest income for bills or household expenses. Instead W gave her interest income to her brother, who was unemployed. Neither the separate return filed by H nor the separate return filed by W included the interest income. In 2002, the IRS audits both H and W. The Internal Revenue Service (IRS) may raise section 66(b) as to W's interest income, denying W the Federal income tax benefit resulting from community property law as to this item of income.

(ii) H and W are married and are domiciled in State B, a community property state. For taxable year 2000, H receives $45,000 in wage income that H places in a separate account. H and W maintain separate residences. H's wage income is community income under the laws of State B. That same year, W loses her job, and H pays W's mortgage and household expenses for several months while W seeks employment. Neither H nor W files a return for 2000, the taxable year for which the IRS subsequently audits them. The IRS may not raise section 66(b) and deny H the Federal income tax benefits resulting from the operation of community property law as to H's wage income of $45,000, as H has not treated this income as if H were solely entitled to it.

Example 2. Notification of nature and amount of the income. H and W are married and domiciled in State C, a community property state. H and W do not file a joint return for taxable year 2001. H's and W's earned income for 2001 is community income under the laws of State C. H receives $50,000 in wage income in 2001. In January 2002, H receives a Form W–2 that erroneously states that H earned $45,000 in taxable year 2001. H provides W a copy of H's Form W–2 in February 2002. W files for an extension prior to April 15, 2002. H receives a corrected Form W–2 reflecting wages of $50,000 in May 2002. H provides a copy of the corrected Form W–2 to W in May 2002. W files a separate return in June 2002, but reports one half of $45,000 ($22,500) of wage income that H earned. H files a separate return reporting half of $50,000 ($25,000) in wage income. The IRS audits both H and W. Even if H had acted as if solely entitled to the wage income, the IRS may not raise section 66(b) as to this income because H notified W of the nature and amount of the income prior to the due date of W's return (including extensions).

§ 1.66–4 Request for relief from the Federal income tax liability resulting from the operation of community property law.

(a) *Traditional relief*—(1) *In general.* A requesting spouse will receive relief from the Federal income tax liability resulting from the operation of community property law for an item of community income if—

(i) The requesting spouse did not file a joint Federal income tax return for the taxable year for which he or she seeks relief;

(ii) The requesting spouse did not include in gross income for the taxable year an item of community income properly includible therein, which, under the rules contained in section 879(a), would be treated as the income of the nonrequesting spouse;

(iii) The requesting spouse establishes that he or she did not know of, and had no reason to know of, the item of community income; and

(iv) Taking into account all of the facts and circumstances, it is inequitable to include the item of community income in the requesting spouse's individual gross income.

(2) *Knowledge or reason to know.* (i) A requesting spouse had knowledge or reason to know of an item of community income if he or she either actually knew of the item of community income, or if a reasonable person in similar circumstances would have known of the item of community income. All of the facts and circumstances are considered in determining whether a requesting spouse had reason to know of an item of community income. The relevant facts and circumstances include, but are not limited to, the nature of the item of community income, the amount of the item of community income relative to other income items, the couple's financial situation, the requesting spouse's educational background and business experience, and whether the item of community income was reflected on prior years' returns (*e.g.,* investment income omitted that was regularly reported on prior years' returns).

(ii) If the requesting spouse is aware of the source of community income or the income-producing activity, but is unaware of the specific amount of the nonrequesting spouse's community income, the requesting spouse is considered to have knowledge or reason to know of the item of community income. The requesting spouse's lack of knowledge of the specific amount of community income does not provide a basis for relief under this section.

(3) *Inequitable.* All of the facts and circumstances are considered in determining whether it is inequitable to

hold a requesting spouse liable for a deficiency attributable to an item of community income. One relevant factor for this purpose is whether the requesting spouse benefitted, directly or indirectly, from the omitted item of community income. A benefit includes normal support, but does not include *de minimis* amounts. Evidence of direct or indirect benefit may consist of transfers of property or rights to property, including transfers received several years after the filing of the return. Thus, for example, if a requesting spouse receives from the nonrequesting spouse property (including life insurance proceeds) that is traceable to items of community income attributable to the nonrequesting spouse, the requesting spouse will have benefitted from those items of community income. Other factors may include, if the situation warrants, desertion, divorce or separation. Factors relevant to whether it would be inequitable to hold a requesting spouse liable, more specifically described under the applicable administrative procedure issued under section 66(c) (Revenue Procedure 2000–15 (2000–1 C.B. 447) (See § 601.601(d)(2) of this chapter), or other applicable guidance published by the Secretary), are to be considered in making a determination under this paragraph.

(b) *Equitable relief.* Equitable relief may be available when the four requirements of paragraph (a)(1) of this section are not satisfied, but it would be inequitable to hold the requesting spouse liable for the unpaid tax or deficiency. Factors relevant to whether it would be inequitable to hold a requesting spouse liable, more specifically described under the applicable administrative procedure issued under section 66(c) (Revenue Procedure 2000–15 (2000–1 C.B. 447), or other applicable guidance published by the Secretary), are to be considered in making a determination under this paragraph.

(c) *Applicability.* Traditional relief under paragraph (a) of this section applies only to deficiencies arising out of items of omitted income. Equitable relief under paragraph (b) of this section applies to any deficiency or any unpaid tax (or any portion of either). Equitable relief is available only for the portion of liabilities that were unpaid as of July 22, 1998, and for liabilities that arise after July 22, 1998.

(d) *Effect of relief.* When the requesting spouse qualifies for relief under paragraph (a) or (b) of this section, the IRS must assess any deficiency of the nonrequesting spouse arising from the granting of relief to the requesting spouse in accordance with section 6212.

(e) *Examples.* The following examples illustrate the rules of this section:

Example 1. Item-by-item approach. H and W are married, living together, and domiciled in State A (a community property state). H and W file separate returns for taxable year 2002 on April 15, 2003. H earns $56,000 in wages, and W earns $46,000 in wages, in 2002. H reports half of his wage income as shown on his Form W–2, in the amount of $28,000, and half of W's wage income as shown on her Form W–2, in the amount of $23,000. W reports half of her wage income as shown on her W–2, in the amount of $23,000, and half of H's wage income as shown on his Form W–2, in the amount of $28,000. Neither H nor W reports W's income from her sole proprietorship of $34,000 or W's investment income of $5,000 for taxable year 2002. The Internal Revenue Service (IRS) proposes deficiencies with respect to H's and W's taxable year 2002 returns due to the omission of W's income from her sole proprietorship and investments. H timely requests relief under section 66(c). Because the IRS determines that H satisfies the four requirements of the traditional relief provision of section 66(c) with respect to W's omitted investment income, the IRS grants H's request for relief as to the omitted investment income. The IRS determines that H does not satisfy the four requirements of the traditional relief provision of section 66(c) as to W's sole proprietorship income. The IRS further determines that, under the equitable relief provision of section 66(c), it is not inequitable to hold H liable for the sole proprietorship income. Relief is applicable on an item-by-item basis. Thus, H is liable for the tax on half of his wage income in the amount of $28,000, half of W's wage income in the amount of $23,000, half of W's sole proprietorship income in the amount of $17,000, but none of W's investment income, for which H obtained relief under section 66(c). W is liable for the tax on half of H's wage income in the amount of $28,000, half of W's wage income in the amount of $23,000, half of W's sole proprietorship income in the amount of $17,000, and all of W's investment income in the amount of $5,000, because H obtained relief under section 66(c).

Example 2. Benefit. H and W are married, living together, and domiciled in State B (a community property state). Neither H nor W files a return for taxable year 2000. H earns $60,000 in 2000, which he deposits in a joint account. H and W pay the mortgage payment, household bills, and other family expenses out of the joint account. W earns $20,000 in 2000. W uses a portion of the $20,000 to make monthly loan payments on the family cars, but loses the remainder at the local racetrack. In 2002, the IRS audits H and W. H requests relief under section 66(c), stating that he did not know or have reason to know of W's additional income, as H travels extensively while W handles the family finances. Regardless of whether H had knowledge or reason to know of the source of W's income, H is not eligible for traditional relief under section 66(c) because H benefitted from W's income. H's benefit, the portion of W's income used to make monthly payments on the car loans, was more than a de minimis amount. While this benefit was not in excess of normal support, it is enough to preclude relief under the traditional relief provision of section 66(c). H may still qualify for equitable relief under section 66(c), depending on all of the facts and circumstances.

(f) *Fraudulent scheme.* If the Secretary establishes that a spouse transferred assets to his or her spouse as part of a fraudulent scheme, relief is not available under this section. For purposes of this section, a fraudulent scheme includes a scheme to defraud the Secretary or another third party, such as a creditor, ex-spouse, or business partner.

(g) *Definitions*—(1) *Requesting spouse.* A requesting spouse is an individual who does not file a joint Federal income tax return with the nonrequesting spouse for the taxable year in question, and who requests relief from the Federal income tax liability resulting from the operation of community property law under this section for the portion of the liability arising from his or her share of community income for such taxable year.

(2) *Nonrequesting spouse.* A nonrequesting spouse is the individual to whom the requesting spouse was married and whose income or deduction gave rise to the tax liability from which the requesting spouse seeks relief in whole or in part.

(h) *Effect of prior closing agreement or offer in compromise.* A requesting spouse is not entitled to relief from the Federal income tax liability resulting from the operation of community property law under section 66 for any taxable year for which the requesting spouse has entered into a closing agreement (other than an agreement pursuant to section 6224(c) relating to partnership items) with the Secretary that disposes of the same liability that is the subject of the request for relief. In addition, a requesting spouse is not entitled to relief from the Federal income tax liability resulting from the operation of community property law under section 66 for any taxable year for which the requesting spouse has entered into an offer in compromise with the Secretary. For rules relating to the effect of closing agreements and offers in compromise, see sections 7121 and 7122, and the regulations thereunder.

(i) [Reserved]

(j) *Time and manner for requesting relief*—(1) *Requesting relief.* To request relief from the Federal income tax liability resulting from the operation of

community property law under this section, a requesting spouse must file, within the time period prescribed in paragraph (j)(2) of this section, Form 8857, ''Request for Innocent Spouse Relief'' (or other specified form), or other written request, signed under penalties of perjury, stating why relief is appropriate. The requesting spouse must include the nonrequesting spouse's name and taxpayer identification number in the written request. The requesting spouse must also comply with the Secretary's reasonable requests for information that will assist the Secretary in identifying and locating the nonrequesting spouse.

(2) *Time period for filing a request for relief*—(i) *Traditional relief.* The earliest time for submitting a request for relief from the Federal income tax liability resulting from the operation of community property law under paragraph (a) of this section, for an amount underreported on, or omitted from, the requesting spouse's separate return, is the date the requesting spouse receives notification of an audit or a letter or notice from the IRS stating that there may be an outstanding liability with regard to that year (as described in paragraph (j)(2)(iii) of this section). The latest time for requesting relief under paragraph (a) of this section is 6 months before the expiration of the period of limitations on assessment, including extensions, against the nonrequesting spouse for the taxable year that is the subject of the request for relief, unless the examination of the requesting spouse's return commences during that 6-month period. If the examination of the requesting spouse's return commences during that 6-month period, the latest time for requesting relief under paragraph (a) of this section is 30 days after the commencement of the examination.

(ii) *Equitable relief.* The earliest time for submitting a request for relief from the Federal income tax liability resulting from the operation of community property law under paragraph (b) of this section is the date the requesting spouse receives notification of an audit or a letter or notice from the IRS stating that there may be an outstanding liability with regard to that year (as described in paragraph (j)(2)(iii) of this section). A request for equitable relief from the Federal income tax liability resulting from the operation of community property law under paragraph (b) of this section for a liability that is properly reported but unpaid is properly submitted with the requesting spouse's individual Federal income tax return, or after the requesting spouse's individual Federal income tax return is filed.

(iii) *Premature requests for relief.* The Secretary will not consider a premature request for relief under this section. The notices or letters referenced in this paragraph (j)(2) do not include notices issued pursuant to section 6223 relating to TEFRA partnership proceedings. These notices or letters include notices of computational adjustment to a partner or partner's spouse (Notice of Income Tax Examination Changes) that reflect a computation of the liability attributable to partnership items of the partner or the partner's spouse.

(k) *Nonrequesting spouse's notice and opportunity to participate in administrative proceedings*—(1) *In general.* When the Secretary receives a request for relief from the Federal income tax liability resulting from the operation of community property law under this section, the Secretary must send a notice to the nonrequesting spouse's last known address that informs the nonrequesting spouse of the requesting spouse's request for relief. The notice must provide the nonrequesting spouse with an opportunity to submit any information for consideration in determining whether to grant the requesting spouse relief from the Federal income tax liability resulting from the operation of community property law. The Secretary will share with each spouse the information submitted by the other spouse, unless the Secretary determines that the sharing of this information will impair tax administration.

(2) *Information submitted.* The Secretary will consider all of the information (as relevant to the particular relief provision) that the nonrequesting spouse submits in determining whether to grant relief from the Federal income tax liability resulting from the operation of community property law under this section.

§ 1.66–5 Effective date.

Sections 1.66–1 through 1.66–4 are applicable on July 10, 2003. In addition, § 1.66–4 applies to any request for relief filed prior to July 10, 2003, for which the Internal Revenue Service has not issued a preliminary determination as of July 10, 2003.

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 3.** The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

■ **Par. 4.** The following entry is added in numerical order to the table:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * *	*
1.66–4	1545–1770
* * * *	*

David A. Mader,

Assistant Deputy Commissioner of Internal Revenue.

Approved: July 1, 2003.

Gregory F. Jenner,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 03–17386 Filed 7–9–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9073]

RIN 1545–BB17

Disclosure of Return Information by Certain Officers and Employees for Investigative Purposes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations and removal of final regulations.

SUMMARY: This document contains temporary regulations relating to the disclosure of return information pursuant to section 6103(k)(6) of the Internal Revenue Code. The temporary regulations describe the circumstances under which officers or employees of the IRS, the IRS Office of Chief Counsel, and the Office of Treasury Inspector General for Tax Administration (TIGTA), in connection with official duties relating to any examination, administrative appeal, collection activity, administrative, civil, or criminal investigation, enforcement activity, ruling, negotiated agreement, prefiling activity, or other proceeding or offense under the internal revenue laws or related statutes, or in preparation for any proceeding described in section 6103(h)(2) (or investigation which may result in such a proceeding), may disclose return information to the extent necessary to obtain information relating to such official duties or to accomplish properly any activity connected with

such official duties. The temporary regulations amend the existing regulations to clarify and elaborate on the facts and circumstances in which disclosure pursuant to section 6103(k)(6) is authorized. The temporary regulations clarify that IRS and TIGTA officers and employees make the determination, based on the facts and circumstances, at the time of the disclosure, whether a disclosure is necessary to obtain the information sought, and that section 6103(k)(6) does not affect the authority or decision of IRS and TIGTA officers and employees to initiate, or to conduct, an investigation, or to determine the nature of the investigation. The temporary regulations clarify that the return information of any taxpayer, not only the taxpayer under investigation, may be disclosed when necessary to obtain the information sought in an investigation. The temporary regulations clarify that section 6103(k)(6) permits IRS and TIGTA officers and employees to identify themselves, their organizational affiliation with the IRS (*e.g.,* Criminal Investigation (CI)) or TIGTA (*e.g.,* Office of Investigations (OI)), and the nature of their investigation when making oral, written, or electronic contacts with third party witnesses. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: Effective Date: These temporary regulations are effective July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Helene R. Newsome, 202–622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103(a), returns and return information are confidential unless the Code authorizes disclosure. Section 6103(k)(6) authorizes an internal revenue officer or employee and an officer or employee of TIGTA, in connection with official duties relating to any audit, collection activity, civil or criminal tax investigation, or offense under the internal revenue laws or related statutes, to disclose return information to a person other than the taxpayer to whom such return information relates (or his or her representative) to the extent that such disclosure is necessary to obtain information not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected, or with respect to the enforcement of any other provision of the Code or related statutes. Disclosure is subject to situations and conditions prescribed by regulation.

The temporary regulations amend the existing regulations to reflect a recent legislative amendment to section 6103(k)(6). The Consolidated Appropriations Act, 2001, Public Law 106–554 (114 Stat. 2763), was signed into law on December 21, 2000. Section 1 of that Act enacted into law H.R. 5662, the Community Renewal Tax Relief Act of 2000. Section 313(c) of the Community Renewal Tax Relief Act of 2000 amended section 6103(k)(6) to clarify that officers or employees of TIGTA are among those persons authorized to make disclosures under section 6103(k)(6).

The temporary regulations also clarify the standard used in determining whether disclosures are authorized under section 6103(k)(6). Recent litigation indicates that there is some confusion as to the authority of IRS (and now TIGTA) officers and employees to make disclosures in certain situations under section 6103(k)(6). The temporary regulations seek to address these issues. In particular, the temporary regulations address the issues surrounding the disclosures that occur when IRS or TIGTA officers and employees introduce themselves to third party witnesses or communicate in writing using, *e.g.,* official letterhead that reveals affiliation with IRS or TIGTA. The temporary regulations also clarify that section 6103(k)(6) does not limit IRS or TIGTA officers and employees with respect to the initiation or conduct of an investigation. Finally, the temporary regulations clarify that section 6103 does not require IRS and TIGTA officers or employees to contact a taxpayer for information before contacting third party witnesses.

Explanation of Provisions

The temporary regulations amend the existing regulations to clarify that there is a single, objective standard for all disclosures under section 6103(k)(6). This standard is embodied in the definitions of the terms *disclosure of return information to the extent necessary* and *information not otherwise reasonably available.*

The definition of *disclosure of return information to the extent necessary* is a disclosure of return information that an IRS or TIGTA officer or employee, based on the facts and circumstances known to the officer or employee at the time of the disclosure, reasonably believes is necessary to obtain information to perform properly the official duties described by the temporary regulations, or to accomplish properly the activities connected with carrying out those official duties. The term *necessary* in this context does not mean essential or indispensable, but rather appropriate and helpful in obtaining the information sought.

The definition of *information not otherwise reasonably available* is information that an IRS or TIGTA officer or employee reasonably believes, under the facts and circumstances known to the officer or employee at the time of a disclosure, cannot be obtained in a sufficiently accurate or probative form, or in a timely manner, and without impairing the proper performance of the official duties described by the temporary regulations, without making the disclosure. Corroboration of information provided by, or concerning, a taxpayer is, by definition, *information not otherwise reasonably available* from the taxpayer. In criminal cases, corroboration of information provided by the taxpayer is essential. *See Smith* v. *United States,* 348 U.S. 147 (1954).

The temporary regulations clarify that section 6103(k)(6) does not alter or affect the authority of IRS and TIGTA officers or employees to decide whether or how to conduct an investigation. For example, in an action for wrongful disclosure under section 7431, the inquiry is whether the particular disclosure at issue was consistent with section 6103(k)(6), not the necessity of conducting an investigation or the appropriateness of the means or methods chosen to conduct the investigation. Thus, the temporary regulations remove the term *necessary* from several places in the existing regulations where the term may have implied a requirement, under section 6103(k)(6), that the information sought be necessary to or for an investigation (*e.g.,* § 301.6103(k)(6)–1(a)(''disclose * * * to obtain necessary information'')). Removal of the term *necessary* in these instances clarifies that the standard is whether disclosure is necessary to obtain the information sought, not whether the information sought is necessary for the investigation. *See Barrett* v. *United States,* 795 F.2d 446 (5th Cir. 1986).

The temporary regulations also address certain issues that have arisen in criminal investigations, although similar issues may arise in civil investigations. Criminal investigations typically involve obtaining evidence and verifying taxpayer-supplied information through contacts with third party witnesses. A disclosure that a taxpayer is under criminal investigation may occur by various means including, but not limited to, direct oral, written, or electronic disclosure, or indirect

disclosure by the introduction of the special agent through the presentation of a CI or OI badge, credential, or business card, or through the use of information document requests, summonses, or correspondence, about an identified taxpayer, on CI or OI letterhead or that bears a CI or OI return address or signature block. In litigation, taxpayers have asserted that CI special agents, by various means, wrongfully disclosed the criminal nature of the investigation of the taxpayers in the course of conducting third party witness interviews or inquiries. *See, e.g., Comyns* v. *United States,* 155 F. Supp. 2d 1344 (S.D. Fla. 2001), *aff'd,* 287 F.3d 1034 (11th Cir. 2002); *Payne* v. *United States,* 91 F. Supp. 2d 1014 (S.D. Tex. 1999), *rev'd,* 289 F.3d 377 (5th Cir. 2002); *Gandy* v. *United States,* 99–1 U.S. Tax Cas. (CCH) ¶ 50,237 (E.D. Tex. 1999), *aff'd,* 234 F.3d 281 (5th Cir. 2000); *Rhodes* v. *United States,* 903 F. Supp. 819 (M.D. Pa. 1995); *Diamond* v. *United States,* 944 F.2d 431 (8th Cir. 1991).

When CI special agents disclose to third party witnesses that a taxpayer is under criminal investigation, there is a risk that the disclosure may adversely affect the taxpayer's reputation, particularly if the third party witnesses have no prior independent knowledge of the investigation. The government and third party witnesses have equally important interests at stake: The CI special agents' authority to accurately identify themselves so as not to mislead third party witnesses, and the third party witnesses' interest in knowing that the inquiry involves a criminal investigation to fairly assess the situation and protect their own interests. *See Roebuck* v. *United States,* 83 A.F.T.R.2d (RIA) ¶ 99–2947 (E.D.N.C. 1999), *aff'd,* 84 A.F.T.R.2d (RIA) ¶ 99–7051 (4th Cir. 1999). This issue has concerned the Department of the Treasury and the Staff of the Joint Committee on Taxation, both of which have recommended legislation to clarify that CI special agents may identify themselves as CI special agents when contacting third party witnesses in the course of a criminal investigation. *See Study of Present-Law Taxpayer Confidentiality and Disclosure Provisions as Required by Section 3802 of the Internal Revenue Service Restructuring and Reform Act of 1998,* Vol. I: Study of General Disclosure Provisions (JCS–1–00), at 208–11, Joint Committee on Taxation, January 28, 2000; *Report to the Congress on Scope and Use of Taxpayer Confidentiality and Disclosure Provisions,* Vol. I: Study of General Provisions, at 51–52, Office of Tax Policy, Department of the Treasury, October 2000. The temporary regulations clarify that section 6103(k)(6) permits, but does not require, IRS or TIGTA officers or employees, including CI or OI special agents, to identify themselves, their organizational affiliation with the IRS or TIGTA, and the nature of the investigation, when making oral, written, or electronic contacts with third party witnesses.

Moreover, the temporary regulations do not require IRS or TIGTA officers or employees to contact a taxpayer for information before contacting a third party witness. The temporary regulations clarify that, if an IRS or TIGTA officer or employee reasonably believes, under the facts and circumstances, at the time of a disclosure, that information cannot be obtained from a taxpayer in a sufficiently accurate or probative form, or in a timely manner, without impairing the proper performance of official duties, then the officer or employee may disclose taxpayer identity or other return information in seeking information from a third party. For example, a taxpayer may be a reasonable source of routine business records, but not of records detailing alleged illegal transactions or sources of income. The facts and circumstances will help determine the necessity of the disclosures, but IRS and TIGTA officers or employees have wide latitude to determine whether the taxpayer is a reasonable source of information. The temporary regulations clarify that disclosures are authorized to verify independently, or to corroborate, from third party sources, information obtained from or concerning the taxpayer.

The temporary regulations expand upon the list of official duties relating to tax administration for which disclosure, pursuant to section 6103(k)(6), is authorized, and clarify that this list is not exhaustive. Finally, the temporary regulations retain the authority for IRS and TIGTA officers or employees to make section 6103(k)(6) disclosures in certain personnel or claimant representative matters.

Special Analyses

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

Drafting Information

The principal author of these regulations is Helene R. Newsome, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income Taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * *
Section 301.6103(k)(6)–1T also issued under 26 U.S.C. 6103(k)(6); * * *

§ 301.6103(k)(6)–1 [Removed]

■ **Par. 2.** Section 301.6103(k)(6)–1 is removed.

■ **Par. 3.** Section 301.6103(k)(6)–1T is added to read as follows:

§ 301.6103(k)(6)–1T Disclosure of return information by certain officers and employees for investigative purposes (temporary).

(a) *General rule.* (1) Pursuant to the provisions of section 6103(k)(6) and subject to the conditions of this section, an internal revenue employee or an Office of Treasury Inspector General for Tax Administration (TIGTA) employee, in connection with official duties relating to any examination, administrative appeal, collection activity, administrative, civil or criminal investigation, enforcement activity, ruling, negotiated agreement, prefiling activity, or other proceeding or offense under the internal revenue laws or related statutes, or in preparation for any proceeding described in section 6103(h)(2) (or investigation which may result in such a proceeding), may disclose return information, of any taxpayer, to the extent necessary to obtain information relating to such official duties or to accomplish properly any activity connected with such official duties, including, but not limited to—

(i) Establishing or verifying the correctness or completeness of any return or return information;

(ii) Determining the responsibility for filing a return, for making a return if none has been made, or for performing such acts as may be required by law concerning such matters;

(iii) Establishing or verifying the liability (or possible liability) of any person, or the liability (or possible liability) at law or in equity of any transferee or fiduciary of any person, for any tax, penalty, interest, fine, forfeiture, or other imposition or offense under the internal revenue laws or related statutes or the amount thereof for collection;

(iv) Establishing or verifying misconduct (or possible misconduct) or other activity proscribed by the internal revenue laws or related statutes;

(v) Obtaining the services of persons having special knowledge or technical skills (such as, but not limited to, knowledge of particular facts and circumstances relevant to a correct determination of a liability described in paragraph (a)(1)(iii) of this section skills relating to handwriting analysis, photographic development, sound recording enhancement, or voice identification) or having recognized expertise in matters involving the valuation of property if relevant to proper performance of official duties described in this paragraph;

(vi) Establishing or verifying the financial status or condition and location of the taxpayer against whom collection activity is or may be directed, to locate assets in which the taxpayer has an interest, to ascertain the amount of any liability described in paragraph (a)(1)(iii) of this section for collection, or otherwise to apply the provisions of the Internal Revenue Code relating to establishment of liens against such assets, or levy, seizure, or sale on or of the assets to satisfy any such liability;

(vii) Preparing for any proceeding described in section 6103(h)(2) or conducting an investigation which may result in such a proceeding; or

(viii) Obtaining, verifying, or establishing information concerned with making determinations regarding a taxpayer's liability under the Internal Revenue Code, including, but not limited to, the administrative appeals process and any ruling, negotiated agreement, or prefiling process.

(2) Disclosure of return information for the purpose of obtaining information to carry out properly the official duties described by this paragraph, or any activity connected with the official duties, is authorized only if the internal revenue or TIGTA employee reasonably believes, under the facts and circumstances, at the time of a disclosure, the information is not otherwise reasonably available, or if the activity connected with the official duties cannot occur properly without the disclosure.

(3) Internal revenue and TIGTA employees may identify themselves, their organizational affiliation with the Internal Revenue Service (IRS) (*e.g.*, Criminal Investigation (CI)) or TIGTA (*e.g.*, Office of Investigations (OI)), and the nature of their investigation, when making an oral, written, or electronic contact with a third party witness through the use and presentation of any identification media (including, but not limited to, an IRS or TIGTA badge, credential, or business card) or through the use of an information document request, summons, or correspondence on IRS or TIGTA letterhead or which bears a return address or signature block that reveals affiliation with the IRS or TIGTA.

(4) This section does not address or affect the requirements under section 7602(c) (relating to contact of third parties).

(b) *Disclosure of return information in connection with certain personnel or claimant representative matters.* In connection with official duties relating to any investigation concerned with enforcement of any provision of the Internal Revenue Code, including enforcement of any rule, or directive prescribed by the Secretary or the Commissioner of Internal Revenue under any provision of the Internal Revenue Code, or the enforcement of any provision related to tax administration under the jurisdiction of the IRS or TIGTA, that affects or may affect the personnel or employment rights or status, or civil or criminal liability, of any former, current, or prospective employee of the Treasury Department or the rights of any person who is, or may be, a party to an administrative action or proceeding pursuant to 31 U.S.C. 330 (relating to practice before the Treasury Department), an internal revenue or TIGTA employee is authorized to disclose return information for the purpose of obtaining, verifying, or establishing other information which is or may be relevant and material to the investigation.

(c) *Definitions.* The following definitions apply to this section—

(1) *Disclosure of return information to the extent necessary* means a disclosure of return information which an internal revenue or TIGTA employee, based on the facts and circumstances, at the time of the disclosure, reasonably believes is necessary to obtain information to perform properly the official duties described by this section, or to accomplish properly the activities connected with carrying out those official duties. The term necessary in this context does not mean essential or indispensable, but rather appropriate and helpful in obtaining the information sought. Nor does necessary in this context refer to the necessity of conducting an investigation or the appropriateness of the means or methods chosen to conduct the investigation. Section 6103(k)(6) does not limit or prescribe IRS or TIGTA officers and employees with respect to the decision to initiate or how to conduct an investigation. Disclosures under this subparagraph, however, may not be made indiscriminately or solely for the benefit of the recipient or as part of a negotiated quid pro quo arrangement. This paragraph (c)(1) is illustrated by the following examples:

Example 1. A revenue agent contacts a taxpayer's customer regarding the customer's purchases made from the taxpayer during the year under investigation. The revenue agent is able to obtain the purchase information only by disclosing the taxpayer's identity and the fact of the investigation. Depending on the facts and circumstances known to the revenue agent at the time of the disclosure, such as the way the customer maintains his records, it also may be necessary for the revenue agent to inform the customer of the date of the purchases and the types of merchandise involved for the customer to find the purchase information.

Example 2. A revenue agent contacts a third party witness to obtain copies of invoices of sales made to a taxpayer under examination. The third party witness provides copies of the sales invoices in question and then asks the revenue agent for the current address of the taxpayer because the taxpayer still owes money to the third party witness. The revenue agent may not disclose that current address because this disclosure would be only for the benefit of the third party witness and not necessary to obtain information for the examination.

Example 3. A revenue agent contacts a third party witness to obtain copies of invoices of sales made to a taxpayer under examination. The third party witness agrees to provide copies of the sales invoices in question only if the revenue agent provides him with the current address of the taxpayer because the taxpayer still owes money to the third party witness. The revenue agent may not disclose that current address because this disclosure would be a negotiated quid pro quo arrangement.

(2) *Disclosure of return information to accomplish properly an activity connected with official duties* means a disclosure of return information to carry out a function associated with official duties generally consistent with established practices and procedures.

This paragraph (c)(2) is illustrated by the following example:

Example. A taxpayer failed to file an income tax return and pay the taxes owed. After the taxes were assessed and the taxpayer was notified of the deficiencies, a revenue officer filed a notice of federal tax lien and then served a notice of levy on the taxpayer's bank. The notices of lien and levy contained the taxpayer's name, social security number, amount of outstanding liability, and the tax period and type of tax involved. The taxpayer's assets were levied to satisfy the tax debt, but it was determined that, prior to the levy, the revenue officer failed to issue the taxpayer a notice of right to hearing before the levy, as required by section 6330. The disclosure of the taxpayer's return information in the notice of levy is authorized by section 6103(k)(6) despite the revenue officer's failure to issue the notice of right to hearing. The ultimate validity of the underlying levy is irrelevant to the issue of whether the disclosure was authorized by section 6103(k)(6).

(3) *Information not otherwise reasonably available* means information that an internal revenue or TIGTA employee reasonably believes, under the facts and circumstances, at the time of a disclosure, cannot be obtained in a sufficiently accurate or probative form, or in a timely manner, and without impairing the proper performance of the official duties described by this section, without making the disclosure. This definition does not require or create the presumption or expectation that an internal revenue or TIGTA employee must seek information from a taxpayer or authorized representative prior to contacting a third party witness in an investigation. Moreover, an internal revenue or TIGTA employee may make a disclosure to a third party witness to corroborate information provided by a taxpayer. This paragraph (c)(3) is illustrated by the following examples:

Example 1. A revenue agent is conducting an examination of a taxpayer. The taxpayer refuses to cooperate or provide any information to the revenue agent. Information relating to the taxpayer's examination would be information not otherwise reasonably available because of the taxpayer's refusal to cooperate and supply any information to the revenue agent. Therefore, the revenue agent may seek information from a third party witness. Neither the Internal Revenue Code, IRS procedures, nor these regulations require repeated contacting of an uncooperative taxpayer.

Example 2. A special agent is conducting a criminal investigation of a taxpayer. The special agent has acquired certain information from the taxpayer. Although the special agent has no specific reason to disbelieve the taxpayer's information, the special agent contacts several third party witnesses to confirm the information. The special agent may contact third party witnesses to verify the correctness of the information provided by the taxpayer because the IRS is not required to rely solely on information provided by a taxpayer, and a special agent may take appropriate steps, including disclosures to third party witnesses under section 6103(k)(6), to verify independently or corroborate information obtained from a taxpayer.

(4) *Internal revenue employee* means, for purposes of this section, an officer or employee of the IRS or Office of Chief Counsel for the IRS.

(5) *TIGTA employee* means an officer or employee of the Office of Treasury Inspector General for Tax Administration.

(d) *Examples.* The following examples illustrate the application of this section:

Example 1. A revenue agent is conducting an examination of a taxpayer. The taxpayer has been very cooperative and has supplied copies of invoices as requested. Some of the taxpayer's invoices show purchases that seem excessive in comparison to the size of the taxpayer's business. The revenue agent contacts the taxpayer's suppliers for the purpose of corroborating the invoices the taxpayer provided. In contacting the suppliers, the revenue agent discloses the taxpayer's name, the dates of purchase, and the type of merchandise at issue. These disclosures are permissible under section 6103(k)(6) because, under the facts and circumstances known to the revenue agent at the time of the disclosures, the disclosures were necessary to obtain information (corroboration of invoices) not otherwise reasonably available because suppliers would be the only source available for corroboration of this information.

Example 2. A revenue agent is conducting an examination of a taxpayer. The revenue agent asks the taxpayer for business records to document the deduction of the cost of goods sold shown on Schedule C of the taxpayer's return. The taxpayer will not provide the business records to the revenue agent, who contacts a third party witness for verification of the amount on the Schedule C. In the course of the contact, the revenue agent shows the Schedule C to the third party witness. This disclosure is not authorized under section 6103(k)(6). Section 6103(k)(6) permits disclosure only of return information, not the return (including schedules and attachments) itself. If necessary, a revenue agent may disclose return information extracted from a return when questioning a third party witness. Thus, the revenue agent could have extracted the amount of cost of goods sold from the Schedule C and disclosed that amount to the third party witness.

Example 3. A special agent is conducting a criminal investigation of a taxpayer, a doctor, for tax evasion. Notwithstanding the records provided by the taxpayer and the taxpayer's bank, the special agent decided to obtain information from the taxpayer's patients to verify amounts paid to the taxpayer for his services. Accordingly, the special agent sent letters to the taxpayer's patients to verify these amounts. In the letters, the agent disclosed that he was a special agent with IRS–CI and that he was conducting a criminal investigation of the taxpayer. Section 6103(k)(6) permits these disclosures to confirm the taxpayer's income. The decision of whether to verify information already obtained is a matter of investigative judgment and is not limited by section 6103(k)(6).

Example 4. Corporation A requests a private letter ruling (PLR) as to the taxability of a merger with Corporation B. Corporation A has submitted insufficient information about Corporation B to consider properly the tax consequences of the proposed merger. Accordingly, information is needed from Corporation B. Under section 6103(k)(6), the IRS may disclose Corporation A's return information to Corporation B to the extent necessary to obtain information from Corporation B for the purpose of properly considering the tax consequences of the proposed merger that is the subject of the PLR.

(e) *Effective date.* This section is applicable on July 10, 2003.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 27, 2003.

Pamela F. Olson,

Assistant Secretary of the Treasury.

[FR Doc. 03–17384 Filed 7–9–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AD03

Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS), Document Incorporated by Reference for Fixed Platforms

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Correction to final regulations.

SUMMARY: This document makes a correction to the final rule titled ''Oil and Gas and Sulphur Operations in the Outer Continental Shelf (OCS) Document Incorporated by Reference for Fixed Platforms'' that was published Monday, April 21, 2003 (68 FR 19352). We are correcting a typographical error in § 250.912 (a).

EFFECTIVE DATE: May 21, 2003.

FOR FURTHER INFORMATION CONTACT: Joseph Levine, Chief, Operations Analysis Branch, at (703) 787–1033 or FAX (703) 787–1555.

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are the subject of these corrections supersede

30 CFR part 250 (subparts A and I) regulations on the effective date and affect all operators and lessees on the Outer Continental Shelf.

The published final regulations contained an incorporation by reference into our regulations the 21st edition of American Petroleum Institute Recommended Practice (API RP 2A), ''Recommended Practice for Planning, Designing and Constructing Fixed Offshore Platforms—Working Stress Design.''

Need for Correction

As published, the final regulations contain a typographical error (OVS instead of the correct acronym OCS). This may prove to be misleading and is in need of correction.

List of Subjects in 30 CFR Part 250

Continental shelf, Incorporation by reference; Oil and gas development and production, Oil and gas exploration, Sulphur development and production.

Correction of Publication

■ Accordingly, 30 CFR part 250 is corrected by making the following correcting amendment:

PART 250—[AMENDED]

■ 1. The authority citation for 30 CFR part 250 continues to read as follows:

Authority: 43 U.S.C. 1331 *et seq.*

■ 2. Section 250.912(a) is revised to read as follows:

§ 250.912 Periodic inspection and maintenance.

(a) All platforms installed in the OCS shall be inspected periodically in accordance with the provisions of section 14, Surveys of API RP 2A-WSD (incorporated by reference, *see* § 250.198). * * *

* * * * *

Dated: June 23, 2003.

Rebecca W. Watson,

Assistant Secretary, Land and Minerals Management.

[FR Doc. 03–17192 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP–PWS–03–003]

RIN 1625–AA00

Security Zone: Protection of High Capacity Passenger Vessels in Prince William Sound, Alaska

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing temporary regulations for the security of high capacity passenger (HCP) vessels in the navigable waters of Prince William Sound, Alaska. This security zone will provide for the regulation of vessel traffic in the vicinity of high capacity passenger vessels in the navigable waters of the Captain of the Port, Prince William Sound zone. This action is being taken to safeguard vessels and ports from sabotage or terrorist acts and incidents by providing the Coast Guard with the enhanced ability to manage vessel traffic in the vicinity of high capacity passenger vessels. This action is necessary to ensure public safety and prevent sabotage, terrorist acts or incidents involving high capacity passenger vessels.

DATES: This temporary rule is effective June 17, 2003, until September 22, 2003.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket COTP–PWS–03–003 and are available for inspection or copying at Marine Safety Office Valdez, 105 Clifton Drive, Valdez, Alaska 99686, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LT Catherine L. Huot, Marine Safety Office Valdez, 105 Clifton Drive, Valdez, Alaska 99686, (907) 835–7262.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B) and 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for not publishing an NPRM and for making this rule effective less than 30 days after publication in the **Federal Register**. Publishing a NPRM would be contrary to public interest since immediate action is necessary to safeguard high capacity passenger (HCP) vessels from sabotage, other subversive acts, or accidents. If normal notice and comment procedures were followed, this rule would not become effective soon enough to provide immediate protection to HCP vessels from the threats posed by hostile entities and would compromise the vital national interest in protecting maritime transportation and commerce. The security zone in this regulation has been carefully designed to minimally impact the public while providing a reasonable level of protection for high capacity passenger vessels. For these reasons, following normal rulemaking procedures in this case would be impracticable, unnecessary, and contrary to the public interest.

Background and Purpose

The Coast Guard, through this rule, intends to assist HCP vessels by establishing a security zone to exclude persons and vessels from their immediate vicinity. Recent events highlight the fact that there are hostile entities operating with the intent to harm U.S. National Security. The President has continued the national emergencies he declared following the September 11, 2001 terrorist attacks (67 FR 58317 (Sept. 13, 2002) (continuing national emergency with respect to terrorist attacks), 67 FR 59447 (Sept. 20, 2002) (continuing national emergency with respect to persons who commit, threaten to commit or support terrorism)). The President also has found pursuant to law, including the Act of June 15, 1917, as amended August 9, 1950, by the Magnuson Act (50 U.S.C. 191 et. seq.), that the security of the United States is and continues to be endangered following the attacks (E.O. 13,273, 67 FR 56215 (Sept. 3, 2002) (security endangered by disturbances in international relations of U.S. and such disturbances continue to endanger such relations)).

Entry into this zone will be prohibited unless authorized by the Captain of the Port or his designee. The Captain of the Port may be assisted by other federal, state, or local agencies.

Discussion of Rule

This rule prohibits vessels from entering security zones surrounding HCP vessels that are underway, anchored, or moored. For the purpose of this regulation, HCP vessels are those vessels or U.S. or foreign registry certificated to carry 500 passengers or more. All vessels authorized to be within 100 yards of HCP vessels shall operate at the minimum speed necessary to maintain a safe course, and shall proceed as directed by the on-

scene official patrol or HCP vessel master.

No vessel, except a public vessel, is allowed within 100 yards of the HCP vessels, unless authorized by the on-scene official patrol or HCP vessel master. Public vessels, for the purpose of this Temporary Final Rule, are vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

Vessels requesting to pass within 100 yards of HCP vessels must contact the on-scene official patrol or HCP vessel master on VHF-FM channel 16 or 13. The on-scene official patrol or HCP vessel master may permit vessels that need to be in a navigable channel to operate safely to pass within 100 yards of the HCP vessels in order to ensure a safe passage in accordance with the Navigation Rules. Similarly, commercial vessels anchored in a designated anchorage area may be permitted to remain at anchor within 100 yards of a passing HCP vessel.

Regulatory Evaluation

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

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DHS is unnecessary.

Although this regulation restricts access to the regulated area, the effect of this regulation will not be significant because: (i) Individual vessel security zones are limited in size; (ii) the on-scene official patrol or HCP vessel master may authorize access to the vessel's security zone; (iii) the HCP vessel security zone for any given transiting vessel will effect a given geographical location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to operate near or anchor in the vicinity of HCP vessels in the navigable waters of Prince William Sound.

This temporary regulation will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) Individual vessel security zones are limited in size; (ii) the on-scene official patrol or HCP vessel master may authorize access to the vessel security zone; (iii) the HCP vessel security zone for any given transiting vessel will affect a given geographic location for a limited time; and (iv) the Coast Guard will make notifications via maritime advisories so mariners can adjust their plans accordingly.

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 rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact one of the points of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard is committed to working with Tribal Governments to implement local policies to mitigate tribal concerns. Given the flexibility of the Temporary Final Rule to accommodate the special needs of mariners in the vicinity of vessels and the Coast Guard's commitment to working with the Tribes, we have determined that vessel security and fishing rights protection need not be incompatible. Therefore, we have determined that this Temporary Final Rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with

Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' (CED) will be available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and record keeping requirements, Security measures, Waterways

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; Pub. L. 107–295, 116 Stat. 2064; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. From June 17, 2003, until September 22, 2003, temporary § 165.T17–019 is added to read as follows:

§ 165.T17–019 Security Zone Regulations, High Capacity Passenger Vessel Protection Zone, Prince William Sound, Alaska, Captain of the Port Zone.

(a) *Definitions.* The following definitions apply to this section:

Alaska Law Enforcement Officer means any General Authority Alaska Peace Officer, Limited Authority Alaska Peace Officer, or Specially Commissioned Alaska Peace Officer as defined by Alaska State laws.

Captain of the Port, Prince William Sound Zone means the area of land and water as defined in 33 CFR 3.85–20, which comprises the area within a boundary which starts at Cape Puget at 148°26′ W. longitude, 59°56.06′ N. latitude, and proceeds northerly to 61°30′ N. latitude; thence easterly to the United States-Canadian boundary; thence southerly along the United States-Canadian boundary to 60°18.7′ N. latitude; thence southwesterly to the sea at 60°01.3′ N. latitude, 142°00′ W. longitude; thence southerly along 142°00′ W. longitude to the outermost boundary of the EEZ; thence along the outermost boundary of the EEZ to 148°26′ N. longitude; thence northerly along 148°26′ W. longitude to the place of origin at Cape Puget at 59°56.06′ N. latitude.

Federal Law Enforcement Officer means any employee or agent of the United States government who has the authority to carry firearms and make warrantless arrests and whose duties involve the enforcement of criminal laws of the United States.

High capacity passenger (HCP) vessel means a vessel of U.S. or foreign registry certificated to carry 500 or more passengers for hire.

High capacity passenger (HCP) vessel security zone is a regulated area of land and water, established by this section, surrounding for a 100 yard radius HCP vessels, that is necessary to provide for the security of these vessels.

Navigable waters of the United States means those waters defined as such in 33 CFR part 2 and includes those waters described in 33 U.S.C. 1222(5) and 50 U.S.C. 195(2).

Navigation Rules means the Navigation Rules, International-Inland.

Official patrol means those persons designated by the Captain of the Port to monitor a HCP vessel security zone, permit entry into the zone, give legally enforceable orders to persons or vessels within the zone and take other actions authorized by the Captain of the Port. Persons authorized to enforce this section are designated as the official patrol.

Public vessel means vessels owned, chartered, or operated by the United States, or by a State or political subdivision thereof.

(b) *Applicability.* This section applies to any vessel or person in or adjacent to the navigable waters of the United States within the Captain of the Port, Prince William Sound Zone.

(c) *Location.* A HCP security zone is established and extends for a 100-yard radius around all HCP vessels when those vessels are located in the navigable waters of the United States and within the Captain of the Port, Prince William Sound Zone, whether the HCP vessel is underway, anchored, or moored.

(d) *Navigation Rules.* The Navigation Rules shall apply at all times within a HCP vessel security zone.

(e) *Regulations.* All vessels authorized to be within a HCP vessel security zone shall operate at the minimum speed necessary to maintain a safe course and shall proceed as directed by the on-scene official patrol or HCP vessel master. No vessel or person is allowed within 100 yards of a HCP vessel, unless authorized by the on-scene official patrol or HCP vessel master.

(f) *Requests to enter.* To request authorization to operate within a HCP vessel security zone, contact the on-scene official patrol or HCP vessel master on VHF–FM channel 16 or 13.

(g) *Authorization.* When conditions permit, the on-scene official patrol or HCP vessel master should:

(1) Permit vessels constrained by their navigational draft or restricted in their ability to maneuver to pass within 100 yards of a HCP vessel in order to ensure a safe passage in accordance with the Navigation Rules; and

(2) Permit commercial vessels anchored in a designated anchorage area to remain at anchor within 100 yards of a passing HCP vessel; and

(3) Permit vessels that must transit via a navigable channel or waterway to pass within 100 yards of a moored or anchored HCP vessel with minimal delay consistent with security.

(h) *Exemption.* Public vessels as defined in paragraph (a) above are exempt from complying with paragraphs (b), (c), (e), (f), (g), (i), and (j), of this section.

(i) *Enforcement.* Any Coast Guard commissioned, warrant or petty officer may enforce the rules in this section. When immediate action is required and representatives of the Coast Guard are not present or not present in sufficient force to exercise effective control in the vicinity of a HCP vessel, any Federal

Law Enforcement Officer or Alaska Law Enforcement Officer may enforce the rules contained in this section pursuant to 33 CFR 6.04–11. In addition, the Captain of the Port may be assisted by other federal, state or local agencies in enforcing this section.

(j) *Waiver.* The Captain of the Port, Prince William Sound, Alaska may waive any of the requirements of this section for any vessel upon finding that a vessel or class of vessels, operational conditions or other circumstances are such that application of this section is unnecessary or impractical for the purpose of port security, safety or environmental safety.

Dated: June 17, 2003.

M.A. Swanson,

Commander, U.S. Coast Guard, Captain of the Port, Prince William Sound, Alaska.

[FR Doc. 03–17463 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP San Juan-03–113]

RIN 1625–AA00

Security Zone; St. Croix, United States Virgin Islands

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule; request for comments.

SUMMARY: The Coast Guard is establishing a temporary security zone in the vicinity of the HOVENSA refinery facility on St. Croix, U.S. Virgin Islands. This security zone extends 3 miles seaward from the HOVENSA facility waterfront area along the south coast of the island of St. Croix, U.S. Virgin Islands. All vessels must receive permission from the U.S. Coast Guard Captain of the Port San Juan prior to entering this temporary security zone. This security zone is needed for national security reasons to protect the public and the HOVENSA facility from potential subversive acts.

DATES: This regulation is effective at 6 p.m. on July 1, 2003 until 11:59 p.m. on December 15, 2003. Comments and related material must reach the Coast Guard on or before September 8, 2003.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket [COTP San Juan-03–113] and are available for inspeciton or copying at Marine Safety Office San Juan, RODVAL Bldg, San Martin St. #90 Ste 400, Guaynabo, PR 00968, between 7 a.m. and 3:30 p.m. Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: LCDR Michael Roldan, Marine Safety Office San Juan, Puerto Rico at (787) 706–2440.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a NPRM. Publishing a NPRM and delaying the rule's effective date would be contrary to the public interest since immediate action is needed to protect the public, ports and waterways of the United States. The Coast Guard will issue a broadcast notice to mariners to advise mariners of the restriction.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register.**

Similar regulations were established on December 19, 2001 and published in the **Federal Register** (67 FR 2332, January 17, 2002), and on August 30, 2002 and published in the **Federal Register** (67 FR 57952, September 13, 2002) and on March 18, 2003 and published in the **Federal Register** (67 FR 22296, April 28, 2003). However, these regualtions expired on June 15, 2002, December 15, 2002, and June 15, 2003, respectively. We did not receive any comments on these three regulations. The Captain of the Port San Juan has determined that the need to continue to have this regulation in place exists. The Coast Guard intends to publish a separate notice of proposed rulemaking to propose a final rule for a permanent security zone.

Request for Comments

Although the Coast Guard has good cause to implement this regulation without a notice of proposed rulemaking, we want to afford the public the opportunity to participate in this rulemaking by submitting comments and related material regarding the size and boundaries of these security zones in order to minimize unnecessary burdens. If you do so, please include your name and address, identify the docket number for this rulemaking [COTP San Juan 03–113] indicate the specific section of this document to which each comment applies, and gives 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 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 temporary final rule in view of them.

Background and Purpose

Based on the September 11, 2001, terrorist attacks on the World Trade Center buildings in New York and the Pentagon in Arlington, Virginia, there is an increased risk that subversive activity could be launched by vessels or persons in close proximity to the HOVENSA refinery on St. Croix, USVI against tank vessels and the waterfront facility. Given the highly volatile nature of the substances stores in the HOVENSA facility, this security zone is necessary to decrease the risk that subversive activity could be launched against the HOVENSA facility. The Captain of the Port San Juan is reducing this risk by prohibiting all vessels without a scheduled arrival from coming within 3 miles of the HOVENSA facility unless specifically permitted by the Captain of the Port San Juan, his designated representative, or the HOVENSA Facility Port Captain. The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289–2040, 24 hours a day, 7 days a week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692–3488, 24 hours a day, 7 days a week. The temporary security zone around the HOVENSA facility is outlined by the following coordinates: 64°45′09″ W, 17°41′32″ N, 64°43′36″ W, 17°38′30″ N, 64°43′36″ W, 17°38′30″ N and 64°43′06″ W, 17°38′42″ N.

Regulatory Evaluation

This rule is not a significant regulatory action under section 3(f) of the Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under this order. It is not significant under the regulatory policies and procedures of the Department of Homeland Security (DHS) because this zone covers an area that is not typically used by commercial vessel traffic, including fishermen, and vessels may be allowed to enter the zone on a case by case basis with the

permission of the Captain of the Port San Juan or the HOVENSA Port Captain.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard considered whether this rule would have a significant economic effect upon a substantial number of small entities. ''Small entities'' include 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.

This rule may affect the following entities, some of which may be small entities: owners of small charter fishing or diving operations that operate near the HOVENSA facility. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities because this zone covers an area that is not typically used by commercial fishermen and vessels may be allowed to enter the zone on a case by case basis with the permission of the Captain of the Port San Juan or the HOVENSA Port Captain.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. If the rule will affect your small business, organization, or government jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** for assistance in understanding this rule.

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Environmental

The Coast Guard has considered the environmental impact of this rule and concluded that under figure 2–1, paragraph 34(g), of Commandant Instruction M14475.1D that this rule is categorically excluded from further environmental documentation. A ''Categorical Exclusion Determination'' is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under 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.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. A new temporary section 165.T07–113 is added to read as follows:

§ 165.T07–113 Security Zone; HOVENSA Refinery, St. Croix, U.S. Virgin Islands.

(a) *Regulated area.* All waters three miles seaward of the HOVENSA facility waterfront outlined by the following coordinates: 64°45′09″ W, 17°41′32″ N, 64°43′36″ W, 17°38′30″ N, 64°43′36″ W, 17°38′30″ N and 64°43′06″ W, 17°38′42″ N.

(b) *Regulations.* (1) In accordance with the general regulations in § 165.33 of this part, with the exception of vessels with scheduled arrivals to the HOVENSA Facility, no vessel may enter the regulated area unless specifically authorized by the Captain of the Port San Juan or a Coast Guard commissioned, warrant, or petty officer designated by him, or the HOVENSA Facility Port Captain. The Captain of the Port will notify the public of any changes in the status of this zone by Marine Safety Radio Broadcast on VHF Marine Band Radio, Channel 16 (156.9 Mhz).

(2) The Captain of the Port San Juan can be reached on VHF Marine Band Radio, Channel 16 (156.8 Mhz) or by calling (787) 289–2040, 24 hours a day, 7 days a week. The HOVENSA Facility Port Captain can be reached on VHF Marine Band Radio channel 11 (156.6 Mhz) or by calling (340) 692–3488, 24 hours a day, 7 days a week.

(c) *Effective period.* This section is effective from 6 p.m. on July 1, 2003 until 11:59 p.m. on December 15, 2003.

Dated: June 30, 2003.

William J. Uberti,

Captain, U.S. Coast Guard, Captain of the Port San Juan.

[FR Doc. 03–17462 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[KY 139–200307(d); FRL–7526–3]

Approval and Promulgation of Implementation Plans for Kentucky: Source-Specific Revision for Lawson Mardon Packaging; Final Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is finalizing approval of a source-specific revision to the State Implementation Plan (SIP) of the Commonwealth of Kentucky. This revision allows Lawson Mardon Packaging, USA, Inc. to have an alternative compliance averaging period of 30 days instead of the 24-hour averaging period previously specified in the approved SIP. This final rule addresses comments submitted in response to EPA's direct final rulemaking previously published for this action.

EFFECTIVE DATE: This rule will be effective August 11, 2003.

ADDRESSES: Copies of the Commonwealth's submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 4, Air Planning Branch, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. (Michele Notarianni, 404/562–9031, *notarianni.michele@epa.gov*)

Commonwealth of Kentucky, Division for Air Quality, 803 Schenkel Lane, Frankfort, Kentucky 40601–1403. (502/573–3382)

FOR FURTHER INFORMATION CONTACT: Michele Notarianni at address listed above or 404/562–9031 (phone) or *notarianni.michele@epa.gov* (e-mail).

SUPPLEMENTARY INFORMATION:

I. Today's Action
II. Background
III. Comment and Response
IV. Final Action
V. Statutory and Executive Order Reviews

I. Today's Action

In this final rulemaking, EPA is responding to comments received in response to a direct final rule and simultaneous proposed rule to approve a source-specific revision to the Kentucky SIP allowing Lawson Mardon Packaging, USA, Inc. (LMP) located in Shelby County, Kentucky, to have an alternative compliance averaging period for emissions of volatile organic compounds (VOCs). The proposal would allow an averaging period of 30 days instead of the 24-hour averaging period previously specified in the approved SIP.

II. Background

On December 18, 2002, EPA simultaneously published a proposed rule (67 FR 77463) and a direct final rule (67 FR 77430) to approve a source-specific revision to the Kentucky SIP which allows LMP to have an alternative compliance averaging period of 30 days for VOC emissions instead of the 24-hour averaging period specified by SIP-approved Kentucky air quality regulations 59:210 and 59:212. EPA received adverse comment during the 30-day comment period and therefore withdrew the direct final rule on February 10, 2003 (*see* 68 FR 6629). This final rule addresses the comment on the proposed rule.

III. Comment and Response

EPA received one adverse comment submitted by the Coalition for Health Concern in Benton, Kentucky. A summary of the adverse comment and EPA's response is provided below.

Comment: The Coalition for Health Concern opposes the change in the VOC compliance averaging period for LMP due to concern over the health effects of dioxins and furans. The Coalition stated, ''No amount of additional exposure is safe to humans or animals.''

Response: The Clean Air Act (CAA) establishes several, separate programs to address different types of air pollution. The SIP program addresses emissions that impact an area's ability to attain or maintain national ambient air quality standards (NAAQS), such as the ozone standard. Under the CAA, EPA promulgates the NAAQS and states are then provided the discretion to develop plans to attain and maintain the NAAQS. If a state plan meets these criteria of the Act, EPA must approve the plan and cannot mandate the choices that the state makes to meet these goals. Separate provisions include other programs, such as the program to address the emission of hazardous air pollutants.

This final action approves a revision to the compliance averaging period for emissions of VOCs, which are regulated under the SIP for the purpose of attaining and maintaining the 1-hour ozone NAAQS. EPA has reviewed this SIP revision and determined that it will not interfere with the area's ability to attain and maintain the NAAQS. (*See* direct final rule: 67 FR 77430, December 18, 2002.)

Dioxins and furans are hazardous air pollutants (HAPs). HAPS are regulated under section 112 of the CAA and regulations that EPA has promulgated pursuant to section 112 of the Act. These regulations (and LMP's compliance with the regulations) are not relevant for purposes of this rulemaking, which only concerns compliance with the NAAQS. EPA has established a control regulation—Maximum Achievable Control Technology (MACT) standard—for the printing and publishing industry that applies to any facility that is a major source of HAPs. 40 CFR part 63, subpart KK. LMP is subject to the MACT for the printing and publishing industry because it is a major source of HAPs. LMP's title V permit reflects the applicable requirements that apply pursuant to subpart KK.

IV. Final Action

The EPA is finalizing approval of a source-specific revision to the Kentucky SIP which allows LMP to have an alternative compliance averaging period for VOC emissions of 30 days instead of the 24-hour averaging period specified in the approved SIP. EPA is approving the aforementioned changes to the SIP because they are consistent with Agency policy and guidance.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional

requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

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

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 September 8, 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, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: June 26, 2003.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

■ Part 52 of chapter I, title 40, *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 S—Kentucky

■ 2. Section 52.920(d) is amended by adding a new entry at the end of the table to read as follows:

§ 52.920 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit number	State effective date	EPA approval date	**Federal Register** notice
*	*	*	*	*
Lawson Mardon Packaging, USA, Inc.	N/A	8/11/03	7/10/03	*[Insert FR page citation]*

* * * * *

[FR Doc. 03–17510 Filed 7–9–03; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 020430101–2101–01; I.D. 062503A]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #1—Adjustment of the Commercial Fishery From the U.S.-Canada Border to Cape Falcon, OR

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

ACTION: Adjustment; request for comments.

SUMMARY: NMFS announces that the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR was modified to close at midnight on Friday, June 6, 2003. On June 5, 2003, the Northwest Regional Administrator, NMFS (Regional Administrator), determined that available catch and effort data indicated that the quota of 40,000 chinook salmon would be reached by June 6, 2003. This action was necessary to conform to the 2003 management goals.

DATES: Closure in the area from the U.S.-Canada Border to Cape Falcon, OR effective 2359 hours local time, June 6, 2003, until the effective date of the 2004 management measures which will be published in the **Federal Register**. Comments will be accepted through July 25, 2003.

ADDRESSES: Comments on this action must be mailed to D. Robert Lohn, Regional Administrator, Northwest Region, NMFS, NOAA, 7600 Sand Point Way N.E., Bldg. 1, Seattle, WA 98115–0070; or faxed to 206–526–6376; or Rod McInnis, Acting Regional Administrator, Southwest Region, NMFS, NOAA, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4132; or faxed to 562–980–4018. Comments will not be accepted if submitted via e-mail or the Internet. Information relevant to this document is available for public review during business hours at the Office of the Regional Administrator, Northwest Region, NMFS.

FOR FURTHER INFORMATION CONTACT: Christopher Wright, 206–526–6140.

SUPPLEMENTARY INFORMATION: The Regional Administrator modified the season for the commercial fishery in the area from the U.S.-Canada Border to Cape Falcon, OR to close at midnight on Friday, June 6, 2003. On June 5, 2003, the Regional Administrator determined that available catch and effort data indicated that the quota of 40,000 chinook salmon would be reached by June 6, 2003. Automatic season closures based on quotas are authorized by regulations at 50 CFR 660.409(a)(1).

In the 2003 annual management measures for ocean salmon fisheries (68 FR 23913, May 6, 2003), NMFS announced the commercial fishery for all salmon except coho in the area from the U.S.-Canada Border to Cape Falcon, OR would open May 1 through the earlier of June 30 or a 40,000 chinook quota.

On June 5, 2003, the Regional Administrator consulted with representatives of the Pacific Fishery Management Council (Council), Washington Department of Fish and Wildlife, and Oregon Department of Fish and Wildlife by conference call. Information related to catch to date, the chinook catch rate, and effort data indicated that it was likely that the chinook quota would be reached by Friday, June 6, 2003. As a result, the States recommended, and the Regional Administrator concurred, that the area from the U.S.-Canada Border to Cape Falcon, OR close effective at midnight on Friday, June 6, 2003. All other restrictions that apply to this fishery remained in effect as announced in the 2003 annual management measures.

The Regional Administrator determined that the best available information indicated that the catch and effort data, and projections, supported the above inseason action recommended by the States. The States manage the fisheries in State waters adjacent to the areas of the U.S. exclusive economic zone in accordance with this Federal action. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice to fishers of the above described action was given prior to the effective date by telephone hotline number 206–526–6667 and 800–662–9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

This action does not apply to other fisheries that may be operating in other areas.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of this action was provided to fishers through telephone hotline and radio notification. This action complies with the requirements of the annual management measures for ocean salmon fisheries (68 FR 23913, May 6, 2003), the West Coast Salmon Plan, and regulations implementing the West Coast Salmon Plan 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies have insufficient time to provide for prior notice and the opportunity for public comment between the time the fishery catch and effort data are collected to determine the extent of the fisheries, and the time the fishery closure must be implemented to avoid exceeding the quota. Failure to close the fishery upon attainment of the quota would allow the quota to be exceeded, resulting in fewer spawning fish and possibly reduced yield of the stocks in the future. For the same reasons, the AA also finds good cause to waive the 30–day delay in effectiveness required under U.S.C. 553(d)(3).

This action is authorized by 50 CFR 660.409 and 660.411 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–17239 Filed 7–9–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 070203C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the

Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 8, 2003, through 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–2778.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 TAC of Pacific ocean perch for the Central Regulatory Area was established as 8,510 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for Pacific ocean perch in the Central Regulatory Area will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,010 mt, and is setting aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 TAC for Pacific ocean perch in the Central Regulatory Area of the GOA, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 2003.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–17517 Filed 7–7–03; 3:05 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 021122286–3036–02; I.D. 070203D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the West Yakutat District of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2003 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 8, 2003, through 2400 hrs, A.l.t., December 31, 2003.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2003 TAC of Pacific ocean perch for the West Yakutat District was established as 810 metric tons (mt) by the final 2003 harvest specifications for groundfish in the GOA (68 FR 9924, March 3, 2003).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2003 TAC for Pacific ocean perch in the West Yakutat District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 750 mt, and is setting aside the remaining 60 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the West Yakutat District of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is contrary to the public interest. This requirement is contrary to the public interest as it would delay the closure of the fishery, lead to exceeding the 2003 TAC for Pacific ocean perch in the Western Yakutat District of the GOA, and therefore reduce the public's ability to use and enjoy the fishery resource.

The AA also finds good cause to waive the 30–day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: July 2, 2003.

Bruce M. Morehead

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–17516 Filed 7–7–03; 3:05 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 68, No. 132
Thursday, July 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 THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–121122–03]

RIN 1545–BC11

Notarized Statements of Purchase Under Section 1042

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed amendments to the temporary regulations relating to notarized statements of purchase under section 1042 of the Internal Revenue Code of 1986. The proposed regulations would affect taxpayers making an election to defer the recognition of gain under section 1042 on the sale of stock to an employee stock ownership plan. The proposed regulations provide guidance on the notarization requirements of the temporary regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by October 8, 2003.

ADDRESSES: Send submissions to: CC:PA:RU (REG–121122–03), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to: CC:PA:RU (REG–121122–03), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically directly to the IRS Internet site at *http://www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, John T. Ricotta at (202) 622–6060 (not a toll-free number); concerning submissions or hearing requests, Sonya Cruse, (202) 622–7180 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the requirement of § 1.1042–1T, A–3(b) of the Temporary Income Tax regulations that a statement of purchase for qualified replacement property be notarized within 30 days of the date of purchase of the property (30-day notarization requirement).

The temporary regulations under section 1042 were published in TD 8073 on February 4, 1986 (EE–63–84) (51 FR 4312) as part of a package of temporary regulations addressing effective dates and other issues under the Tax Reform Act of 1984. The text of the temporary regulations also served as a notice of proposed rulemaking (EE–96–85) (51 FR 4391). A public hearing was held on June 26, 1986, concerning the proposed regulations.

Explanation of Provisions

Overview

Section 1042(a) provides that a taxpayer or executor may elect in certain cases not to recognize long-term capital gain on the sale of *qualified securities* to an employee stock ownership plan (ESOP) (as defined in section 4975(e)(7)) or eligible worker owned cooperative (as defined in section 1042(c)(2)) if the taxpayer purchases *qualified replacement property* (as defined in section 1042(c)(4)) within the replacement period of section 1042(c)(3) and the requirements of section 1042(b) and § 1.1042–1T of the Temporary Income Tax Regulations are satisfied.

Section 1042(c)(1) provides that the term *qualified securities* means employer securities (as defined in section 409(l)) which are issued by a domestic C corporation that has no stock outstanding that is readily tradable on an established securities market and which were not received by the taxpayer in a distribution from a plan described in section 401(a) or in a transfer pursuant to an option or other right to acquire stock to which section 83, 422, or 423 applied.

A sale of *qualified securities* meets the requirements of section 1042(b) if: (1) The qualified securities are sold to an ESOP (as defined in section 4975(e)(7)), or an eligible worker owned cooperative; (2) the plan or cooperative owns (after application of section 318(a)(4)), immediately after the sale, at least 30 percent of (a) each class of outstanding stock of the corporation (other than stock described in section 1504(a)(4)) which issued the securities or (b) the total value of all outstanding stock of the corporation (other than stock described in section 1504(a)(4)); (3) the taxpayer files with the Secretary a verified written statement of the employer whose employees are covered by the ESOP or an authorized officer of the cooperative consenting to the application of sections 4978 and 4979A (which provide for excise taxes on certain dispositions or allocations of securities acquired in a sale to which section 1042 applies) with respect to such employer or cooperative; and (4) the taxpayer's holding period with respect to the qualified securities is at least three years (determined as of the time of the sale).

The taxpayer must purchase *qualified replacement property* within the *replacement period,* which is defined in section 1042(c)(3) as the period which begins three months before the date on which the sale of qualified securities occurs and ends 12 months after the date of such sale.

Section 1042(c)(4)(A) defines *qualified replacement property* as any security issued by a domestic operating corporation which did not, for the taxable year preceding the taxable year in which such security was purchased, have passive investment income (as defined in section 1362(d)(3)(C)) in excess of 25 percent of the gross receipts of such corporation for such preceding taxable year, and is not the corporation which issued the qualified securities which such security is replacing or a member of the same controlled group of corporations (within the meaning of section 1563(a)(1)) as such corporation.

Section 1042(c)(4)(B) defines an *operating corporation* as a corporation more than 50 percent of the assets of which, at the time the security was purchased or before the close of the replacement period, were used in the active conduct of a trade or business.

Section 1.1042–1T A–3(a) of the Temporary Income Tax Regulations states that the election is to be made in a *statement of election* attached to the taxpayer's income tax return filed on or before the due date (including extensions of time) for the taxable year in which the sale occurs.

Section 1.1042–1T A–3(b) states that the *statement of election* must provide

that the taxpayer elects to treat the sale of securities as a sale of qualified securities under section 1042(a) and must contain the following information: (1) A description of the qualified securities sold, including the type and number of shares; (2) The date of the sale of the qualified securities; (3) The adjusted basis of the qualified securities; (4) The amount realized upon the sale of the qualified securities; (5) The identity of the ESOP or eligible worker-owned cooperative to which the qualified securities were sold; and (6) If the sale was part of a single interrelated transaction under a prearranged agreement between taxpayers involving other sales of qualified securities, the names and taxpayer identification numbers of the other taxpayers under the agreement and the number of shares sold by the other taxpayers.

Section 1.1042–1T, A–3(b) further provides that, if the taxpayer has purchased qualified replacement property at the time of the election, the taxpayer must attach as part of the statement of election a *statement of purchase* describing the qualified replacement property, the date of the purchase, and the cost of the property, and declaring such property to be qualified replacement property with respect to the sale of qualified securities.

The statement of purchase must be notarized no later than 30 days after the purchase. The purpose of the statement of purchase is to identify qualified replacement property with respect to a sale of qualified securities. The qualified replacement property will have its cost basis reduced under section 1042(d) to reflect the gain on the sale of qualified securities that is being deferred by the taxpayer. Upon subsequent disposition of the qualified replacement property by the taxpayer, the deferred gain will be recognized by the taxpayer under section 1042(e). Under section 1042(f), the filing of the statement of purchase of qualified replacement property (or a statement of the taxpayer's intention not to purchase replacement property) will begin the statutory period for assessment of any deficiency with respect to gain arising from the sale of the qualified securities. The purpose of the 30-day notarization requirement is to provide a contemporaneous identification of replacement property.

However, the 30-day notarization requirement leads to frequent mistakes by taxpayers and their advisors. Taxpayers are often unaware of this requirement and become aware of it only when they prepare their tax returns for the year of sale to the ESOP. By this time, the 30-day period is typically past because purchases of replacement property may have been made up to one year before. A number of private letter rulings have been issued granting relief to taxpayers in these situations as long as the statements were notarized shortly after the taxpayer became aware of the requirement and it was represented that the property listed was the only replacement property purchased for this sale.

A number of commentators on the temporary and proposed regulations criticized this requirement as without statutory authority, a trap for the unwary, and inconsistent with the definition of the qualified replacement period in section 1042(c)(3).

Proposed Amendment to the Regulations

In order to facilitate taxpayer compliance with the temporary regulations concerning identification of qualified replacement property through notarization of the statements of purchase, the proposed amendment to the temporary regulations would modify § 1.1042–1T, A–3(b) to provide that the notarization requirements for the *statement of purchase* are satisfied if the taxpayer's statement of purchase is notarized not later than the time the taxpayer files the income tax return for the taxable year in which the sale of qualified securities occurred in any case in which any qualified replacement property was purchased by such time and during the qualified replacement period. If qualified replacement property was purchased after such filing date and during the qualified replacement period, the statement of purchase must be notarized not later than the time the taxpayer's income tax return is filed for the taxable year following the year for which the election under section 1042(a) was made.

Proposed Effective Date

The proposed amendments to the temporary regulations would apply to taxable years of sellers ending on or after the date of publication of the Treasury decision adopting these amendments as final regulations in the **Federal Register**. However, taxpayers may rely upon these proposed regulations for guidance with respect to all open taxable years pending the issuance of final regulations. If, and to the extent, future guidance is more restrictive than the guidance in these proposed regulations, the future guidance will be applied without retroactive effect.

Special Analyses

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

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and 8 copies) or electronic comments that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is John T. Ricotta of the Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities). However, other personnel from the IRS and Treasury participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to The Regulations

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

PART 1—INCOME TAXES

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

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

Par. 2. In § 1.1042–1T, A–3, in the undesignated paragraph following paragraph (b)(6), the penultimate

sentence is removed and three sentences added in its place to read as follows:

§ 1.1042–1T Questions and Answers relating to the sales of stock to employee stock ownership plans or certain cooperatives (temporary).

* * * * *

Q–3. * * *

A–3. * * *

(b) * * *

(6) * * *

* * * Such statement of purchase must be notarized not later than the time the taxpayer files the income tax return for the taxable year in which the sale of qualified securities occurred in any case in which any qualified replacement property was purchased by such time and during the qualified replacement period. If qualified replacement property is purchased after such filing date but during the qualified replacement period, the statement of purchase must be notarized not later than the time the taxpayer's income tax return is filed for the taxable year following the year for which the election under section 1042(a) was made. The previous two sentences apply to taxable years of sellers ending on or after [the date final regulations are published in the **Federal Register**].

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Robert E. Wenzel,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 03–17088 Filed 7–9–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–140808–02]

RIN 1545–BB16

Disclosure of Return Information by Certain Officers and Employees for Investigative Purposes

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations relating to the disclosure of return information pursuant to section 6103(k)(6) of the Internal Revenue Code. The temporary regulations describe the circumstances under which officers or employees of the IRS, the IRS Office of Chief Counsel, and the Office of Treasury Inspector General for Tax Administration (TIGTA), in connection with official duties relating to any examination, administrative appeal, collection activity, administrative, civil or criminal investigation, enforcement activity, ruling, negotiated agreement, prefiling activity, or other proceeding or offense under the internal revenue laws or related statutes, or in preparation for any proceeding described in section 6103(h)(2) (or investigation which may result in such a proceeding), may disclose return information to the extent necessary to obtain information relating to such official duties or to accomplish properly any activity connected with such official duties. The temporary regulations amend the existing regulations to clarify and elaborate on the facts and circumstances in which disclosure pursuant to section 6103(k)(6) is authorized. The temporary regulations clarify that IRS and TIGTA officers and employees make the determination, based on the facts and circumstances, at the time of the disclosure, whether a disclosure is necessary to obtain the information sought, and that section 6103(k)(6) does not affect the authority or decision of IRS and TIGTA officers and employees to initiate, or to conduct, an investigation, or to determine the nature of the investigation. The temporary regulations clarify that the return information of any taxpayer, not only the taxpayer under investigation, may be disclosed when necessary to obtain the particular information sought. The temporary regulations clarify that section 6103(k)(6) permits IRS and TIGTA officers and employees to identify themselves, their organizational affiliation with the IRS (*e.g.*, Criminal Investigation (CI)) or TIGTA (*e.g.*, Office of Investigations (OI)), and the nature of their investigation when making oral, written, or electronic contacts with third party witnesses.

DATES: Written and electronic comments and requests for a public hearing must be received by October 8, 2003.

ADDRESSES: Send submissions to CC:PA:RU (REG–140808–02), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:RU (REG–140808–02), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet directly to the IRS Internet site: *http://www.irs.gov/regs.*

FOR FURTHER INFORMATION CONTACT: Helene R. Newsome, 202–622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103(a), returns and return information are confidential unless the Internal Revenue Code (Code) authorizes disclosure. Section 6103(k)(6) authorizes an internal revenue officer or employee and an officer or employee of TIGTA, in connection with official duties relating to any audit, collection activity, civil or criminal tax investigation, or offense under the internal revenue laws or related statutes, to disclose return information to a person other than the taxpayer to whom such return information relates (or his or her representative) to the extent that such disclosure is necessary to obtain information not otherwise reasonably available with respect to the correct determination of tax, liability for tax, or the amount to be collected, or with respect to the enforcement of any other provision of the Code or related statutes. Disclosure is subject to situations and conditions prescribed by regulation.

The proposed regulations amend the existing regulations to reflect a recent legislative amendment to section 6103(k)(6). The Consolidated Appropriations Act, 2001, Public Law 106–554 (114 Stat. 2763), was signed into law on December 21, 2000. Section 1 of that Act enacted into law H.R. 5662, the Community Renewal Tax Relief Act of 2000. Section 313(c) of the Community Renewal Tax Relief Act of 2000 amended section 6103(k)(6) to clarify that officers or employees of TIGTA are among those persons authorized to make disclosures under section 6103(k)(6).

The proposed regulations also clarify the standard used in determining whether disclosures are authorized under section 6103(k)(6). Recent litigation indicates that there is some confusion as to the authority of IRS (and now TIGTA) officers and employees to make disclosures in certain situations under section 6103(k)(6). The proposed regulations seek to address these issues. In particular, the proposed regulations address the issues surrounding the disclosures that occur when IRS or TIGTA officers and employees introduce themselves to third party witnesses or communicate in writing using, *e.g.*, official letterhead that reveals affiliation with IRS or TIGTA. The proposed regulations also clarify

that section 6103(k)(6) does not limit IRS or TIGTA officers and employees with respect to the initiation or conduct of an investigation. Finally, the proposed regulations clarify that section 6103 does not require IRS and TIGTA officers or employees to contact a taxpayer for information before contacting third party witnesses.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations contains a full explanation of the reasons underlying the issuance of the proposed regulations.

Special Analyses

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

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department request comments on the clarity of the proposed rules and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person that timely submits written comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Helene R. Newsome, Office of the Associate Chief Counsel (Procedure and Administration), Disclosure and Privacy Law Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

Paragraph 1. The authority citation for part 301 is amended by adding an entry in numerical order to read as follows:

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

Section 301.6103(k)(6)–1 also issued under 26 U.S.C. 6103(k)(6); * * *

Par. 2. Section 301.6103(k)(6)–1 is removed.

Par. 3. Section 301.6103(k)(6)–1T is added to read as follows:

[The text of this proposed section is the same as the text of § 301.6103(k)(6)–1T published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 03–17385 Filed 7–9–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–103809–03]

RIN 1545–BA56

Disclosure of Return Information to the Department of Agriculture; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document contains a correction to a notice of proposed rulemaking by cross-reference to temporary regulations that were published in the **Federal Register** on Friday, June 6, 2003 (68 FR 33887), regarding incorporating and clarifying the phrase ''returns information reflected on returns'' in conformance with the terms of section 6103(j)(5) of the Internal Revenue Code.

FOR FURTHER INFORMATION CONTACT: Christine Irwin at (202) 622–4570 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking by cross-reference to temporary regulations that is the subject of this correction is under section 6103(j)(5) of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking by cross-reference to temporary regulations contains an error that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking by cross-reference to temporary regulations (REG–103809–03), that was the subject of FR Doc. 03–14206, is corrected as follows:

1. On page 33887, column 1, in the preamble under the paragraph heading **DATES**, third line, the language ''be received by August 1, 2003'' is corrected to read ''be received by September 8, 2003.''.

Cynthia E. Grisgsby,

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

[FR Doc. 03–17524 Filed 7–9–03; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC83

Oil and Gas and Sulphur Operations in the Outer Continental Shelf—Procedures for Dealing With Sustained Casing Pressure

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Delay of final rulemaking.

SUMMARY: The Minerals Management Service (MMS) published a Notice of Proposed Rulemaking (NPR) in the **Federal Register** titled ''Procedures for Dealing With Sustained Casing Pressure'' on November 9, 2001. Based on comments received, the MMS is delaying development of a final rule until after publication of a ''Recommended Practice'' document now being developed by the American Petroleum Institute (API). The document will provide procedures for dealing safely with sustained casing pressure in wells. MMS believes that incorporation of this ''Recommended Practice'' document into MMS regulations will help ensure environmentally and operationally safe operations on the Outer Continental Shelf (OCS).

FOR FURTHER INFORMATION CONTACT: For regulatory information concerning this announcement: Larry Ake, Engineering and Operations Division, at (703) 787–

1600. For technical information concerning the current MMS sustained casing pressure program: Gulf of Mexico OCS Region: Jim Grant, Technical Assessment and Operations Support Section, at (504) 736–2843. Pacific OCS Region: Nabil Masri, Chief, Office of Facilities, Safety and Enforcement, at (805) 389–7581.

SUPPLEMENTARY INFORMATION: Sustained casing pressure (SCP) is pressure between the casing and the well's tubing, or between strings of casing, that rebuilds after being bled down. If left uncontrolled, this SCP can represent an ongoing safety hazard and can cause harm or damage to human life, the marine and coastal environment, and property.

The MMS received 18 letters commenting on the NPR. Among these letters were comments from industry organizations that proposed a different method of regulating sustained casing pressure on the OCS.

In their comments, the offshore oil and gas industry, through the Offshore Operator's Committee and the API, proposed working with MMS on the development of a ''Recommended Practice'' (RP) document for dealing with sustained casing pressure. During the development of this document, MMS and industry would jointly contract and administer a risk assessment of SCP. This risk assessment would help determine when SCP represents a significant risk and help ensure that regulatory requirements are applied when necessary. This is a goal that will help both industry and the MMS while ensuring protection of life, property, and the environment.

These industry comments made a persuasive argument that an independent risk assessment, coupled with the development of the industry RP, would achieve the goals of safe and environmentally sound operations, while not being unduly burdensome on industry or government regulators. Consequently, MMS has decided to delay the development of a final rule and wait until the RP is developed and adopted by industry. MMS may then incorporate all, or portions of the RP, into the regulations.

A revised notice of proposed rulemaking will be published when the RP is available for public review. MMS will re-open the comment period at that time prior to development of a final rule that incorporates the RP into MMS regulations.

The RP is scheduled to be published in late 2004. Until the RP is incorporated into regulations, MMS will maintain its current SCP program.

List of Subjects in 30 CFR 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Authority: 43 U.S.C. 1331 *et seq.*

Dated: July 2, 2003.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 03–17422 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[COTP Los Angeles-Long Beach 03–002]

RIN 1625–AA00

Safety Zone; Offshore Marine Terminal, El Segundo, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a safety zone surrounding the El Segundo offshore marine terminal near Los Angeles, California. This action is necessary to ensure public safety and reduce the likelihood of a collision or explosion involving a tank vessel moored at the offshore marine terminal. Entry into this zone will be prohibited unless specifically authorized by the Captain of the Port Los Angeles-Long Beach.

DATES: Comments and related material must reach the Coast Guard on or before September 8, 2003.

ADDRESSES: You may mail comments and related material to U.S. Coast Guard Marine Safety Office/Group Los Angeles-Long Beach, Waterways Management Division, 1001 South Seaside Avenue, Building 20, San Pedro, California, 90731. The Waterways Management Division 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 at the Waterways Management Division between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Junior Grade Rob Griffiths, Assistant Chief of Waterways Management Division, at (310) 732–2020.

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 (COTP Los Angeles-Long Beach 03–002), 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 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. But you may submit a request for a meeting by writing to Waterways Management at the address under **ADDRESSES** explaining why one 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

ChevronTexaco Shipping Company has requested that the Coast Guard establish a safety zone around the El Segundo offshore marine terminal near Los Angeles, California, to promote the safety of life and property at the facility and on the adjacent waters within the safety zone including tank vessels and their crews, their apparatuses, attending vessels and their crews.

El Segundo offshore marine terminal is located approximately one nautical mile offshore El Segundo in Santa Monica Bay, between Marina Del Rey and Redondo Beach, California. The offshore marine terminal consists of several tanker mooring buoys and seafloor pipelines connected to the mainland terminal. Large tank vessels are secured to tanker mooring buoys using multiple sets of mooring lines. Underwater pipelines that extend seaward from the mainland terminal rise up from the ocean bottom and are

secured to both the buoys and the tankers. As a result, there are numerous mooring lines, pipelines, and other critical apparatuses that exist above, below, and on the surface of the water presenting an especially hazardous condition for other vessels transiting through this area. These conditions are present at all times, whether or not a tanker is in the offshore marine terminal.

Discussion of Proposed Rule

This proposed safety zone will prohibit all but explicitly authorized vessels from entering and navigating through the waters of El Segundo offshore marine terminal near Los Angeles, California. Specifically, no vessel may enter or navigate through the proposed safety zone except tank vessels using the terminal area and the related pipeline for loading or unloading operations, commercial tugs, lighters, barges, launches, or other commercial vessels engaged in servicing the terminal facilities or the tank vessels therein, or public vessels of the United States. This proposed safety zone is necessary to provide for the safety of the tank vessels and their crew as well as the people, ports, waterways, and properties located nearby. The Ports and Waterways Safety Act (PWSA), as set forth in 33 U.S.C. 1221, *et seq.*, allows the Coast Guard to take actions to ensure the safety of vessels and structures on or in the navigable waters of the United States. The Act also allows for regulations that protect navigable waters of the United States and the resources therein.

This proposed safety zone is defined as the waters of Santa Monica Bay, from surface to bottom, enclosed by lines forming a rectangle around the El Segundo offshore marine terminal. The coordinates of the proposed safety zone are set forth in the regulatory text and are based on the North American Datum of 1983 (NAD 1983).

Vessels or persons violating proposed § 165.1156 would be subject to the penalties set forth in section 13 of the PWSA (33 U.S.C. 1232). Pursuant to 33 U.S.C. 1232, any violation of the proposed regulation establishing the safety zone described herein would be punishable by civil penalties (not to exceed $27,500 per violation, where each day of a continuing violation is a separate violation), criminal penalties (imprisonment up to 6 years and a maximum fine of $250,000), and in rem liability against the offending vessel. Any person who violates this proposed section using a dangerous weapon or who engages in conduct that causes bodily injury or fear of imminent bodily injury to any officer authorized to enforce this regulation, also would face imprisonment up to 12 years. Under 46 U.S.C. 7703(1)(A), a master's license would be subject to revocation or suspension for violation of this proposed amendment to 33 CFR part 165. The Captain of the Port will enforce this proposed zone and may be assisted by other Federal, State, or local agencies.

Regulatory Evaluation

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

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

This proposed safety zone will encompass only a small portion of the waterway and vessel traffic can pass safely around the affected area. In addition, vessels may be allowed to enter this zone on a case-by-case basis with permission of the Captain of the Port.

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. We expect this rule will affect the following entities, some of which may be small entities: the owners and operators of private and commercial vessels intending to transit or anchor in Santa Monica Bay near El Segundo. The impact to these entities would not, however, be significant since this zone encompasses a small portion of the waterway and vessels may safely pass around the affected area. In addition, vessels may be allowed to enter this zone on a case-by-case basis with permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this 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 rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 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 rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Lieutenant Junior Grade Rob Griffiths, Assistant Chief, Waterways Management Division, (310) 732–2020.

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

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this 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 effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with

Constitutionally Protected Property Rights.

Civil Justice Reform

This 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 rule is not an economically significant rule 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. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(46 U.S.C. 4321–4370f), and have concluded that, there are no factors in this case which would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the instruction from further environmental documentation because we are proposing to establish a safety zone.

A draft ''Environmental Analysis Check List'' and a draft ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.** Comments on this section will be considered before we make a final decision on whether the rule should be categorically excluded from further environmental review.

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.1156 to read as follows:

§ 165.1156 Safety Zone; Offshore Marine Terminal, El Segundo, CA.

(a) *Location.* The following area is a safety zone: All waters of Santa Monica Bay, from surface to bottom, enclosed by a line beginning at latitude 33°54′59″ N, longitude 118°26′50″ W; then to latitude 33°54′59″ N, longitude 118°27′34″ W; then to latitude 33°54′00″ N, longitude 118°27′34″ W; then to latitude 33°54′00″ N, longitude 118°26′50″ W; then to the point of beginning (NAD 1983).

(b) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into or movement within this zone is prohibited except for:

(i) Commercial vessels authorized to use the offshore marine terminal for loading or unloading;

(ii) Commercial tugs, lighters, barges, launches, or other vessels authorized to engage in servicing the offshore marine terminal or vessels therein;

(iii) Public vessels of the United States.

(2) Persons desiring to transit the area of the safety zone may contact the Captain of the Port at telephone number 1–800–221–8724 or on VHF–FM channel 16 (156.8 MHz). If permission is granted, all persons and vessels must comply with the instructions of the Captain of the Port or his or her designated representative.

(3) Nothing in this section shall be construed as relieving the owner or person in charge of any vessel from complying with the Navigation Rules as defined in 33 CFR Chapter I, subchapters D and E and safe navigation practice.

Dated: June 30, 2003.

John M. Holmes,

Captain, U.S. Coast Guard, Captain of the Port, Los Angeles-Long Beach.

[FR Doc. 03–17461 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–15–P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 105–56

[GSPMR Case 2003–105–3]

RIN: 3090–AH86

Salary Offset for Indebtedness of Federal Employees to the United States

AGENCY: Office of Finance, General Services Administration (GSA).

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) is proposing to change its regulations concerning the salary offset procedures used to collect debts that are owed to the United States by Federal employees. The proposed change would conform GSA regulations to the legislative changes enacted in the Debt Collection Improvement Act of 1996 (DCIA) and the amended procedures presented in the Federal Claims Collection Standards (FCCS) jointly issued by the Department of the Treasury (Treasury) and the Department of Justice (DoJ). The proposed change will allow GSA to improve its collection of debts due the United States from Federal employees.

DATES: Interested parties should submit comments in writing on or before September 8, 2003, to be considered in the formulation of a final rule.

ADDRESSES: Submit written comments to: General Services Administration, Office of the Chief Financial Officer (BCD), 1800 F Street, NW., Room 3121, ATTN: Michael J. Kosar, Washington, DC 20405. Submit electronic comments via the Internet to: *mike.kosar@gsa.gov.* Please submit comments only and cite GSPMR Case 2003–105–3 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The Regulatory Secretariat, Room 4035, GS Building, Washington, DC 20405 at (202) 501–4755 for information pertaining to status or publication schedules. For clarification of content, contact Mr. Michael J. Kosar at (202)

501–2029. Please cite GSPMR case 2003–105–3.

SUPPLEMENTARY INFORMATION:

A. Background

GSA currently has rules for collecting unpaid debts through salary offset under the provisions of the Debt Collection Act of 1982, the Federal Claims Collection Standards (FCCS) of 1966, and other authorities governing the collection of Federal debts. The proposed change will incorporate changes that are presented in the amended FCCS issued jointly by Treasury and DoJ, and the Debt Collection Improvement Act of 1996 (DCIA).

A new Subpart B, Centralized Salary Offset Procedures (CSO)—GSA as Creditor Agency, is added to include procedures for notifying Treasury of delinquent Federal employee debtors from another agency who owe debts to GSA. A new Subpart C, Centralized Salary Offset Procedures (CSO)—GSA as Paying Agency, is added to include procedures for offsetting debts of a GSA employee or a cross-serviced agency employee that owes a debt to another agency. The DCIA of 1996 requires Federal agencies to match their delinquent debtor records with records of Federal employees, at least annually, to identify Federal employees who owe delinquent debt to the United States. This part implements the requirement under 5 U.S.C. 5514(a)(1) that all Federal agencies, using a process known as centralized salary offset computer matching, identify Federal employees who owe delinquent non-tax debt to the United States. Centralized salary offset computer matching is the computerized comparison of delinquent debt records with records of Federal employees. The purpose of centralized salary offset computer matching is to identify those debtors whose Federal salaries should be offset to collect delinquent debts owed to the Federal Government. This part specifies the delinquent debt records and Federal employee records that must be included in the salary offset matching process. For purposes of this part, delinquent debt records consist of the debt information submitted to Treasury for purposes of administrative offset as required under 31 U.S.C. 3716(c)(6).

B. Executive Order 12866

GSA has determined that this regulation is not a significant regulatory action as defined in Executive Order 12866, and accordingly, this regulation has not been reviewed by the Office of Management and Budget.

C. Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities because the regulation either (1) results in greater flexibility for GSA to streamline debt collection regulations, or (2) reflects the statutory language contained in the DCIA. Accordingly, a Regulatory Flexibility Analysis is not required.

D. Executive Order 13132

This regulation will not have a substantial direct effect on the states, on the relationship between the national government and the states, or on distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 13132, it is determined that this regulation does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

E. Unfunded Mandates Reform Act of 1995

This regulation will not result in the expenditure by state, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one (1) year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

F. Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 251 of the Small Business Regulatory Enforcement Act, 5 U.S.C. 804. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic or export markets.

G. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

List of Subjects in 41 CFR Part 105–56

Claims, salary offset, payments, administrative practice and procedure, hearings, appeals procedures, debts, debt collection, wages, government employees.

Dated: July 7, 2003.

Kathleen M. Turco,

Chief Financial Officer, Office of the Chief Financial Officer.

For the reasons set forth in the preamble, GSA proposes to amend 41 CFR part 105–56 as set forth below:

PART 105–56—SALARY OFFSET FOR INDEBTEDNESS OF FEDERAL EMPLOYEES TO THE UNITED STATES

1. Revise part 105–56 to read as follows:

PART 105–56—SALARY OFFSET FOR INDEBTEDNESS OF FEDERAL EMPLOYEES TO THE UNITED STATES

Subpart A—Salary Offset of General Services Administration Employees

Sec.

105–56.001 Scope.
105–56.002 Excluded debts or claims.
105–56.003 Definitions.
105–56.004 Pre-offset notice.
105–56.005 Employee response.
105–56.006 Petition for pre-offset hearing.
105–56.007 Pre-offset oral hearing.
105–56.008 Pre-offset paper hearing.
105–56.009 Written decision.
105–56.010 Deductions.
105–56.011 Non-waiver of rights.
105–56.012 Refunds.
105–56.013 Coordinating offset with another Federal agency.

Authority: 5 U.S.C. 5514; 5 CFR part 550, Subpart K; 31 CFR part 5, Subpart B; 31 CFR parts 900–904; 31 CFR part 285.7.

Subpart A—Salary Offset of General Services Administration Employees

§ 105–56.001 Scope.

(a) This subpart covers internal GSA collections under 5 U.S.C. 5514. It applies when certain debts to the United States are recovered by administrative offset from the disposable pay of a GSA employee or a cross-serviced agency employee, except in situations where the employee consents to the recovery.

(b) The collection of any amount under this subpart will be in accordance with the standards promulgated pursuant to the Debt Collection Improvement Act of 1996 (DCIA), 31 U.S.C. 3701 *et seq.*, and the Federal Claims Collection Standards, 31 CFR parts 900–904 as amended, or in accordance with any other statutory authority for the collection of claims of the United States or any Federal agency.

§ 105–56.002 Excluded debts or claims.

This subpart does not apply to the following:

(a) Debts or claims arising under the Internal Revenue Code of 1954 as amended (26 U.S.C. 1 *et seq.*), the Social Security Act (42 U.S.C. 301 *et seq.*), or the tariff laws of the United States.

(b) Any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute. Debt collection procedures under other statutory authorities, however, must be consistent with the provisions of the Federal Claims Collection Standards, defined at paragraph (h) of 105–56.003.

(c) An employee election of coverage or of a change of coverage under a Federal benefits program that requires periodic deductions from pay if the amount to be recovered was accumulated over four pay periods or less. However, if the amount to be recovered was accumulated over more than four pay periods, the procedures under § 105–56.004 of this subpart will apply.

(d) Routine adjustment in pay or allowances that is made to correct an overpayment of pay attributable to clerical or administrative errors or delays in processing pay documents, if the overpayment occurred within the four pay periods preceding the adjustment and, at the time of the adjustment, or as soon after as possible, the employee is provided written notice of the nature and amount of the adjustment.

(e) Any adjustment to collect a debt amounting to $50 or less, if, at the time of the adjustment, or as soon after as possible, the employee is given written notice of the nature and amount of the adjustment and a point of contact for contesting the adjustment.

(f) Debts or claims arising from the accrual of unpaid Health Benefits Insurance (HBI) premiums as the result of an employee's election to continue health insurance coverage during periods of leave without pay (LWOP), or when pay is insufficient to cover premiums. Debt collection procedures for unpaid HBI are covered under 5 CFR part 890, Subpart E.

§ 105–56.003 Definitions.

The following definitions apply to this subpart:

(a) *Administrative offset,* as defined in 31 U.S.C. 3701(a)(1), means withholding funds payable by the United States (including funds payable by the United States on behalf of a State government) to, or held by the United States for, a person to satisfy a claim.

(b) *Agency* means a department, agency or sub-agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal government, including government corporations.

(c) *Business day* means Monday through Friday, excluding Federal legal holidays. For purposes of computation, the last day of the period will be included unless it is a Federal legal holiday.

(d) *Creditor agency* means any agency that is owed a debt, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt.

(e) *Cross-serviced agency* means an arrangement between GSA and another agency whereby GSA provides financial support services to the other agency on a reimbursable basis. Financial support services can range from simply providing computer and software timesharing services to full-service administrative processing.

(f) *Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs, including contributions to the Thrift Savings Plan (TSP); premiums for life (excluding amounts deducted for supplemental coverage) and health insurance benefits; Internal Revenue Service (IRS) tax levies; and such other deductions that may be required by law to be withheld.

(g) *Employee* means any individual employed by GSA or a cross-serviced agency of the executive, legislative, or judicial branches of the Federal government, including Government corporations.

(h) *FCCS* means the Federal Claims Collection Standards jointly published by the Department of Justice and the Department of the Treasury at 31 CFR parts 900–904.

(i) *Financial hardship* means an inability to meet basic living expenses for goods and services necessary for the survival of the debtor and his or her spouse and dependents.

(j) For the purposes of the standards in this subpart, unless otherwise stated, the term ''Administrator'' refers to the Administrator of General Services or the Administrator's delegate.

(k) For the purposes of the standards in this subpart, the terms ''claim'' and ''debt'' are synonymous and interchangeable. They refer to an amount of money, funds, or property that has been determined by GSA to be due the United States from an employee of GSA or a cross-serviced agency from sources which include loans insured or guaranteed by the United States and all other amounts due the United States from fees, leases, rents, royalties, services, sales of real or personal property, overpayments, penalties, damages, interest, fines and forfeitures and all other similar sources, including debt administered by a third party as an agent for the Federal Government. For the purposes of administrative offset under 31 U.S.C. 3716, the terms ''claim'' and ''debt'' include an amount of money, funds, or property owed by an employee to a State (including past-due support being enforced by a State), the District of Columbia, American Samoa, Guam, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, or the Commonwealth of Puerto Rico.

(l) For the purposes of the standards in this subpart, unless otherwise stated, the terms ''GSA'' and ''Agency'' are synonymous and interchangeable.

(m) *Pre-offset hearing* means a review of the documentary evidence concerning the existence and/or amount of a debt, and/or the terms of a repayment schedule, provided such repayment schedule is established other than by a written agreement entered into pursuant to this subpart. If the hearing official determines that the issues in dispute cannot be resolved solely by review of the written record, such as when the validity of the debt turns on the issue of credibility or veracity, an oral hearing may be provided.

(n) *Hearing official* means a Board Judge of the GSA Board of Contract Appeals.

(o) *Pay* means basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay.

(p) *Reconsideration* means a request by the employee to have a secondary review by GSA of the existence and/or amount of the debt, and/or the proposed offset schedule.

(q) *Program official* means a supervisor or management official of the employee's service, staff office, cross-serviced agency, or other designated Agency officials.

(r) *Salary offset* means an administrative offset to collect a debt under 5 U.S.C. 5514 by deduction(s) at one or more officially established pay intervals from the current pay account of an employee without his or her consent.

(s) *Waiver* means the cancellation, remission, forgiveness, or non-recovery of a debt or debt-related charge as permitted or required by law.

§ 105–56.004 Pre-offset notice.

An employee must be given written notice from the appropriate program official at least 30 days in advance of initiating a deduction from disposable pay informing him or her of—

(a) The nature, origin and amount of the indebtedness determined by GSA or a cross-serviced agency to be due;

(b) The intention of GSA to initiate proceedings to collect the debt through deductions from the employee's current disposable pay and other eligible payments;

(c) The amount (stated as a fixed dollar amount or as a percentage of pay, not to exceed 15% of disposable pay), frequency, proposed beginning date, and duration of the intended deductions;

(d) GSA's policy concerning how interest, penalties, and administrative costs are assessed (see 41 CFR part 105–55.017), including a statement that such assessments will be made unless excused under 31 U.S.C. 3717(h) and 31 CFR parts 901.9(g) and (h);

(e) The employee's right to inspect and copy GSA records relating to the debt, if records of the debt are not attached to the notice, or if the employee or his or her representative cannot personally inspect the records, the right to receive a copy of such records. Any costs associated with copying the records for the debtor will be borne by the debtor. The debtor must give a minimum of three (3) business days notice in advance to GSA of the date on which he or she intends to inspect and copy the records involved;

(f) A demand for repayment providing for an opportunity, under terms agreeable to GSA, for the employee to establish a schedule for the voluntary repayment of the debt by offset or to enter into a written repayment agreement of the debt in lieu of offset;

(g) The employee's right to request a waiver (see § 105–56.005(b) of this subpart);

(h) The employee's right to request reconsideration by the Agency of the existence and/or amount of the debt, and/or the proposed offset schedule;

(i) The employee's right to a pre-offset hearing conducted by a hearing official, arranged by the appropriate program official, if a request is filed as prescribed by § 105–56.006 of this subpart;

(j) The method and time period for requesting a hearing, including a statement that the timely filing of a request for hearing will stay the commencement of collection proceedings;

(k) The issuance of a final decision on the hearing, if requested, at the earliest practicable date, but no later than 60 days after the request for hearing is filed, unless the employee requests and the hearing official grants a delay in the proceedings;

(l) The risk that any knowingly false or frivolous statements, representations, or evidence may subject the employee to—

(1) Disciplinary procedures appropriate under 5 U.S.C. Chapter 75, 5 CFR part 752, or any other applicable statutes or regulations;

(2) Penalties under the False Claims Act, 31 U.S.C. 3729–3731, or any other applicable statutory authority; or

(3) Criminal penalties under 18 U.S.C. 286, 287, 1001, and 1002, or any other applicable statutory authority;

(m) Any other rights and remedies available to the employee under statutes or regulations governing the program for which the collection is being made;

(n) The employee's right to a prompt refund if amounts paid or deducted are later waived or found not owed, unless otherwise provided by law (*see* § 105–56.012 of this subpart);

(o) The specific address to which all correspondence must be directed regarding the debt.

§ 105–56.005 Employee response.

(a) *Voluntary repayment agreement.* An employee may submit a request to the appropriate program official who signed the pre-offset notice to enter into a written repayment agreement of the debt in lieu of offset. The request must be made within 7 days of receipt of notice under § 105–56.004 of this subpart. The agreement must be in writing, signed by both the employee and the appropriate program official making the notice, and a signed copy must be sent to the appropriate Finance Center serving the program activity. Acceptance of such an agreement is discretionary with the Agency. An employee who enters into such an agreement may nevertheless seek a waiver under paragraph (b) of this section.

(b) *Waiver.* An employee may request a waiver of overpayment of pay or allowances (*e.g.*, 5 U.S.C. 5584, 10 U.S.C. 2774, or 32 U.S.C. 716). When an employee requests waiver consideration, further collection on the debt may be suspended until a final administrative decision is made on the waiver request. During the period of any suspension, interest, penalties and administrative charges may be held in abeyance. GSA will not duplicate, for purposes of salary offset, any of the notices/procedures already provided the debtor prior to a request for waiver.

(c) *Reconsideration.* (1) An employee may seek a reconsideration of GSA's determination regarding the existence and/or amount of the debt. The request must be submitted to the appropriate program official indicated in the pre-offset notice, within 7 days of receipt of notice under § 105–56.004 of this subpart. Within 20 days of receipt of this notice, the employee must submit a detailed statement of reasons for reconsideration that must be accompanied by supporting documentation.

(2) An employee may request a reconsideration of the proposed offset schedule. The request must be submitted to the appropriate program official indicated in the pre-offset notice, within 7 days of receipt of notice under § 105–56.004 of this subpart. Within 20 days of receipt of this notice, the employee must submit an alternative repayment schedule accompanied by a detailed statement, supported by documentation, evidencing financial hardship resulting from GSA's proposed schedule. Acceptance of the request is at GSA's discretion. GSA will notify the employee in writing of its decision concerning the request to reduce the rate of an involuntary deduction.

§ 105–56.006 Petition for pre-offset hearing.

(a) The employee may request a pre-offset hearing by filing a written petition with the appropriate program official indicated in the pre-offset notice, within 15 days of receipt of the written notice. The petition must state why the employee believes GSA's determination concerning the existence and/or amount of the debt is in error, set forth any objections to the involuntary repayment schedule, and, if the employee is seeking an oral hearing, set forth reasons for an oral hearing. The timely filing of a petition will suspend the commencement of collection proceedings.

(b) The employee's petition or statement must be signed and dated by the employee.

(c) Petitions for hearing made after the expiration of the 15-day period may be accepted if the employee can show that the delay was because of circumstances beyond his or her control or because of failure to receive notice of the time limit.

(d) If the employee timely requests a pre-offset hearing or the timeliness is waived, the appropriate program official must—

(1) Promptly notify the GSBCA and arrange for a hearing official (see § 105–56.003(n) of this subpart). The hearing official will notify the employee whether he or she may have an oral or a ''paper hearing,'' *i.e.*, a review on the written record (*see* 31 CFR part 901.3(e)); and

(2) Provide the hearing official with a copy of all records on which the determination of the debt and any involuntary repayment schedule are based.

(e) If an oral hearing is to be held, the hearing official will notify the appropriate program official and the employee of the date, time and location of the hearing. The debtor may choose to have the hearing conducted in the hearing official's office located at GSA Central Office, 1800 F St., NW., Washington, DC 20405, at another location designated by the hearing official, or by telephone. The debtor and any witnesses are responsible for any personal expenses incurred to arrive at a hearing official's office or other designated location (*see* § 105–56.007(c)). All telephonic charges incurred during a hearing will be the responsibility of GSA.

(f) If the employee later elects to have the hearing based only on the written submissions, notification must be given to the hearing official and the appropriate program official at least 3 days before the date of the oral hearing. The hearing official may waive the 3-day requirement for good cause.

(g) If either party, without good cause as determined by the hearing official, does not appear at a scheduled oral hearing, the hearing official will make a determination on the claim which takes into account that party's position as presented in writing only.

§ 105–56.007 Pre-offset oral hearing.

(a) The Agency, represented by the appropriate program official or a representative of the Office of General Counsel, and the employee, and/or his or her representative, will explain their case in the form of an oral presentation with reference to the documentation submitted. The employee may testify on his or her own behalf, subject to cross-examination. Other witnesses may be called to testify when the hearing official determines the testimony to be relevant and not redundant. All witnesses will testify under oath, with the oath having been administered by the hearing official. A written transcript of the hearing will be kept and made available to either party in the event of an appeal under the Administrative Procedure Act, 5 U.S.C. 701–706. Arrangements for the taking of the transcript will be made by the hearing official, and all charges associated with the taking of the transcript will be the responsibility of GSA.

(b) The hearing official will—

(1) Conduct a fair and impartial hearing; and

(2) Preside over the course of the hearing, maintain decorum, and avoid delay in the disposition of the hearing.

(c) The employee may represent himself or herself or may be represented by another person of his or her choice at the hearing. GSA will not compensate the employee for representation expenses, including hourly fees for attorneys, travel expenses, and costs for reproducing documents.

(d) Oral hearings are open to the public. However, the hearing official may close all or any portion of the hearing when doing so is in the best interests of the employee or the Agency.

(e) Oral hearings may be conducted by telephone at the request of the employee. All telephonic charges incurred during a hearing will be the responsibility of GSA.

(f) The hearing official may request written submissions and documentation from the employee and the Agency, in addition to considering evidence offered at the hearing.

§ 105–56.008 Pre-offset paper hearing.

If a hearing is to be held only upon written submissions, the hearing official will issue a decision based upon the record and responses submitted by both the Agency and the employee. See § 105–56.006 of this subpart. If either party, without good cause as determined by the hearing official, does not provide written submissions and documentation requested by the hearing official, the hearing official will make a determination on the claim without reference to such submissions and documentation.

§ 105–56.009 Written decision.

(a) Within 60 days of the employee's filing of a petition for a pre-offset hearing, the hearing official will issue a written decision setting forth—

(1) The facts supporting the nature and origin of the debt;

(2) The hearing official's analysis, findings and conclusions as to the employee's or Agency's grounds;

(3) The amount and validity of the debt; and

(4) The repayment schedule, if applicable.

(b) The hearing official's decision will be the final Agency action for the purposes of judicial review under the Administrative Procedure Act (5 U.S.C. 701 *et seq.*).

§ 105–56.110 Deductions.

(a) *When deductions may begin.* Deductions may begin upon the issuance of an Agency decision on a request for reconsideration or waiver (except as provided in § 105–56.005(b) of this subpart) or the issuance of a decision in a pre-offset hearing. In no event will deductions begin sooner than thirty days from the date of the notice letter. If the employee filed a petition for hearing with the appropriate program official before the expiration of the period provided for in § 105–56.006 of this subpart, then deductions will begin after the hearing official has provided the employee with a hearing and the final written decision. The appropriate program official will coordinate with the National Payroll Center to begin offset in accordance with the final written decision.

(b) *Retired or separated employees.* If the employee retires, resigns, or is terminated before collection of the indebtedness is completed, the remaining indebtedness will be offset from any subsequent payments of any nature. If the debt cannot be satisfied from subsequent payments, then the debt will be collected according to the procedures for administrative offset pursuant to § 105–55.011 of this subpart.

(c) *Types of collection.* A debt may be collected in one lump sum or in installments. Collection will be by lump sum unless the employee is able to demonstrate to the program official who signed the notice letter that he or she is financially unable to pay in one lump sum. In these cases, collection will be by installment deductions. Involuntary deductions from pay may not exceed 15 percent of disposable pay.

(d) *Methods of collection.* If the debt cannot be collected in one lump sum, the debt will be collected by deductions at officially established pay intervals from an employee's current pay account, unless the employee and the appropriate program official agree to an alternative repayment schedule. The alternative arrangement must be in writing and signed by both the employee and the appropriate program official.

(1) *Installment deductions.* Installment deductions will be made over the shortest period possible. The size and frequency of installment deductions will bear a reasonable relation to the size of the debt and the employee's ability to pay. However, the amount deducted for any period will not exceed 15 percent of the disposable pay from which the deduction is made, unless the employee has agreed in writing to the deduction of a greater amount. The installment payment normally will be sufficient in size and frequency to liquidate the debt in three (3) years or less, unless circumstances warrant a longer period. Installment payments of less than $100 per pay period will be accepted only in the most unusual circumstances.

(2) *Sources of deductions.* GSA will make salary deductions only from basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an

employee not entitled to basic pay, other authorized pay.

(e) *Non-Salary payments.* The receipt of collections from salary offsets does not preclude GSA from pursuing other debt collection remedies, including the offset of other Federal payments to satisfy delinquent non-tax debt owed to the United States. GSA will pursue, when appropriate, such debt collection remedies separately or in conjunction with salary offset.

(f) *Interest, penalties and administrative costs.* Interest, penalties and administrative costs on debts under this subpart will be assessed according to the provisions of § 105–55.016 of this subpart.

§ 105–56.011 Non-waiver of rights.

An employee's involuntary payment of all or any portion of a debt being collected under 5 U.S.C. 5514 will not be construed as a waiver of any rights which the employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutory or contractual provisions to the contrary.

§ 105–56.012 Refunds.

(a) GSA will promptly refund to the employee any amounts offset under these regulations when a debt is waived or otherwise found not owing the United States (unless expressly prohibited by statute or regulation), or GSA is directed by an administrative or judicial order to refund amounts deducted from the employee's current pay or withheld from non-salary payments.

(b) Unless required by Federal law or contract, refunds under this subpart will not bear interest.

§ 105–56.013 Coordinating offset with another Federal agency.

GSA participates in the Centralized Salary Offset (CSO) program (*see* Subparts B and C, below). In those instances when CSO cannot be utilized (*i.e.*, when another agency does not participate in the program), the following procedures apply:

(a) *When GSA is the creditor agency.* When GSA is owed a debt by an employee of another agency, GSA will provide the paying agency with a written certification that the debtor owes GSA a debt and that GSA has complied with these regulations. This certification will include the amount and basis of the debt, the due date of the payment, or the beginning date of installment payments, if any.

(b) *When another agency is the creditor agency.* (1) GSA may use salary offset against one of its employees or cross-serviced agency employees who is indebted to another agency if requested to do so by that agency. Any such request must be accompanied by a certification from the requesting agency that the person owes the debt, the amount of the debt and that the employee has been given the procedural rights required by 5 U.S.C. 5514 and 5 CFR part 550, Subpart K.

(2) The creditor agency must advise GSA of the number of installments to be collected, the amount of each installment, and the beginning date of the first installment if it is not the next established pay period.

(3) If GSA receives an improperly completed request, the creditor agency will be requested to supply the required information before any salary offset begins.

(4) If the claim procedures in (b)(1) of this section have been properly completed, deductions will begin on the next established pay period unless a different period is requested by the creditor agency.

(5) GSA will not review the merits of the creditor agency's determinations with respect to the amount and/or validity of the debt as stated in the debt claim certification.

(6) If the employee begins separation action before GSA collects the total debt due the creditor agency, the following actions will be taken:

(i) When possible, the balance owed the creditor agency will be liquidated from subsequent payments of any nature due the employee from GSA in accordance with 41 CFR part 105–55.011;

(ii) If the total amount of the debt cannot be recovered, GSA will certify the total amount collected to the creditor agency and the employee;

(iii) If GSA is aware that the employee is entitled to payments from the Civil Service Retirement and Disability Fund, or other similar payments, such information will be provided to the creditor agency so a certified claim can be made against the payments.

(7) If the employee transfers to another Federal agency before GSA collects the total amount due the creditor agency, GSA will certify the total amount collected to the creditor agency and the employee. It is the responsibility of the creditor agency to ensure that collection action is resumed by the new employing agency.

Subpart B—Centralized Salary Offset (CSO) Procedures—GSA as Creditor Agency

Sec.

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105–56.023 Disposition of amounts collected.

Authority: 5 U.S.C. 5514; 31 U.S.C. 3711; 31 U.S.C. 3716; 5 CFR part 550, Subpart K; 31 CFR part 5; 31 CFR part 285.7; 31 CFR parts 900–904.

§ 105–56.014 Purpose and scope.

(a) This subpart establishes procedures for the offset of Federal salary payments, through the Financial Management Service's (FMS) administrative offset program, to collect delinquent debts owed to the Federal Government. This process is known as centralized salary offset. Rules issued by the Office of Personnel Management contain the requirements Federal agencies must follow prior to conducting salary offset and the procedures for requesting offsets directly from a paying agency. *See* 5 CFR parts 550.1101–1108.

(b) This subpart implements the requirement under 5 U.S.C. 5514 (a)(1) that all Federal agencies, using a process known as centralized salary offset computer matching, identify Federal employees who owe delinquent non-tax debt to the United States. Centralized salary offset computer matching is the computerized comparison of delinquent debt records with records of Federal employees. The purpose of centralized salary offset computer matching is to identify those debtors whose Federal salaries should be offset to collect delinquent debts owed to the Federal Government.

(c) This subpart specifies the delinquent debt records and Federal employee records that must be included in the salary offset matching process. For purposes of this subpart, delinquent debt records consist of the debt information submitted to FMS for purposes of administrative offset as required under 31 U.S.C. 3716(c)(6). Since GSA submits debts to FMS for purposes of administrative offset, the Agency is not required to submit duplicate information for purposes of centralized salary offset computer matching under 5 U.S.C. 5514(a)(1) and this subpart.

(d) An interagency consortium was established to implement centralized salary offset computer matching on a government-wide basis as required under 5 U.S.C. 5514(a)(1). Federal employee records consist of records of

Federal salary payments disbursed by members of the consortium.

(e) The receipt of collections from salary offsets does not preclude GSA from pursuing other debt collection remedies, including the offset of other Federal payments to satisfy delinquent non-tax debt owed to the United States. GSA will pursue, when appropriate, such debt collection remedies separately or in conjunction with salary offset.

§ 105–56.015 Definitions.

The following definitions apply to this subpart:

(a) *Administrative offset* means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

(b) *Agency* means a department, agency or sub-agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal government, including government corporations.

(c) *Centralized salary offset computer matching* means the computerized comparison of Federal employee records with delinquent debt records to identify Federal employees who owe such debts.

(d) *Consortium* means an interagency group established by the Secretary of the Treasury to implement centralized salary offset computer matching. The group includes all agencies that disburse Federal salary payments.

(e) *Creditor agency* means any agency that is owed a debt, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt.

(f) *Debt* means any amount of money, funds, or property that has been determined by an appropriate official of the Federal government to be owed to the United States by a person, including debt administered by a third party acting as an agent for the Federal Government. For purposes of this subpart, the term ''debt'' does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

(g) *Delinquent debt record* means information about a past-due, legally enforceable debt, submitted by GSA to FMS for purposes of administrative offset (including salary offset) in accordance with the provisions of 31 U.S.C. 3716(c)(6) and applicable regulations. Debt information includes the amount and type of debt and the debtor's name, address, and taxpayer identifying number.

(h) *Disbursing official* means an officer or employee designated to disburse Federal salary payments. This includes all disbursing officials of Federal salary payments, including but not limited to, disbursing officials of the Department of the Treasury, the Department of Defense, the United States Postal Service, any government corporation, and any disbursing official of the United States designated by the Secretary.

(i) *Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs, including contributions to the Thrift Savings Plan (TSP); premiums for life (excluding amounts deducted for supplemental coverage) and health insurance benefits; Internal Revenue Service (IRS) tax levies; and such other deductions that are required by law to be withheld.

(j) *Federal employee* means a current employee of an agency, including a current member of the Armed Forces or a Reserve of the Armed Forces (Reserves), employees of the United States Postal Service, and seasonal and temporary employees.

(k) *Federal employee records* means records of Federal salary payments that a paying agency has certified to a disbursing official for disbursement.

(l) *FMS* means the Financial Management Service, a bureau of the Department of the Treasury.

(m) For the purposes of the standards in this subpart, unless otherwise stated, the term ''Administrator'' refers to the Administrator of General Services or the Administrator's delegate.

(n) For the purposes of the standards in this subpart, unless otherwise stated, the terms ''GSA'' and ''Agency'' are synonymous and interchangeable.

(o) *Pay* means basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay.

(p) *Paying agency* means the agency that employs the Federal employee who owes the debt and authorizes the payment of his or her current pay. A paying agency also includes an agency that performs payroll services on behalf of the employing agency.

(q) *Salary offset* means administrative offset to collect a debt owed by a Federal employee from the current pay account of the employee.

(r) *Secretary* means the Secretary of the Treasury or his or her delegate.

(s) *Taxpayer identifying number* means the identifying number described under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109). For an individual, the taxpayer identifying number is the individual's social security number.

§ 105–56.016 GSA participation.

(a) As required under 5 U.S.C. 5514 (a)(1), GSA must participate at least annually in centralized salary offset computer matching. To meet this requirement, GSA will notify FMS of all past-due, legally enforceable debts delinquent for more than 180 days for purposes of administrative offset, as required under 31 U.S.C. 3716(c)(6).

Additionally, GSA may notify FMS of past-due, legally enforceable debts delinquent for less than 180 days for purposes of administrative offset.

(b) Prior to submitting a debt to FMS for purposes of collection by administrative offset, including salary offset, GSA will provide written certification to FMS that:

(1) The debt is past-due and legally enforceable in the amount submitted to FMS and that GSA will ensure that collections (other than collections through offset) are properly credited to the debt;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within ten years after GSA's right of action accrues;

(3) GSA has complied with the provisions of 31 U.S.C. 3716 (administrative offset) and related regulations including, but not limited to, the provisions requiring that GSA provide the debtor with applicable notices and opportunities for a review of the debt; and

(4) GSA has complied with the provisions of 5 U.S.C. 5514 (salary offset) and related regulations including, but not limited to, the provisions requiring that GSA provide the debtor with applicable notices and opportunities for a hearing.

(c) FMS may waive the certification requirement set forth in paragraph (b)(4) of this section as a prerequisite to submitting the debt to FMS. If FMS waives the certification requirement, before an offset occurs, GSA will provide the Federal employee with the notices and opportunities for a hearing as required by 5 U.S.C. 5514 and applicable regulations, and will certify to FMS that the requirements of 5 U.S.C. 5514 and applicable regulations have been met.

(d) GSA will notify FMS immediately of any payments credited by GSA to the debtor's account, other than credits for amounts collected by offset, after submission of the debt to FMS. GSA will notify FMS once the debt is paid in its entirety. GSA will also notify FMS immediately of any change in the status of the legal enforceability of the debt, for

example, if the Agency receives notice that the debtor has filed for bankruptcy protection.

§ 105–56.017 Centralized salary offset computer match.

(a) Delinquent debt records will be compared with Federal employee records maintained by members of the consortium or paying agencies. The records will be compared to identify Federal employees who owe delinquent debts for purposes of collecting the debt by administrative offset. A match will occur when the taxpayer identifying number and name of a Federal employee are the same as the taxpayer identifying number and name of a debtor.

(b) As authorized by the provisions of 31 U.S.C. 3716(f), FMS, under a delegation of authority from the Secretary, has waived certain requirements of the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. 552a, as amended, for administrative offset, including salary offset, upon written certification by the Administrator, or the Administrator's delegate, that the requirements of 31 U.S.C. 3716(a) have been met. Specifically, FMS has waived the requirements for a computer matching agreement contained in 5 U.S.C. 552a(o) and for post-match notice and verification contained in 5 U.S.C. 552a(p). GSA will provide certification in accordance with the provisions of § 105–56.016(b)(3) of this subpart.

§ 105–56.018 Salary offset.

When a match occurs and all other requirements for offset have been met, as required by the provisions of 31 U.S.C. 3716(c), the disbursing official will offset the Federal employee's salary payment to satisfy, in whole or part, the debt owed by the employee. Alternatively, the paying agency, on behalf of the disbursing official, may deduct the amount of the offset from an employee's disposable pay before the employee's salary payment is certified to a disbursing official for disbursement.

§ 105–56.019 Offset amount.

(a) The minimum dollar amount referred for offset under this subpart is $100.

(b) The amount offset from a salary payment under this subpart will be the lesser of—

(1) The amount of the debt, including any interest, penalties and administrative costs; or

(2) Up to 15% of the debtor's disposable pay.

(c) Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and GSA.

(d) Offsets will continue until the debt, including any interest, penalties, and administrative costs, is paid in full or otherwise resolved to the satisfaction of GSA.

§ 105–56.020 Priorities.

(a) A levy pursuant to the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) takes precedence over other deductions under this subpart.

(b) When a salary payment may be reduced to collect more than one debt, amounts offset under this subpart will be applied to a debt only after amounts offset have been applied to satisfy past due child support debts assigned to a State pursuant to the Social Security Act under 42 U.S.C. 602(a)(26) or 671(a)(17).

§ 105–56.021 Notice.

(a) Before offsetting a salary payment, the disbursing official, or the paying agency on behalf of the disbursing official, will notify the Federal employee in writing of the date deductions from salary will commence and of the amount of such deductions.

(b)(1) When an offset occurs under this subpart, the disbursing official, or the paying agency on behalf of the disbursing official, will notify the Federal employee in writing that an offset has occurred including—

(i) A description of the payment and the amount of offset taken;

(ii) The identity of GSA as the creditor agency requesting the offset; and

(iii) A contact point within GSA that will handle concerns regarding the offset.

(2) The information described in paragraphs (b)(1)(B) and (b)(1)(C) of this section does not need to be provided to the Federal employee when the offset occurs if such information was included in a prior notice from the disbursing official or paying agency.

(c) The disbursing official will advise GSA of the names, mailing addresses, and taxpayer identifying numbers of the debtors from whom amounts of past-due, legally enforceable debt were collected and of the amounts collected from each debtor for GSA. The disbursing official will not advise GSA of the source of payment from which the amounts were collected.

§ 105–56.022 Fees.

Agencies that perform centralized salary offset computer matching services may charge a fee sufficient to cover the full cost for such services. In addition, FMS, or a paying agency acting on behalf of FMS, may charge a fee sufficient to cover the full cost of implementing the administrative offset program. FMS may deduct the fees from amounts collected by offset or may bill GSA. Fees charged for offset will be based on actual administrative offsets completed and may be added to the debt as an administrative cost.

§ 105–56.023 Disposition of amounts collected.

(a) The disbursing official conducting the offset will transmit amounts collected for debts, less fees charged under § 105–56.022 of this subpart, to GSA.

(b) If an erroneous offset payment is made to GSA, the disbursing official will notify GSA that an erroneous offset payment has been made.

(1) The disbursing official may deduct the amount of the erroneous offset payment from future amounts payable to GSA; or

(2) Alternatively, upon the disbursing official's request, GSA will promptly return to the disbursing official or the affected payee an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to GSA have been paid).

(i) The disbursing official and GSA will adjust the debtor records appropriately.

(ii) Unless required by Federal law or contract, refunds under this subpart will not bear interest.

Subpart C—Centralized Salary Offset (CSO) Procedures—GSA as Paying Agency

Sec.

105–56.024 Purpose and scope.
105–56.025 Definitions.
105–56.026 GSA participation.
105–56.027 Centralized salary offset computer match.
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105–56.032 Fees.
105–56.033 Disposition of amounts collected.

Authority: 5 U.S.C. § 5514; 31 U.S.C. § 3711; 31 U.S.C. § 3716; 5 CFR part 550, Subpart K; 31 CFR part 5; 31 CFR 285.7; 31 CFR parts 900–904.

§ 105–56.024 Purpose and scope.

(a) This subpart establishes procedures for the offset of Federal salary payments, through the Financial Management Service's (FMS) administrative offset program, to collect delinquent debts owed to the Federal Government. This process is known as salary offset. Rules issued by the Office of Personnel Management contain the requirements Federal agencies must follow prior to conducting salary offset and the procedures for requesting offsets

directly from a paying agency. See 5 CFR parts 550.1101–1108.

(b) This subpart implements the requirement under 5 U.S.C. 5514 (a)(1) that all Federal agencies, using a process known as centralized salary offset computer matching, identify Federal employees who owe delinquent non-tax debt to the United States. Centralized salary offset computer matching is the computerized comparison of delinquent debt records with records of Federal employees. The purpose of centralized salary offset computer matching is to identify those debtors whose Federal salaries should be offset to collect delinquent debts owed to the Federal Government.

(c) This subpart specifies the delinquent debt records and Federal employee records that must be included in the salary offset matching process. For purposes of this subpart, delinquent debt records consist of the debt information submitted to FMS for purposes of administrative offset as required under 31 U.S.C. 3716(c)(6).

(d) An interagency consortium was established to implement centralized salary offset computer matching on a Governmentwide basis as required under 5 U.S.C. 5514(a)(1). Federal employee records consist of records of Federal salary payments disbursed by members of the consortium.

§ 105–56.025 Definitions.

The following definitions apply to this subpart:

(a) *Administrative offset* means withholding funds payable by the United States to, or held by the United States for, a person to satisfy a debt owed by the payee.

(b) *Agency* means a department, agency or sub-agency, court, court administrative office, or instrumentality in the executive, judicial, or legislative branch of the Federal government, including government corporations.

(c) *Centralized salary offset computer matching* means the computerized comparison of Federal employee records with delinquent debt records to identify Federal employees who owe such debts.

(d) *Consortium* means an interagency group established by the Secretary of the Treasury to implement centralized salary offset computer matching. The group includes all agencies that disburse Federal salary payments.

(e) *Creditor agency* means any agency that is owed a debt, including a debt collection center when acting on behalf of a creditor agency in matters pertaining to the collection of a debt.

(f) *Cross-serviced agency* means an arrangement between GSA and another agency whereby GSA provides financial support services to the other agency on a reimbursable basis. Financial support services can range from simply providing computer and software timesharing services to full-service administrative processing.

(g) *Debt* means any amount of money, funds, or property that has been determined by an appropriate official of the Federal Government to be owed to the United States by a person, including debt administered by a third party acting as an agent for the Federal Government. For purposes of this subpart, the term ''debt'' does not include debts arising under the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*).

(h) *Delinquent debt record* means information about a past-due, legally enforceable debt, submitted to GSA by FMS for purposes of administrative offset (including salary offset) in accordance with the provisions of 31 U.S.C. 3716(c)(6) and applicable regulations. Debt information includes the amount and type of debt and the debtor's name, address, and taxpayer identifying number.

(i) *Disbursing official* means an officer or employee designated to disburse Federal salary payments. This includes all disbursing officials of Federal salary payments, including but not limited to, disbursing officials of the Department of the Treasury, the Department of Defense, the United States Postal Service, any government corporation, and any disbursing official of the United States designated by the Secretary.

(j) *Disposable pay* means the amount that remains from an employee's Federal pay after required deductions for Federal, State and local income taxes; Social Security taxes, including Medicare taxes; Federal retirement programs, including contributions to the Thrift Savings Plan (TSP); premiums for life (excluding amounts deducted for supplemental coverage) and health insurance benefits; Internal Revenue Service (IRS) tax levies; and such other deductions that are required by law to be withheld.

(k) *Employee* means any individual employed by GSA or a cross-serviced agency of the executive, legislative, or judicial branches of the Federal Government, including Government corporations.

(l) *Federal employee records* means records of Federal salary payments that a paying agency has certified to a disbursing official for disbursement.

(m) *FMS* means the Financial Management Service, a bureau of the Department of the Treasury.

(n) *Pay* means basic pay, special pay, incentive pay, retired pay, retainer pay, or in the case of an individual not entitled to basic pay, other authorized pay.

(o) *Paying agency* means the agency that employs the Federal employee who owes the debt and authorizes the payment of his or her current pay. A paying agency also includes an agency that performs payroll services on behalf of the employing agency.

(p) *Salary offset* means administrative offset to collect a debt owed by a Federal employee from the current pay account of the employee.

(q) *Secretary* means the Secretary of the Treasury or his or her delegate.

(r) *Taxpayer identifying number* means the identifying number described under section 6109 of the Internal Revenue Code of 1986 (26 U.S.C. 6109). For an individual, the taxpayer identifying number is the individual's social security number.

§ 105–56.026 GSA participation.

(a) As required under 5 U.S.C. 5514(a)(1), creditor agencies must participate at least annually in centralized salary offset computer matching. To meet this requirement, creditor agencies will notify FMS of all past-due, legally enforceable debts delinquent for more than 180 days for purposes of administrative offset, as required under 31 U.S.C. 3716(c)(6). Additionally, creditor agencies may notify FMS of past-due, legally enforceable debts delinquent for less than 180 days for purposes of administrative offset.

(b) Prior to submitting a debt to FMS for purposes of collection by administrative offset, including salary offset, creditor agencies will provide written certification to FMS that—

(1) The debt is past-due and legally enforceable in the amount submitted to FMS and that the creditor agency will ensure that collections (other than collections through offset) are properly credited to the debt;

(2) Except in the case of a judgment debt or as otherwise allowed by law, the debt is referred for offset within ten years after the creditor agency's right of action accrues;

(3) The creditor agency has complied with the provisions of 31 U.S.C. 3716 (administrative offset) and related regulations including, but not limited to, the provisions requiring the creditor agency to provide the debtor with applicable notices and opportunities for a review of the debt; and

(4) The creditor agency has complied with the provisions of 5 U.S.C. 5514 (salary offset) and related regulations including, but not limited to, the provisions requiring the creditor agency

to provide the debtor with applicable notices and opportunities for a hearing.

(c) FMS may waive the certification requirement set forth in paragraph (b)(4) of this section as a prerequisite to submitting the debt to FMS. If FMS waives the certification requirement, before an offset occurs, the creditor agency will provide the Federal employee with the notices and opportunities for a hearing as required by 5 U.S.C. 5514 and applicable regulations, and will certify to FMS that the requirements of 5 U.S.C. 5514 and applicable regulations have been met.

(d) The creditor agency will notify FMS immediately of any payments credited by the agency to the debtor's account, other than credits for amounts collected by offset, after submission of the debt to FMS. The creditor agency will notify FMS once the debt is paid in its entirety. The creditor agency will also notify FMS immediately of any change in the status of the legal enforceability of the debt, for example, if the agency receives notice that the debtor has filed for bankruptcy protection.

§ 105–56.027 Centralized salary offset computer match.

(a) Delinquent debt records will be compared with Federal employee records maintained by members of the consortium or paying agencies. The records will be compared to identify Federal employees who owe delinquent debts for purposes of collecting the debt by administrative offset. A match will occur when the taxpayer identifying number and name of a Federal employee are the same as the taxpayer identifying number and name of a debtor.

(b) As authorized by the provisions of 31 U.S.C. 3716(f), FMS, under a delegation of authority from the Secretary, has waived certain requirements of the Computer Matching and Privacy Protection Act of 1988, 5 U.S.C. 552a, as amended, for administrative offset, including salary offset, upon written certification by the creditor agency, that the requirements of 31 U.S.C. 3716(a) have been met. Specifically, FMS has waived the requirements for a computer matching agreement contained in 5 U.S.C. 552a(o) and for post-match notice and verification contained in 5 U.S.C. 552a(p).

§ 105–56.028 Salary offset.

When a match occurs and all other requirements for offset have been met, as required by the provisions of 31 U.S.C. 3716(c), the disbursing official will offset the GSA employee's or cross-serviced agency employee's salary payment to satisfy, in whole or part, the debt owed by the employee. Alternatively, the GSA National Payroll Center, serving as the paying agency, on behalf of the disbursing official, may deduct the amount of the offset from an employee's disposable pay before the employee's salary payment is certified to a disbursing official for disbursement.

§ 105–56.029 Offset amount.

(a) The minimum dollar amount of salary offset under this subpart is $100.

(b) The amount offset from a salary payment under this subpart will be the lesser of—

(1) The amount of the debt, including any interest, penalties and administrative costs; or

(2) Up to 15% of the debtor's disposable pay.

(c) Alternatively, the amount offset may be an amount agreed upon, in writing, by the debtor and the creditor agency.

(d) Offsets will continue until the debt, including any interest, penalties, and administrative costs, is paid in full or otherwise resolved to the satisfaction of the creditor agency.

§ 105–56.030 Priorities.

GSA, acting as the paying agency, on behalf of the disbursing official, will apply the order of precedence when processing debts identified by the centralized salary offset computer match program as follows:

(a) A levy pursuant to the Internal Revenue Code of 1986 (26 U.S.C. 1 *et seq.*) takes precedence over other deductions under this subpart.

(b) When a salary payment may be reduced to collect more than one debt, amounts offset under this subpart will be applied to a debt only after amounts offset have been applied to satisfy past due child support debts assigned to a State pursuant to the Social Security Act under 42 U.S.C. 602(a)(26) or 671(a)(17).

105–56.031 Notice.

(a) The disbursing official will provide GSA an electronic list of the names, mailing addresses, and taxpayer identifying numbers of the debtors from whom amounts of past-due, legally enforceable debt are due other Federal agencies. The disbursing official will identify the creditor agency name and a point of contact that will handle concerns regarding the debt.

(b) Before offsetting a salary payment, the GSA National Payroll Center, acting as the paying agency on behalf of the disbursing official, will notify the debtor in writing of the date deductions from salary will commence and of the amount of such deductions.

(c)(1) When an offset occurs under this subpart, the disbursing official, or the GSA National Payroll Center on behalf of the disbursing official, will notify the debtor in writing that an offset has occurred including—

(i) A description of the payment and the amount of offset taken;

(ii) The identity of the creditor agency identified by the disbursing official requesting the offset; and

(iii) A contact point at the creditor agency identified by the disbursing official that will handle concerns regarding the offset.

(2) The information described in paragraphs (c)(1)(B) and (c)(1)(C) of this section does not need to be provided to the debtor when the offset occurs if such information was included in a prior notice from the disbursing official or the creditor agency.

§ 105–56.032 Fees.

GSA, while performing centralized salary offset computer matching services, may charge a fee sufficient to cover the full cost for such services. In addition, FMS, or GSA acting as the paying agency on behalf of FMS, may charge a fee sufficient to cover the full cost of implementing the administrative offset program. FMS may deduct the fees from amounts collected by offset or may bill the creditor agency. Fees charged for offset will be based on actual administrative offsets completed.

§ 105–56.033 Disposition of amounts collected.

(a) The disbursing official conducting the offset will transmit amounts collected for debts, less fees charged under § 105–56.032 of this subpart, to the creditor agency.

(b) If an erroneous offset payment is made to the creditor agency, the disbursing official will notify the creditor agency that an erroneous offset payment has been made.

(1) The disbursing official may deduct the amount of the erroneous offset payment from future amounts payable to the creditor agency; or

(2) Alternatively, upon the disbursing official's request, the creditor agency will promptly return to the disbursing official or the affected payee an amount equal to the amount of the erroneous payment (without regard to whether any other amounts payable to the creditor agency have been paid). The disbursing official and the creditor agency will adjust the debtor records appropriately.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 030613152–3152–01 ; I.D. 051903B]

RIN 0648–AQ38

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specification, General Category Effort Controls, and Permit Revisions

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

ACTION: Proposed initial 2003 quota specifications, General category effort controls, permit revisions, and definition of the management boundary area; request for comments.

SUMMARY: NMFS proposes initial 2003 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established fishing categories, to set General category effort controls, to allocate 25 metric tons of BFT to account for incidental catch of BFT by pelagic longline vessels in the vicinity of the management boundary area, to define the management boundary area and applicable restrictions, and to revise permit requirements to allow General category vessels to participate in registered recreational HMS fishing tournaments and to allow permit applicants a 10–day period to make permit category changes to correct errors. The proposed initial quota specifications, including the quota allocation to account for incidental catch of BFT by pelagic longline vessels in the vicinity of the management boundary area and the General category effort controls, are necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The proposed definition of the management boundary area is to assist management, monitoring, and enforcement of the 25 mt allocated to the Longline category. The proposed permit revisions to allow General category permitted vessels to participate in registered recreational HMS fishing tournaments and to allow a time period for permit category changes are intended to relieve restrictions and help achieve domestic management objectives.

DATES: Written comments must be received on or before August 8, 2003. Public hearings on this proposed rule will be held in July 2003. Times and locations for the public hearings will be specified in a separate document in the **Federal Register** to be published at a later date.

ADDRESSES: Written comments on the proposed initial quota specifications, General category effort controls, definition of management boundary area, and permit revisions should be sent to Brad McHale, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr. Gloucester, MA 01930. Comments also may be sent via facsimile (fax) to (978) 281–9340. Comments will not be accepted if submitted via e-mail or the Internet.

FOR FURTHER INFORMATION CONTACT: Brad McHale (978) 281–9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and ATCA. ATCA authorizes the Secretary of Commerce (Secretary) to implement binding recommendations of ICCAT. The authority to issue regulations under the Magnuson-Stevens Act and ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background

On May 28, 1999, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP) that was adopted and made available to the public in April 1999. These proposed initial specifications are published in accordance with the HMS FMP and are necessary to implement the 2002 ICCAT Recommendation, as required by ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act. In 2002, ICCAT recommended increasing the Total Allowable Catch (TAC) for the western Atlantic management area from 2,500 mt to 2,700 mt, consistent with the 1998 rebuilding plan for western Atlantic bluefin tuna. The 2002 quota increase is inclusive of a 25–mt quota to account for bycatch of BFT related to directed longline fisheries for other species in the vicinity of the management boundary area. The ICCAT recommendation did not elaborate further as to how the vicinity of the management boundary area was to be defined. These proposed initial quota specifications would be consistent with the BFT rebuilding program as set forth in the HMS FMP, would allocate the 2002 ICCAT-recommended quota for the 2003 fishing year (June 1, 2003 - May 31, 2004) among the several established domestic fishing categories based on the current BFT quota allocation percentages established in the HMS FMP, would allocate 25 metric tons to the longline north subquota and define ''vicinity of the management boundary area'' to the application of the 25 metric tons, and would carry over any unharvested 2002 fishing year quota. Also, in accordance with the HMS FMP, NMFS proposes the General category effort control schedule, including time-period subquotas and restricted fishing days (RFDs), for the 2003 fishing season.

On December 18, 2002, NMFS established the Atlantic HMS Angling category permit requirement (67 FR 77434) and required all vessels participating in HMS recreational fishing activities, except for HMS Charter/Headboats, to obtain an HMS Angling category permit. As vessels are not authorized to possess two permits during the same fishing year, General category vessels are no longer allowed to fish for and/or to retain sharks, swordfish, and/or billfish under the daily recreational retention limits, thus precluding General category vessels from participating in recreational HMS fishing or in registered recreational HMS fishing tournaments. This action proposes to amend the current regulations regarding HMS Angling category permits to allow General category permit holders to participate in registered recreational HMS fishing tournaments.

On June 12, 2003, NMFS issued a temporary rule (68 FR 35185), effective through June 9, 2003, to address comments that the new permit category and the change to activities formerly allowed under General category rules have caused confusion. Due to this confusion, many permit holders obtained Atlantic Tunas General category vessel permits in error. Due to the circumstances of the new HMS Angling permit requirement, that temporary rule provides a 30–day period for Atlantic Tunas General category permit holders to change their permit category and obtain Atlantic HMS Angling category permits.

Since the issuance of the June 12, 2003, temporary rule, NMFS received numerous comments on a daily basis that other permits have been issued in incorrect categories due to confusion about the new HMS Angling permit

category, human error in selecting the permit due to unfamiliarity with the automated permitting system, or to possible administrative error. Currently, the existing regulations do not provide any mechanism for addressing such errors made by permittees or NOAA Fisheries' permit contractor. Persons issued permits in the Atlantic Tunas General and Harpoon and Atlantic HMS Angling and Charter/Headboat categories have also contacted NOAA Fisheries to seek relief for permits issued in incorrect categories. Due to the circumstances of the new HMS Angling permit requirements and to the numerous errors in permit category issuance, NMFS issued a second temporary rule, effective June 23, 2003, through December 31, 2003, to provide a 10–day period for all Atlantic Tunas General, Harpoon, and Trap categories and Atlantic HMS Angling and Charter/Headboat category permit holders to correct permit category errors (68 FR 38233).

A number of issues regarding the domestic management of BFT were discussed at length during the most recent HMS Advisory Panel (AP) meeting held in Silver Spring, MD, many of which are beyond the scope of this action and will be addressed in future regulatory or FMP amendments. These issues may include, but are not limited to, adjustment of domestic quota allocation percentages, adjustment of General category time-period subquotas, addressing the Petition for Rulemaking submitted by the North Carolina Department of Marine Fisheries (*see* Notice of Receipt of Petition, 67 FR 69502, November 18, 2002), adjustment of quota category opening and closure dates, and adjustment of large medium BFT size tolerances in the Harpoon and Purse seine categories. Because many of these issues require further analysis and public input and because these initial specifications need to be issued as soon as possible given that the 2003 fishing year started on June 1, NMFS intends to address these issues as separate rulemaking activities and publish a Notice of Intent in the **Federal Register** to begin the process of addressing those issues requiring an HMS FMP amendment.

After consideration of public comment, NMFS will issue final initial specifications and effort controls and publish them in the **Federal Register**. The final initial quota specifications and effort controls may subsequently be adjusted during the course of the fishing year, consistent with the provisions of the HMS FMP. Such adjustments will be published in the **Federal Register**.

Domestic Quota Allocation

The HMS FMP and its implementing regulations established baseline percentage quota shares for the domestic fishing categories. These percentage shares were based on allocation procedures that had been developed by NMFS over several years. The baseline percentage quota shares established in the HMS FMP for fishing years beginning June 1, 1999, to the present are as follows: General category - 47.1 percent; Harpoon category -- 3.9 percent; Purse Seine category -- 18.6 percent; Angling category -- 19.7 percent; Longline category -- 8.1 percent; Trap category -- 0.1 percent; and Reserve -- 2.5 percent. The 2002 ICCAT-recommended U.S. BFT quota of 1,464.6 mt, not including the 25 mt set aside for pelagic longline vessels, would be allocated in accordance to these percentages. However, in addition to the 2002 ICCAT quota Recommendation, quota allocations are adjusted based on overharvest or underharvest from prior fishing year's activity and results of U.S. data on dead discards and on the use of the ICCAT dead discard allowance. Each of these adjustments is discussed below and then applied to the results of the above percentage shares to determine the 2003 fishing year proposed initial specifications.

2002 Underharvest/Overharvest

The current ICCAT BFT quota recommendation allows, and U.S. regulations require, the addition or subtraction, as appropriate, of any underharvest or overharvest in a fishing year to the following fishing year, provided that such carryover does not result in overharvest of the total annual BFT quota and is consistent with all applicable ICCAT Recommendations, including restrictions on landings of school BFT. Therefore, NMFS proposes to adjust the 2003 fishing year quota specifications for the BFT fishery to account for underharvest and/or overharvest in the 2002 fishing year.

The General category fishery for BFT was closed, as of December 15, 2002, for the remainder of the 2002 fishing year (June 1, 2002 - May 31, 2003; 67 FR 77433, December 18, 2002). Overall U.S. landings figures for the fishing year are still preliminary, since other categories were open and final data from these categories have not yet been analyzed. Thus, the landings figures may be updated before the 2003 specifications are finalized. For the 2002 fishing year, NMFS has preliminarily determined that General category landings were higher than the adjusted General category quota by 16.3 mt. Purse Seine category landings were fewer than the adjusted Purse Seine category quota by 110.0 mt. Regulations at 50 CFR 635.27(a)(9)(i) require that Purse Seine category underharvests or overharvests be subtracted from or added to each individual vessel's quota allocation, as appropriate. Based on the estimated amount of Reserve that NMFS is maintaining for the landing of BFT taken during ongoing scientific research projects, NMFS estimates that 10.3 metric tons of Reserve remains unharvested from the 2002 fishing year. This remaining Reserve quota will be used to partially address the General category overharvest in 2002.

The Angling, Longline, Trap, and Harpoon category fisheries remained open through May 31, 2003. As NMFS anticipates publication of final BFT quota specifications for the 2003 fishing year prior to the availability of final 2002 fishing year landings figures for these four categories, best estimates based on current landings patterns will be used to determine carryover amounts, if any. Harpoon category landings are less than the adjusted Harpoon category quota by approximately 20.7 mt. Angling category under/over harvests vary by size class for the 2002 fishing year: School BFT -- 136.0 mt underharvest, large school/small medium BFT -- 76.1 mt underharvest, large medium/giant BFT -- 1.5 mt overharvest, and school reserve -- 20.5 mt underharvest. Overharvest in the large medium/giant size class will be addressed by transfer from the large school/small medium category. Longline category landings are less than the adjusted quota by 233 mt. In 2002, no landings were recorded in the Trap category leaving 2.3 mt. For the above four categories that remain open, the final initial 2003 BFT quota specifications will be issued based on updated 2002 landings.

For all categories with underharvests from the 2002 fishing year, these initial specifications include provisions to carry forward remaining quota to the same category for the 2003 fishing year. However, the unused school reserve (approximately 20.5 mt) is proposed to be allocated to the Reserve category.

Dead Discards

As part of the BFT rebuilding program, ICCAT recommends an allowance for dead discards. The U.S. dead discard allowance is 68 mt. The 2001 preliminary estimate of U.S. dead discards, as reported in pelagic longline vessel logbooks, totaled 25.0 mt (U.S. National Report to ICCAT 2002). As estimates of BFT dead discards for the 2002 fishing year will not be available

for some time, the estimate for the 2001 calendar year was used to calculate the amount to be added to, or subtracted from, the U.S. BFT landings quota for 2003 as a result of dead discards. Estimates of dead discards from other gear types and fishing sectors that do not use the pelagic longline vessel logbook are unavailable at this time and thus are not included in this calculation. As U.S. fishing activity is estimated to have resulted in less dead discards than its allowance, the ICCAT Recommendation and U.S. regulations state that the United States may add one half of the difference between the amount of dead discards and the allowance (i.e., 68.0 mt - 25.0 mt = 43.0 mt, 43.0 mt/2 = 21.5 mt) to its total allowed landings for the following fishing year, or to individual fishing categories, or to the Reserve. NMFS proposes to allocate the 21.5 mt to the Reserve category quota.

2003 Proposed Initial Quota Specifications

Therefore, in accordance with the 2002 ICCAT Recommendation, the ICCAT Recommendation regarding the dead discard allowance, the HMS FMP percentage shares for each of the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(9)(ii), NMFS proposes initial quota specifications for the 2003 fishing year as follows: General category -- 683.8 mt; Harpoon category -- 77.8 mt; Purse Seine category -- 382.4 mt; Angling category -- 499.2 mt; Longline category -- 166.9 mt; and Trap category -- 3.8 mt. Additionally, 78.6 mt would be allocated to the Reserve category for inseason allocations, including providing for a late season General category fishery, or to cover scientific research collection and potential overharvest in any category except the Purse Seine category.

Based on the above proposed initial specifications, the Angling category quota of 499.2 mt would be further subdivided as follows: School BFT -- 233.1 mt, with 130 mt to the northern area (north of 39° 18′ N. latitude), 103.1 mt to the southern area (south of 39° 18′ N. latitude), plus 22.1 mt held in reserve; large school/small medium BFT -- 237.4 mt, with 127.6 mt to the northern area and 109.8 mt to the southern area; and large medium/giant BFT -- 6.6 mt, with 2.2 mt to the northern area and 4.4 mt to the southern area. These subquotas reflect the adjusted north-south dividing line (39° 18′ N. latitude) and percentage quota allocations in the northern and southern areas for the Angling category, as implemented by NMFS through a final rule on August 15, 2001 (66 FR 42801).

The 2002 ICCAT recommendation includes a 25 mt set-aside quota to account for bycatch of BFT related to directed longline fisheries in the vicinity of the management area boundary. This set-aside quota is in addition to the overall incidental longline quota to be subdivided in accordance to the North/South allocation percentages mentioned below. NMFS recently adjusted the boundary line between the northern and southern areas to 31°00′ N. latitude, near Jekyll Island, Georgia (an area with little longline fishing activity nearby), and adjusted the Longline quota distribution to allocate 40 percent to the northern area and 60 percent to the southern area (68 FR 32414, May 30, 2003). Thus, the proposed Longline category quota of 166.9 mt would be subdivided as follows: 49.8 mt to longline vessels landing BFT north of 31° N. latitude and 92.1 mt to longline vessels landing BFT south of 31° N. latitude. The 25 mt allocated by ICCAT for longline vessels in the vicinity of the management boundary area would be allocated to the Longline north subcategory. Accounting for landings under this additional quota would be maintained separately from other landings under the Longline north subcategory.

Should adjustments to the final initial 2003 BFT quota specifications be required based on final 2002 BFT landings figures, NMFS will publish the adjustments in the **Federal Register**.

General Category Effort Controls

For the last several years, NMFS has implemented General category time-period subquotas to increase the likelihood that fishing would continue throughout the entire General category season. The subquotas are consistent with the objectives of the HMS FMP and are designed to address concerns regarding allocation of fishing opportunities, to assist with distribution and achievement of optimum yield, to allow for a late season fishery, and to improve market conditions and scientific monitoring.

The HMS FMP divides the annual General category quota into three time-period subquotas as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-December. These percentages would be applied to the adjusted 2003 coastwide quota for the General category of 683.8 mt, minus 10.0 mt reserved for the New York Bight fishery. Therefore, of the available 673.8 mt coastwide quota, 404.3 mt would be available in the period beginning June 1 and ending August 31; 202.1 mt would be available in the period beginning September 1 and ending September 30; and 67.4 mt would be available in the period beginning October 1 and ending December 31, 2003.

In addition to time-period subquotas, NMFS also has implemented General category RFDs to extend the General category fishing season. The RFDs are designed to address the same issues addressed by time-period subquotas and provide additional finer-scale inseason flexibility. For the 2003 fishing year, NMFS proposes a schedule of RFDs that would assist in extending the General category BFT fishery into the late season to provide southern Atlantic General category participants commercial fishing opportunities on large medium and giant BFT.

Therefore, NMFS proposes that persons aboard vessels permitted in the General category would be prohibited from fishing, including tag-and-release, for BFT of all sizes on the following days: November 15 through November 30 inclusive. These proposed RFDs would improve distribution of fishing opportunities without increasing BFT mortality.

General Category Permit Revision

Since the HMS FMP, changes have been made to the Atlantic HMS and Atlantic tunas permit categories regarding allowed activities as well as clarification of definitions of permitted operations for certain permit categories in order to further meet domestic management objectives. Recent rulemaking established a new recreational permit category for all HMS and replaced the previous Atlantic tunas Angling permit category (67 FR 77434, December 18, 2002). The owner/operator of each vessel used to fish recreationally for Atlantic HMS, except for HMS Charter/Headboats, or on which Atlantic HMS are retained or possessed recreationally, must obtain an HMS Angling permit. HMS FMP implementing regulations allow only one type of permit to be issued to a particular vessel. Until recently, General category permit holders were allowed to fish recreationally for swordfish, sharks, and billfish (i.e. marlins) under the recreational size and retention limits. Now, because the new HMS Angling permit is required for these recreational fishing activities, General category permit holders must choose whether to retain their commercial General category permit and forgo recreational HMS fishing opportunities or to switch permit categories to an Atlantic HMS Angling permit. Since the new permit

regulations have become effective, NMFS has received comment from vessel owners/operators and tournament directors that many vessels that had historically participated in tournaments would no longer be able to do so. In order to provide some flexibility and allow General category fishermen access to recreational HMS fisheries, NMFS proposes to allow General category vessels to participate in recreational HMS fisheries provided they register and participate in a recreational HMS fishing tournament that is registered according to HMS tournament registration and participation regulations at § 635.5(d), and according to the regulations of the tournament. It is incumbent upon the General category fishermen to verify that a tournament is registered.

When General category vessels participate in registered tournaments, HMS Angling category regulations, as well as any specific tournament rules, would apply to General category vessels when fishing for tuna (other than BFT), sharks, swordfish, and billfish. For BFT, General category vessels participating in tournaments must comply with all General category regulations. Thus, they would still not be allowed to fish for BFT less than 73'' and would be subject to restricted fishing days. As HMS tournaments must be registered, NMFS would also be able to collect data on catch and effort for management purposes and make further revisions should they be necessary.

Time Period for Permit Category Changes

NMFS also proposes to allow permit applicants to make permit category changes within 10 days of the date of issuance of the permit (e.g., if a permit is issued on July 1, then corrections to the permit category must be made by July 10). Partly as a result of the establishment on HMS Angling permit and of the potential confusion during the permit application process, applicants have found themselves with a permit other than the one intended. As permit holders cannot make more than one change a year or change categories after they have renewed a permit, permit holders are finding they are unable to obtain the correct category and may be unable to engage in their intended fishing activity for the current year if they do not meet a particular permit requirement (e.g., cannot sell fish in the Angling category, or do not hold a Captain or Master's license with a Charter/Headboat permit, etc). NMFS proposes to authorize a permit holder to make a permit category change within 10 days of the date of issuance of the permit. Ten days should provide enough time for a permit applicant to obtain his or her permit, check that it is the correct permit, and contact the NMFS permit contractor to correct an error.

Definition of Management Boundary Area

NMFS proposes to define ''vicinity of the management boundary area'' as the Northeast Distant (NED) area to facilitate management, monitoring, and enforcement of the 25 mt allocated to the longline north category, per the ICCAT recommendation. This definition matches exactly the definition of NED closed area in which the experimental fishery is occurring. NMFS is in the third year of the 3–year sea turtle bycatch reduction experiment in the NED area, and pelagic longline vessels are prohibited from fishing in that area unless they are actively participating in, and complying with, the terms and conditions of the NED experiment. Such vessels participate in the NED experiment pursuant to an Endangered Species Act Section 10 permit and exempted fishing permits with 100 percent observer coverage. As the NED area straddles the management boundary area from 60° to 20° W. Longitude and 35° to 55° N. Latitude and given the strict controls of the terms of the experimental fishery, NMFS should be able to monitor, manage, and enforce the 25 mt incidental BFT allocation to the longline north category. NMFS further proposes to allow retention of 25 mt of BFT caught incidentally to fishing under the NED experimental fishery with no target catch requirements because the strict controls of the experiment may prevent fishermen from meeting the target catch requirements such that all BFT would be discarded. Once the 25 mt limit is reached, retention limits and target catch requirements would apply to all incidentally caught BFT in the NED area.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and ATCA. The Assistant Administrator for Fisheries (AA) has preliminarily determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

NMFS has prepared a regulatory impact review and an Initial Regulatory Flexibility Analysis (IRFA) that examine the impacts of the selected alternatives discussed previously in this rulemaking. The purpose of this proposed action is to implement the 2002 ICCAT Recommendation regarding the BFT quota, propose 2003 specifications for the BFT fishery that allocates the quota among domestic fishing categories, including 25 mt of BFT quota to the Longline category, implement General category effort controls, and revise permit regulations.

The analysis for the IRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries, all of which are considered small entities. In order to do this NOAA Fisheries has estimated the average impact that the alternative to establish the 2003 BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2002 ICCAT Recommendation increased the BFT quota allocation to 1,489.6 mt. This increase includes 77.6 mt to be redistributed to the domestic fishing categories based on the allocation percentages established in the HMS FMP as well as a set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and BAYS fisheries in the vicinity of the management area boundary. In 2002, the annual gross revenues from the commercial BFT fishery were approximately $18 million (Table 9). There are approximately 11,091 vessels that are permitted to land and sell BFT under four BFT quota categories. The four quota categories and their 2002 gross revenues are General ($13,948,190), Harpoon ($588,884), Purse Seine ($3,066,034), and Incidental Longline ($588,352). The analysis for the IRFA assumes that all category vessels have similar catch and gross revenues. While this may not be true, the analyses are sufficient to show the relative impact of the various preferred alternatives on vessels.

For the allocation of BFT quota among domestic fishing categories, two alternatives were considered: no action and a preferred alternative that would allocate the ICCAT-recommended quota to domestic categories in accordance with the 2002 ICCAT recommendation and HMS FMP. The 2002 ICCAT recommendation specified a 1489.6 mt total quota for the United States. Under ATCA, the United States is obligated to implement ICCAT-approved recommendations. The preferred alternative would increase the quota by 77.6 mt and would have positive impacts for fishermen. The no action alternative would not be consistent with the purpose and need for this action and the HMS FMP. It would maintain

economic impacts to the United States and to local economies at a distribution and scale similar to 2002 but would deny fishermen additional fishing opportunities as recommended by the 2002 ICCAT Recommendation and as mandated by ATCA.

For the General category effort controls, three alternatives were considered: designate RFDs according to a published schedule, no action (no initial RFDs and publish a schedule during the season), and a preferred alternative to establish RFDs late in the season to provide a late Fall, southern Atlantic fishery. The impacts of designating RFDs according to a published schedule vary according to the pace of the fishery. When catch rates have been high, a published schedule has had positive economic consequences by avoiding market gluts and providing access to higher quality fish later in the season. Positive social impacts have also occurred as fishermen have commented that knowing the exact schedule of RFDs prior to the season facilitates planning and scheduling of trips. However, if catch rates are slow as in recent years, RFDs have been waived and caused confusion and disrupted fishermen's activity, with some negative impacts. The no action alternative would have positive economic consequences if another season of low catch rates occurs. However, even with low catch rates and no RFDs, it is unlikely that there will be enough quota in the General category to sustain a late season commercial handgear fishery off south Atlantic states. Thus, if the 2003 season should be similar to the 2002 fishery, there may be negative economic impacts to fishermen in southern states unless inseason management actions (similar to those in 2002, i.e. inseason transfers) are taken to directly address these concerns and potential impacts. The preferred alternative could have potentially negative economic impacts to those northern area fishermen who would have otherwise caught and sold fish earlier in the season, but would have positive economic impacts to those south Atlantic fishermen. Impacts would be slightly mitigated if northern area fishermen are willing to travel south late in the season. Overall, however, extending the season as late as possible would enhance the likelihood of increasing participation by southern area fishermen and access to the fishery over a greater range of the fish migration.

For permit categories, four alternatives were considered: no action (General category vessels cannot participate in recreational HMS fisheries and no permit changes are allowed once a permit has been issued), a preferred alternative to allow General category vessels to participate in recreational HMS registered fishing tournaments, allow dual permits and require declarations by General category vessels prior to every trip regarding which permit is to be used, and a preferred alternative to allow 10 days from the date of issuance of the permit to change categories. The no action alternative would maintain perceived negative impacts because General category vessels would remain excluded from all HMS recreational fishing opportunities. The no action alternative would also not allow permit category changes to correct errors and would have negative economic impacts for those vessels who intended to engage in commercial activity but could not due to an incorrect permit. The preferred alternative to allow General category vessels to participate in recreational HMS registered tournaments have positive economic impacts by relieving a restriction on General category vessels. The alternative to allow dual permits would further liberalize the restriction and alleviate any negative economic impacts by allowing General category vessels to choose on any given day whether they wish to fish commercially or recreationally. However, there would be some administrative impacts to vessel owners/operators wishing as they would have to declare with NOAA Fisheries their intent before making the trip, and difficulties in monitoring and enforcing the declarations in real-time and providing multiple permits for the same vessel and may end up causing more confusion within the fishery than alleviating any perceived negative economic impacts. The preferred alternative to provide a time period for permit holders to change their permit category if they found an error would ease an administrative issue with positive economic impacts.

For the definition of the management boundary area, four alternatives were considered: no action (no definition of the area and operational procedures would account for quota allocated to the area), a preferred alternative to define the area as the Northeast Distant area and allow retention of the 25 mt quota of BFT with no target catch requirements, defining the area as 5 degrees on both sides of the management boundary line, and defining the area as east of the management boundary line. All but the no action alternative would also restrict the quota to vessels participating in the NED experimental fishery. Under the no action alternative and the two non-preferred alternatives, more BFT would likely be discarded than under the preferred alternative and negative economic impacts may occur due to lost revenues from discarded BFT. However, any negative impacts are expected to be minor because BFT are caught incidentally to fishing for other species, thus there are no costs. The preferred alternative would provide slight positive economic impacts by allowing more retention of incidentally caught BFT relative to the other alternatives because no target requirements would apply.

None of the proposed alternatives in this document would result in additional reporting, record keeping, compliance, or monitoring requirements for the public.

NMFS prepared a draft Environmental Assessment (EA) for this proposed rule, and the AA has preliminarily concluded that there would be no significant impact on the human environment if this proposed rule were implemented. The EA presents analyses of the anticipated impacts of these proposed regulations and the alternatives considered. A copy of the EA and other analytical documents prepared for this proposed rule, are available from NMFS (*see* **ADDRESSES**).

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the Endangered Species Act (ESA). A Biological Opinion (BiOp) issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened sea turtle species under NMFS jurisdiction. NMFS is currently implementing the reasonable and prudent alternative required by the BiOp. These proposed quota specifications and effort controls would not have any additional impact on sea turtles as these actions would not likely increase or decrease pelagic longline effort, nor are they expected to shift effort into other fishing areas. No irreversible or irretrievable commitments of resources are expected from this proposed action that would have the effect of foreclosing the implementation of the requirements of the BiOp.

The area in which this proposed action is planned has been identified as Essential Fish Habitat (EFH) for species managed by the New England Fishery Management Council, the Mid-Atlantic Fishery Management Council, the South Atlantic Fishery Management Council,

the Gulf of Mexico Fishery Management Council, the Caribbean Fishery Management Council, and the HMS Management Division of the Office of Sustainable Fisheries at NMFS. It is not anticipated that this action will have any adverse impacts to EFH and, therefore, no consultation is required.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Statistics, Treaties.

Dated: July 3, 2003.

Rebecca Lent,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635 is proposed to be amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.4, revise paragraph (c) and add new paragraph (j)(4) to read as follows:

§ 635.4 Permits and fees.

* * * * *

(c) *HMS Angling permits.* (1) The owner of any vessel used to fish recreationally for Atlantic HMS or on which Atlantic HMS are retained or possessed recreationally, must obtain an HMS Angling permit, except as provided in § 635.4(c)(2). Atlantic HMS caught, retained, possessed, or landed by persons on board vessels with an HMS Angling permit may not be sold or transferred to any person for a commercial purpose. A vessel issued an HMS Angling permit for a fishing year shall not be issued an HMS Charter/Headboat permit or an Atlantic Tunas permit in any category for that same fishing year, regardless of a change in the vessel's ownership.

(2) A vessel issued an Atlantic Tunas General category permit under paragraph (d) of this section may fish in a recreational HMS fishing tournament if the vessel has registered for, paid an entry fee to, and is fishing under the rules of a tournament that has notified NMFS as required under § 635.5(d). When a vessel issued an Atlantic Tunas General category permit is fishing in such a tournament, such vessel must comply with HMS Angling category regulations, except as provided in § 635.4(c)(3).

(3) A vessel issued an Atlantic Tunas General category permit fishing in a tournament, as permitted in § 635.4(c)(2), shall comply with Atlantic Tunas General category regulations when fishing for, retaining, possessing, or landing BFT.

* * * * *

(j) * * *

(4) Except for Atlantic Tunas Longline and Purse Seine category permits, a vessel owner issued a permit under paragraphs (b), (c) or (d) of this section may change the category of the vessel's permit within 10 days of the date of issuance of the permit. Beyond 10 days after the date of issuance of the permit, no permit category changes may be made.

* * * * *

3. In § 635.23, paragraph (f)(3) is added to read as follows:

§ 635.23 Retention limits for BFT.

* * * * *

(f) * * *

(3) For pelagic longline vessels participating in an experimental fishery in the Northeast distant area, as defined under § 635.2, under exempted fishing permits issued under § 635.32, all BFT taken incidental to fishing for other species while in the Northeast distant area may be retained up to a maximum of 25 mt for all vessels so authorized, notwithstanding the retention limits and target catch requirements specified in paragraph (f)(1) of this section. Once the 25 mt limit is attained, the retention limits and target catch requirements specified in paragraph (f)(1) of this section or as adjusted pursuant to paragraph (f)(2) of this section will apply to such vessels.

* * * * *

4. In § 635.27, paragraph (a)(3) is revised to read as follows:

§ 635.27 Quotas.

(a) * * *

(3) *Longline category quota.* The total amount of large medium and giant BFT that may be caught incidentally and retained, possessed, or landed by vessels for which Longline category Atlantic tunas permits have been issued is 8.1 percent of the overall U.S. BFT quota. In the initial quota specifications issued under paragraph (a) of this section, no more than 60.0 percent of the Longline category quota may be allocated for landing in the area south of 31° 00′; N. lat. In addition, 25 mt shall be allocated for incidental catch by pelagic longline vessels participating in an experimental fishery in the Northeast distant area, as defined under § 635.2, under exempted fishing permits issued under § 635.32.

* * * * *

5. In § 635.71, add new paragraph (b)(29) to read as follows:

§ 635.71 Prohibitions.

* * * * *

(b) * * *

(29) Participate in any HMS recreational fishing activity aboard a vessel issued an Atlantic Tunas General category permit unless, as specified at § 635.4(c)(2) and (3), the vessel has registered and paid an entry fee to, and is fishing under the rules of, a recreational HMS fishing tournament registered as required under § 635.5(d).

* * * * *

[FR Doc. 03–17521 Filed 7–9–03; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register

Vol. 68, No. 132

Thursday, July 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

Food Safety and Inspection Service

[Docket No. 03–023N]

Codex Alimentarius Commission: Twenty-Sixth Session of the Codex Committee on Fish and Fishery Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, of the U.S. Department of Agriculture, and the Food and Drug Administration, of the Department of Health and Human Services, are sponsoring a public meeting on September 3, 2003, to review the agenda items and to receive comments on all issues coming before the Twenty-sixth Session of the Codex Committee on Fish and Fishery Products, which will be held in Alesund, Norway, October 13–17, 2003.

DATES: The public meeting is scheduled for Wednesday, September 3, 2003, from 9 am. to 12 noon.

ADDRESSES: The public meeting will be held in the Harvey Wiley Federal Building, 5100 Paint Branch Parkway, College Park, Maryland 20740. Building control will direct the participants to the meeting room.

To receive copies of the documents relevant to this notice, contact the Food Safety Inspection Service (FSIS) Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street SW., Washington, DC 20250–3700. The documents will also become accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net.* Send comments, in triplicate, to the FSIS Docket room and reference Docket # 03–023N. All comments submitted in response to this notice will be available for public inspection in the FSIS Docket room between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Syed Amjad Ali, Senior Staff Officer, U.S. Codex Office, FSIS, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250–3700, telephone (202) 205–7760; Fax (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Janet Walraven, at telephone (301) 436–2300; Fax; (301) 436–2601.

SUPPLEMENTARY INFORMATION:

Background

The Codex Alimentarius Commission (Codex) was established in 1962 by two United Nations organizations, the Food and Agriculture Organization and the World Health Organization. Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Fish and Fishery Products was established to elaborate codes and standards for Fish and Fishery Products. The Government of Norway hosts this committee and will chair the committee meeting.

Issues To Be Discussed at the Public Meeting

The following specific issues will be discussed during the public meeting:

1. Matters referred by the Codex Alimentarius Commission and other Codex committees.
2. Proposed Draft Standard for Salted Atlantic Herring and Salted Sprats.
3. Proposed Draft Code of Practice for Fish and Fishery Products (sections 6 Aquaculture, 7 Molluscan Shellfish, 10 Processing of Quick Frozen Coated Fish Products, 11 Processing of Salted Fish, 12 Processing of Smoked Fish, 13 Processing of Lobsters and Crabs, 14 Processing of Shrimps and Prawns, 15 Processing of Cephalopods, 17 Transport, and 18 Retail).
4. Proposed Draft Standard for Live and Processed Molluscs.
5. Proposed Draft Model Certificate for Fish and Fishery Products ''sanitary'' certificate.
6. Proposed Draft Model Certificate for Fish and Fishery Products (other certificates).
7. Proposed Draft Standard for Smoked Fish.
8. Proposed Draft Amendment to the Standard for Quick Frozen Lobsters.
9. Proposed Draft Standard for Scallops Adductor Muscle Meat.
10. Proposed Draft Amendment to the Standard for Salted Fish and Dried Salted Fish of the Gadidae Family.
11. Proposed Draft Standard for Sturgeon Caviar.
12. Discussion paper—Inclusion of additional species and on labeling requirements related to the ''name of the product'' in Codex Standards (Proposed Draft Amendment to the Canned Sardines Standard).
13. Discussion paper on how to measure fish content in fish sticks.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women, and persons with disabilities are aware of this notice, FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS Web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service

(Listserv) go to the ''Constituent Update'' page on the FSIS web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC on: July 7, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–17469 Filed 7–9–03; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 03–024N]

Codex Alimentarius Commission: Meeting of the Codex Committee on Nutrition and Foods for Special Dietary Uses

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice of public meeting and request for comments.

SUMMARY: The Office of the Under Secretary for Food Safety, U.S. Department of Agriculture (USDA) and the Food and Drug Administration (FDA), U.S. Department of Health and Human Services (HHS) are sponsoring a public meeting on September 16, 2003. The objective of the public meeting is to provide information and receive public comments on agenda items and draft United States positions that will be discussed at the 25th Session of the Codex Committee on Nutrition and Foods for Special Dietary Uses (CCNFSDU) to be held in Bonn, Germany, November 3–7, 2003.

The Under Secretary for Food Safety and FDA recognize the importance of providing interested parties the opportunity to obtain background information on the 25th Session of CCNFSDU and to address items on the agenda.

DATES: The public meeting is schelduled for Tuesday, September 16, 2003 from 1 p.m. to 4 p.m.

ADDRESSES: The public meeting will be held in the Auditorium (1A003), Food and Drug Administration, Harvey Wiley Federal Building, 5100 Paint Branch Parkway, College Park, MD. To receive copies of the Codex documents pertaining to the agenda items for the 25th CCNFSDU session, contact the FSIS Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, Room 102, Cotton Annex, 300 12th Street, SW., Washington, DC 20250–3700. The documents will also be accessible via the World Wide Web at the following address: *http://www.codexalimentarius.net.* If you would like to submit comments on one or more agenda items, please send them, in triplicate, to the FSIS Docket Clerk and reference Docket #03–024N. The U.S. Delegate to the CCNFSDU, Dr. Elizabeth Yetley of the Food and Drug Administration, also invites U.S. (United States) interested parties to submit their comments electronically to the following e-mail address (*ncrane@cfsan.fda.gov*). All comments submitted in response to this notice will be available for public inspection in the Docket Clerk's Office between 8:30 a.m. and 4:30 p.m., Monday through Friday.

Pre-Registration: To gain admittance to this meeting, individuals must present a photo ID for identification and also *are required to pre-register.* In addition, no cameras or videotaping equipment will be permitted in the meeting room. To pre-register, please send the following information to this e-mail address (*ncrane@cfsan.fda.gov*) by September 1, 2003:

—Your Name
—Organization
—Mailing Address
—Phone number
—E-mail address

FOR FURTHER INFORMATION CONTACT: Ellen Matten, Staff Officer, U.S. Codex Office, FSIS, Room 4861, South Agriculture Building, 1400 Independence Avenue SW., Washington, DC 20250, Telephone (202) 205–7760; Fax: (202) 720–3157. Persons requiring a sign language interpreter or other special accommodations should notify Ms. Matten at the above number.

SUPPLEMENTARY INFORMATION:

Background

Codex was established in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization (WHO). Codex is the major international organization for encouraging fair international trade in food and protecting the health and economic interests of consumers. Through adoption of food standards, codes of practice, and other guidelines developed by its committees, and by promoting their adoption and implementation by governments, Codex seeks to ensure that the world's food supply is sound, wholesome, free from adulteration, and correctly labeled.

The Codex Committee on Nutrition and Foods for Special Dietary Uses was established to study specific nutritional problems assigned to it by the Commission and advise the Commission on general nutritional issues; to draft general provisions as appropriate, concerning the nutritional aspects of all foods; to develop standards, guidelines or related texts for foods for special dietary uses, in cooperation with other committees when necessary; and to consider, amend if necessary, and endorse provisions on nutritional aspects proposed for inclusion in Codex standards, guidelines and related texts. The committee is hosted by the Federal Republic of Germany.

Issues To Be Discussed at the Public Meeting

At a minimum, the following items will be on the Agenda for the 25th Session of the Committee:

1. Guidelines for Use of Nutrition Claims: Draft Table of Conditions for Nutrient Contents: (Part B, containing provisions on Dietary Fiber).
2. Draft Revised Standard for Gluten-Free Foods.
3. Proposed Draft Guidelines for Vitamin and Mineral Supplements.
4. Proposed Draft Revised Standard for Processed Cereal-Based Foods for Infants and Young Children.
5. Proposed Draft Revised Standard for Infant Formula.
6. Proposed Draft Revision of the Advisory List(s) of Mineral Salts and Vitamin Compounds for the Use in Foods for Infants and Young Children (CAC/GL 10–1979).
7. Proposed Draft Recommendations of the Scientific Basis of Health Claims.
8. Discussion Paper on Energy Conversion Factors.
9. Discussion Paper on the application of risk analysis to the work of CCNFSDU.

Note: The provisional agenda for the 25th CCNFSDDU session will be posted on the World Wide Web in advance of the meeting at the following address: *http://www.codexalimentarius.net.*

Public Meeting

At the September 16th public meeting, the issues and draft United States positions on the issues will be described, discussed, and attendees will have the opportunity to pose questions and offer comments. Comments may be sent to the FSIS Docket Room (Docket #03–024N) (*see* **ADDRESSES**). In addition, they may be sent electronically to the U.S. Delegate (*see* **ADDRESSES**), Please state that your comments relate to CCNFSDU activities and specify which issues your comments address.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to better ensure that minorities, women,

and persons with disabilities are aware of this notice; FSIS will announce it and make copies of this **Federal Register** publication available through the FSIS Constituent Update. FSIS provides a weekly Constituent Update, which is communicated via Listserv, a free e-mail subscription service. In addition, the update is available on-line through the FSIS web page located at *http://www.fsis.usda.gov.* The update is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, recalls, and any other types of information that could affect or would be of interest to our constituents/stakeholders. The constituent Listserv consists of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals that have requested to be included. Through the Listserv and web page, FSIS is able to provide information to a much broader, more diverse audience.

For more information contact the Congressional and Public Affairs Office, at (202) 720–9113. To be added to the free e-mail subscription service (Listserv) go to the ''Constituent Update'' page on the FSIS Web site at *http://www.fsis.usda.gov/oa/update/update.htm.* Click on the ''Subscribe to the Constituent Update Listserv'' link, then fill out and submit the form.

Done at Washington, DC on: July 7, 2003.

F. Edward Scarbrough,

U.S. Manager for Codex Alimentarius.

[FR Doc. 03–17470 Filed 7–9–03; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF AGRICULTURE

Forest Service

Atlanta Gold Project, Idaho City Ranger District, Boise National Forest, Elmore County, ID

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a third-party environmental impact statement.

SUMMARY: The Idaho City Ranger District of the Boise National Forest will direct preparation of an Environmental Impact Statement (EIS), prepared by a third-party contractor, to document the analysis and disclose the potential environmental and human effects of proposed activities to develop and operate a gold-silver open-pit mine and cyanide heap leach facility. Proposed mining activities would be implemented on approximately 350 acres of patented and unpatented lands. The project area is located near Atlanta, Idaho, about 60 miles northeast of Boise, Idaho, in the Joe Daley-James subwatershed which is tributary to the Middle Fork Boise River.

DATES: The draft environmental impact statement is anticipated to be available for public review and comment in June 2004. The final environmental impact statement is anticipated to be available in October 2004.

ADDRESSES: Comments should be addressed to Richard Markley, District Ranger, Idaho City Ranger District, 3833 Highway 21, P.O. Box 129, Idaho City, ID 83631. For further information, contact Terry Hardy, Project Leader, Project Leader, by telephone at 208–373–4235 or send e-mail to *thardy@fs.fed.us.*

SUPPLEMENTARY INFORMATION: *Proposed Action:* Atlanta Gold, a wholly owned subsidiary of Twin Mining Corporation, has proposed to develop and operate a gold-silver open-pit mine and cyanide heap leach facility. As delineated by Atlanta Gold's Plan of Operation, the proposed activities encompass approximately 240 acres of unpatented land on the Idaho City Ranger District, Boise National Forest in Sections 10 and 11, T. 5 N., R. 11 E., Boise Meridian.

Conventional open-pit mining methods would occur sequentially at two locations and would involve drilling and blasting, ore haulage, waste haulage, ore crushing and placement on leach pads. The mining rate would average approximately 7,000 tons per day, and while climate may dictate temporary shutdown of mining, waste haulage is expected to occur yearlong. Heap leach and processing facilities would be designed and operated according to rules established by the State of Idaho. The facilities would be constructed to naturally flow process solution to the leach pad and include sumps to transport solution to the processing facility and to circulate solution back to the heap leach facility. Related mining activities would include an electrical power plant with diesel generators, an administration office/assay laboratory, mine maintenance and supply facilities, developing a water supply, transportation planning, waste disposal transfer site, and personnel work camp. To the extent possible, reclamation would occur simultaneously with mining. A monitoring plan would be implemented upon completion of final closure and reclamation activities to ensure site stability and success of revegetation efforts.

Mine operations are planned to occur 12 months during the year and 7 days per week, pending favorable winter season weather. The Atlanta Gold Project would employ a maximum of 100 to 130 people to operate the mine/processing facilities at any given time. Mine operations may be conducted using 2-shifts per day, however economic factors may dictate 3-shifts per day. The projects is predicted to have a 7 to 10 year mining life.

Possible Alternatives: The environmental impact statement will consider the potential effects of: the Proposed Action (as defined by the proponent's Plan of Operation); the No Action Alternative; and other alternatives which may be developed after completion of project scoping.

Lead and Cooperating Agencies: As the agency responsible for management of the unpatented lands, the Forest service will lead the preparation of the EIS. The Atlanta Gold Project will be evaluated under the Idaho Joint Review Process (IJRP). Implementing the IJFP will ensure other state and federal regulatory agencies, such as Idaho Department of Environmental Quality and U.S. Fish and Wildlife Service are involved as cooperating and/or participating agencies. The level of involvement by other state or federal entities as cooperating/participating agencies will be identified as a result of the scoping process.

Responsible Official: Richard E. Markley, District Ranger, Idaho City Ranger District, Boise National Forest is the responsible official, 3833 Highway 21, P.O. Box 129, Idaho City, ID 83631.

Nature of Decision To Be Made: Upon completion of the environmental impact statement, the Idaho City District Ranger will decide the following: (1) Approve the project's plan of operations as proposed, or (2) approve the plan of operations that has been modified as necessary to eliminate or minimize adverse effects, or meet the purpose of the regulations (modifications might incorporate additional mitigations and/or monitoring deemed necessary to comply with required permitting).

Scoping Process: The scoping process will consist of a news release announcing the start of the environmental impact statement process, an open invitation to participate in scoping meetings to be scheduled, and a scoping document which will further clarify the proposed action, additional alternatives, and identified issues. The scoping document will be distributed to selected parties and also be available upon request. The agency also hereby gives notice of the environmental analysis and decision-making process that will occur on the proposal so interested and affected Federal, State, tribal, and local agencies,

as well as individuals and organizations are aware of how they may participate and contribute to the final decision. The information received will be used in preparing a final EIS.

Permits or Licenses Required: In order to implement the project, the proponent, Twin Mining Corporation, must obtain approval or conduct consultation with several other federal, state, and local regulatory agencies. These agencies include: U.S. Fish and Wildlife Service, Environmental Protection Agency, Army Corps of Engineers, Idaho Department of Environmental Quality, Idaho Department of Water Resources, Idaho State Historic Preservation Officer and Elmore County, Idaho.

Comments Requested: This notice of intent initiates the scoping process, which guides the development of the environmental impact statement. The Forest Services invites written comments and suggestions on the scope of the analysis. Initial comments should be postmarked within 30 days from the date the Environmental Protection Agency publishes this announcement in the **Federal Register**.

Early Notice on Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared. 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 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 days 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.

Dated: July 1, 2003.

Jeff Schramm,

Acting District Ranger.

[FR Doc. 03–17168 Filed 7–9–03; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Bureau of the Census

[Docket Number 030619157–0157–01]

Discontinuance of the Whole-Block Count Program for Certifying Population and Housing Unit Counts Resulting from Boundary Changes Since Census 2000

AGENCY: Bureau of the Census, Department of Commerce.

ACTION: Notice of termination of temporary program.

SUMMARY: The Bureau of the Census (Census Bureau) publishes this notice to announce the termination of the Whole-Block Count Program, which was the temporary method of certification offered from June 1, 1998, to January 3, 2003. The Census Bureau terminates the Whole-Block Count Program due to the implementation of the Geographically Updated Population Certification Program. This new program is the Census Bureau's update service for certifying population and housing unit counts for areas where the boundaries have changed from those used to tabulate the immediately preceding decennial census.

DATES: The Census Bureau terminates the Whole-Block Count Program as of July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Dorothy Stroz, Geography Division, U.S. Census Bureau, Washington, DC 20233, telephone (301) 763–9050, or e-mail *dorothy.louise.stroz@census.gov.*

SUPPLEMENTARY INFORMATION: Since the 1970 decennial census, and following every decennial census thereafter, the Census Bureau has provided the opportunity for county, local, and tribal governments to obtain certified population and housing unit counts for areas where their boundaries have changed from those used to tabulate the immediately preceding decennial census. Such boundary changes are the result of annexations, incorporations, or mergers of existing governmental units, which typically include counties, boroughs, cities, towns, villages, townships, and federally recognized American Indian reservations.

The Census Bureau earlier issued a notice of final rulemaking in the **Federal Register** on this subject (67 FR 72095; December 4, 2002). This rule established the Geographically Updated Population Certification Program as the official process for providing geographically updated population certifications (see Title 15 CFR §50.60). It also amended Title 15, Code of Federal Regulations, to provide further detail on the subject of intercensal geographic certifications. Since this new program replaces the Whole-Block Count Program in its entirety, the Census Bureau is terminating the Whole-Block Count Program. The program was temporary in nature and not required by any law.

Dated: July 2, 2003.

Charles Louis Kincannon,

Director, Bureau of the Census.

[FR Doc. 03–17195 Filed 7–9–03; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–822]

Stainless Steel Bar From the United Kingdom: Notice of Partial Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of partial rescission of antidumping duty administrative review.

EFFECTIVE DATE: July 10, 2003.

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 2003, the Department published in the **Federal Register** (68 FR 9974) a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order on stainless steel bar from the United Kingdom for the period August 2, 2001, through February 28, 2003. On March 28 and 31, 2003, Firth Rixson Special Steels Limited (FRSS) and the petitioners,[1] respectively, requested an administrative review of FRSS's sales for the above-mentioned period. Also on March 31, 2003, Corus Engineering Steels Limited (CES) requested an administrative review of its sales for this period. On April 21, 2003, the Department published a notice of initiation of an administrative review of the antidumping duty order on stainless steel bar from the United Kingdom with respect to these companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 68 FR 19498.

Partial Rescission of Review

On June 26, 2003, CES timely withdrew its request for an administrative review of its sales during the above-referenced period. Section 351.213(d)(1) of the Department's regulations stipulates that the Secretary may permit a party that requests a review to withdraw the request within 90 days of the date of publication of notice of initiation of the requested review. In this case, CES has withdrawn its request for review within the 90-day period. We have received no other submissions regarding CES's withdrawal of its requests for review. Therefore, we are rescinding in part this review of the antidumping duty order on stainless steel bar from the United Kingdom with respect to CES. This review will continue with respect to FRSS.

This notice is published in accordance with section 751 of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

[1] The petitioners are Carpenter Technology Corporation; Crucible Specialty Metals Division, Crucible Materials Corporation; Electralloy Corporation, a Division of G.O. Carlson, Inc.; and Slater Steels Corporation, Specialty Alloys Division.

Dated: July 3, 2003.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–17515 Filed 7–9–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–856]

Synthetic Indigo From the People's Republic of China: Notice of Extension of Time Limit for Antidumping Duty Administrative Review

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

EFFECTIVE DATE: July 10, 2003.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Margarita Panayi at (202) 482–4136 or (202) 482–0049, respectively, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Postponement of Final Results of Administrative Review

On March 10, 2003, the Department of Commerce (''the Department'') published the preliminary results of the administrative review of the antidumping duty order on synthetic indigo from the People's Republic of China with respect to Liyang Skyblue Chemical Co., Ltd. The current deadline for the final results in this review is July 8, 2003. In accordance with section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended, the Department finds that it is not practicable to complete this administrative review within the original time frame due to complex surrogate value issues. Thus, the Department is extending the time limit for completion of the final results by 60 days. The final results will now be due by September 8, 2003.

Dated: July 3, 2003.

Jeffrey May,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 03–17514 Filed 7–9–03; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070703B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council's (Council) Model Evaluation Workgroup (MEW) will hold a work session, which is open to the public, to discuss documentation of the chinook Fishery Regulation Assessment Model (FRAM).

DATES: The work session will be held Thursday, July 24, 2003 from 9 a.m. to 4 p.m.

ADDRESSES: The work session will be held at the National Marine Fisheries Service, 510 Desmond Drive SE, Room 261, Lacey, WA 98503; telephone: (360) 753–9580.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 200, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, (503) 820–2280.

SUPPLEMENTARY INFORMATION: The purpose of the work session is to establish a process for developing model documentation for the chinook FRAM, and prioritize and schedule upcoming tasks.

Although nonemergency issues not contained in the meeting agenda may come before the MEW for discussion, those issues may not be the subject of formal MEW action during this meeting. MEW 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 MEW's intent to take final action to address the emergency.

Special Accommodations

This 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: July 7, 2003.

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 03–17522 Filed 7–9–03; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Jack Assembly for Supporting a Shelter Structure

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,581,912 B2 entitled ''Jack Assembly for Supporting a Shelter Structure'' issued June 24, 2003. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Rosenkrans at U.S. Army Soldier and Biological Chemical Command, Kansas Street, Natick, MA 01760. Phone: (508) 233–4928 or e-mail: *Robert.Rosenkrans@natick.army.mil.*

SUPPLEMENTARY INFORMATION: Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR part 404.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–17518 Filed 7–9–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Antibodies Against Type A Botulinum Neurotoxin

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 09/465,276 entitled ''Antibodies Against Type A Botulinum Neurotoxin,'' filed December 16, 1999. The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–JA, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Antibodies for binding epitopes of BoNT/A and hybridomas which produce such antibodies are described. The antibodies of the present invention can be used in a method for detecting BoNT/A in a sample and/or in a method for purifying BoNT/A from an impure solution. In addition, the antibodies can be used for passive immunization against BoNT/A intoxication or as intoxication therapy. Another aspect of the invention is a kit for detecting BoNT/A in a sample.

Luz D. Ortiz,

Army Federal Register Liaison Officer.

[FR Doc. 03–17519 Filed 7–9–03; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Office of Nonproliferation Policy; Proposed Subsequent Arrangement

AGENCY: Department of Energy.

ACTION: Proposed subsequent arrangement.

SUMMARY: This notice has been issued under the authority of section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160). The Department is providing notice of a proposed ''subsequent arrangement'' under the Agreement for Cooperation Concerning Civil Uses of Atomic Energy between the United States and Canada and the Agreement for Cooperation Between the United States and Japan Concerning Peaceful Uses of Nuclear Energy.

This subsequent arrangement concerns the retransfer of 220,784 kg of U.S.-origin natural uranium hexafluoride, 149,250 kg of which is uranium, from the Cameco Corporation, Ontario, Canada to Japan Nuclear Fuel Limited (JNFL). The material, which is now located at Cameco Corp., Port Hope, Ontario, will be transferred to JNFL for toll enrichment. Upon completion of the enrichment, the material will be used as fuel by the Tokyo Electric Power Company Inc., 1–Chome, Chiyoda-Ku, Tokyo, Japan. The uranium hexafluoride was originally obtained by the Cameco Corp. from Power Resources, Inc. pursuant to export license number XSOU8744.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, we have determined that this subsequent arrangement is not inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Dated: July 2, 2003.

For the Department of Energy.

Trisha Dedik,

Director, Office of Nonproliferation Policy.

[FR Doc. 03–17472 Filed 7–9–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Safety-Net Cost Recovery Adjustment Clause (SN CRAC); Adjustment to 2002 Wholesale Power Rates

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of availability of Record of Decision (ROD).

SUMMARY: This notice announces the availability of the ROD for BPA to implement its proposed SN CRAC Adjustment to 2002 Wholesale Power Rates. This rate adjustment is being implemented to allow BPA to address potential revenue shortfalls and to allow BPA to recover its costs through rates. This rate adjustment involves implementation of one of BPA's existing risk mitigation tools that has been previously subject to review under the National Environmental Policy Act. This ROD is based on input from the public process and information in the BPA Business Plan Environmental Impact Statement (DOE/EIS–0183, June 1995) and the Business Plan Record of Decision (August 15, 1995).

ADDRESSES: Copies of the SN CRAC ROD, Business Plan EIS, and Business Plan ROD may be obtained by calling BPA's toll-free document request line, 1–800–622–4520. The ROD and EIS Summary are also available on our Web site, *http://www.efw.bpa.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine S. Pierce, Bonneville Power Administration—KEC–4, P.O. Box 3621, Portland, Oregon, 97208–3621; toll-free telephone number 1–800–282–3713; direct telephone number 503–230–3962, fax number 503–230–5699; or e-mail *kspierce@bpa.gov.*

Issued in Portland, Oregon, on June 30, 2003.

Stephen J. Wright,

Administrator and Chief Executive Officer.

[FR Doc. 03–17471 Filed 7–9–03; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–356–003]

Canyon Creek Compression Company; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 30, 2003, Canyon Creek Compression Company (Canyon) tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, First Revised Sheet Nos. 199, 200 and 201, to be effective July 1, 2003.

Canyon states that the purpose of this filing is to implement the Stipulation and Agreement (Settlement) approved by the Commission by a letter order issued on May 23, 2003, in Docket Nos. RP02–356–000, *et al.* Canyon states that no tariff changes other than those required by the Settlement are reflected in this filing.

Canyon states that copies of the filing have been mailed to each person designated on the Commission's official service list in Docket No. RP02–356.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17499 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–106]

CenterPoint Energy Gas Transmission Company; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 27, 2003, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing the additional information required by the Commission's June 13, 2003 order in this docket.

CEGT states that copies of its filing are being mailed to all parties on the service list in this docket.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17505 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–107]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rates

July 3, 2003.

Take notice that on July 1, 2003, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, First Revised Sheet No. 821, to be effective July 1, 2003.

CEGT states that it is also submitting for filing an original and five (5) copies of a negotiated rate agreement and related documentation. CEGT further states that the documents filed herein reflect an amendment to the original transaction reflected on Original Sheet No. 821.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17506 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–108]

CenterPoint Energy Gas Transmission Company; Notice of Negotiated Rate Filing

July 3, 2003.

Take notice that on July 1, 2003, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing and approval a negotiated rate agreement between CEGT and Temple-Inland Forest Products Corporation. CEGT requests that the Commission accept and approve the transaction to be effective July 1, 2003.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17507 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR03–5–000]

Chevron Products Company, Complainant, v. SFPP, L.P., Respondent; Notice of Complaint

July 3, 2003.

Take notice that on June 30, 2003, Chevron Products Company (Complainant) filed a complaint alleging that there are reasonable grounds to believe that the rates of SFPP, L.P., (SFPP) subject to the jurisdiction of the Federal Energy Regulatory Commission (Commission) are not just and reasonable.

According to Complainant, the overcharges are at least 28% percent in excess of the claimed just and reasonable return claimed by SFPP in its cost of service.

Complainant alleges that it is aggrieved and damaged by the unlawful acts of SFPP and seeks relief in the form of reduced rates in the future and reparations for past and current overcharges for transportation, with interest.

Any person desiring to be heard 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. The answer to the complaint and all comments, interventions or protests must be filed on or before the comment date below. 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 for TTY, contact (202)502–8659. The answer to the complaint, 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.

Comment Date: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17490 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–474–001]

Clear Creek Storage Company, L.L.C.; Notice of Compliance Filing

July 3, 2003.

Take notice that on July 1, 2003, Clear Creek Storage Company, L.L.C., (Clear Creek) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute Original Sheet Nos. 44B and 44C and Substitute Second Revised Sheet No. 77A, to be effective July 1, 2003.

Clear Creek states that the filing is being filed in compliance the Commission's June 16, 2003, letter order in docket No. RP03–474–000.

Clear Creek explains that on May 8, 2003, tariff sheets were filed with the Commission in compliance with Order No. 587–R to implement Version 1.6 of the Standards promulgated by the North American Energy Standards Board's Wholesale Gas Quadrant (WGQ) and the WGQ's Standards governing partial day recalls. Clear Creek states that the Commission's June 16 order accepted Clear Creek's tariff sheets to be effective July 1, 2003, subject to Clear Creek revising and refiling certain tariff sheets as discussed in the order. Clear Creek states that this tariff filing is being tendered in compliance with the Commission's directive.

Clear Creek states further that a copy of this filing has been served upon its customers and the Public Service Commission of Wyoming.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the

Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17504 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–450–001]

CMS Trunkline Gas Company, LLC; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 30, 2003, CMS Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Sub Third Revised Sheet No. 255 and Sub Fourth Revised Sheet No. 314, to be effective July 1, 2003.

Trunkline states that this filing is being made to comply with the Commission's Letter Order dated June 19, 2003 in Docket No. RP03–450–000.

Trunkline states that copies of this filing are being served on all affected shippers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17503 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP03–329–000]

Columbia Gas Transmission Corporation; Notice of Application

July 3, 2003.

Take notice that on June 26, 2003, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314, filed in Docket No. CP03–329–000, pursuant to section 7(b) of the Natural Gas Act (NGA), for permission and approval to abandon by sale to Columbia Natural Resources, Inc., a Texas corporation, certain natural gas pipeline facilities located in Lincoln and Wayne Counties, West Virginia, together with the service provided through such facilities. Columbia states that in addition, Columbia requests that the Commission find the abandoned facilities, that were certificated by the Commission as transmission, to be gathering, and therefore exempt from the Commission's jurisdiction, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing is available for review 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.

Columbia states that the facilities proposed for abandonment by sale are Columbia's BM–44 System which consists of Line BM–44, a portion of BM–19-S1 and appurtenances. The facilities are located in Wayne and Lincoln Counties, West Virginia. Columbia states that the facilities were constructed by Columbia's predecessors in the early 1900's as a part of a low pressure transmission system in West Virginia. Columbia explains that the facilities were constructed to support Columbia's role as a merchant. Columbia further explains that the facilities currently transport local production from various points along the facilities which are delivered into Columbia's mainline for redelivery to various markets. Therefore, Columbia states that the facilities are no longer an integral component of its transmission system and that the long-term needs of its customers will be better served though a divestiture of the facilities. Columbia also proposes to abandon certain services now rendered through the subject facilities. CNR states that it has advised Columbia that it will continue to provide service to the customers being served through the facilities at the time of the sale. The facilities will be sold for $188,305.

Any questions regarding the application should be directed to Fredric J. George, Senior Attorney, Columbia Gas Transmission Corporation, P.O. Box 1273, Charleston, West Virginia 22030–0146 at (304) 357–2359.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party

to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: July 24, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17485 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–377–001]

Dominion Transmission, Inc.; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 30, 2003, Dominion Transmission, Inc. (DTI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute Fifth Revised Sheet No. 1173, with an effective date of July 1, 2003.

DTI states that the purpose of this filing is to comply with the Commission's order issued June 20, 2003 in Docket No. RP03–377–000 requiring that DTI refile a substitute tariff sheet correcting the references and incorporation of North American Energy Standards Board's Wholesale Gas Quadrant (WGQ) standards governing partial day recalls. DTI states that it has made the changes requested by the Commission and has further corrected the affected sheet to comply with the WGQ standards.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17501 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–908–000]

Fulcrum Power Marketing, LLC; Notice of Issuance of Order

July 3, 2003.

Fulcrum Power Marketing, LLC (Fulcrum Power) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed rate schedule provides for wholesale sales of capacity, energy, and ancillary services at market-based rates. Fulcrum Power also requested waiver of various Commission regulations. In particular, Fulcrum Power requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Fulcrum Power.

On June 30, 2003, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—South, granted the request for blanket approval under part 34, subject to the following:

Any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Fulcrum Power should file a motion to intervene or protest 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).

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is July 30, 2003.

Absent a request to be heard in opposition by the deadline above, Fulcrum Power is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Fulcrum Power, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Fulcrum Power's issuances of securities or assumptions of liability.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. 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.

Magalie R. Salas,

Secretary.

[FR Doc. 03–17489 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP01–382–013]

Northern Natural Gas Company; Notice of Filing

July 3, 2003.

Take notice that on July 1, 2003, pursuant to its F.E.R.C. Gas Tariff and the Carlton Settlement approved in Docket No. RP01–382–008, Northern Natural Gas Company (Northern) has filed various schedules detailing the Carlton buyout and surcharge dollars reimbursed to the appropriate parties.

Northern states that copies of the filing were served upon Northern's

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 § 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17497 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP01–49–002]

Northwest Pipeline Corporation; Notice of Application

July 3, 2003.

Take notice that on June 25, 2003, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84158, filed in Docket No. CP01–49–002, an application pursuant to sections 7(c) and 7(b) of the Natural Gas Act (NGA), as amended, and part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), to amend the certificate of public convenience and necessity that was issued for its Everett Delta Lateral project by Commission order dated October 25, 2001 in Docket Nos. CP01–49–000 and CP01–49–001 and to request related permission and approval for pre-granted abandonment, all as more fully set forth in the application which is on file with the Commission and open to public inspection. 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.

As currently certificated, Northwest states that the Everett Delta Lateral project, in Snohomish County, Washington, includes approximately 9 miles of 20-inch lateral pipeline, two delivery meter stations at the lateral terminus near Everett, Washington and related facilities designed to be constructed, owned and operated by Northwest to provide transportation deliveries from Northwest's mainline to serve a planned new power plant and to provide additional service to a local gas distribution company customer, Puget Sound Energy, Inc. (Puget).

After issuance of the certificate for the Everett Delta Lateral project, Northwest states that the new power plant that was the anchor market for the project was canceled and the facilities agreements underlying the project were terminated. Thusly, Northwest states that it and Puget then negotiated new commercial arrangements for a revised Everett Delta Lateral project designed to serve only Puget's growing distribution requirements in that area.

Northwest states that it is now requesting the Commission to amend the certificate for the Everett Delta Lateral project to authorize Northwest to construct and operate 9.15 miles of 16-inch lateral pipeline (on the originally certificated route), one meter station located at the start of the lateral, two lateral delivery taps and related facilities designed to provide approximately 113.1 MDth/d of firm transportation service for Puget from Northwest's mainline to the delivery taps.

Northwest states that it is now proposing to allow Puget to be the passive owner of the lateral and meter station facilities, with Northwest leasing and operating the lateral facilities as part of its interstate transmission system for a term of five years. Northwest states that it requests pre-granted abandonment approval of its lease and operation of the lateral upon expiration of the five-year lease term, at which time Puget will begin operating the lateral as part of its local distribution system.

Northwest states that the estimated total cost for the now revised Everett Delta Lateral project is approximately $24.6 million and that Puget will pay in advance and reimburse Northwest in full for the actual construction costs.

Northwest states that Puget requires expanded delivery capacity into its Everett, Washington distribution area by the 2004/2005 winter heating season. To allow sufficient time for completion of the proposed delivery facilities by November 1, 2004, Northwest states that it requests the Commission to issue the requested amended certificate order, and related approvals, by January 2004.

Any questions concerning this application may be directed to Gary K. Kotter, Manager, Certificates and Tariffs-3C1, Northwest Pipeline Corporation, P.O. Box 58900, Salt Lake City, Utah 84158–0900, at (801) 584–7117 or fax (801) 584–7764.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10) by the comment date, below. A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.

If the Commission decides to set the application for a formal hearing before an Administrative Law Judge, the Commission will issue another notice describing that process. At the end of the Commission's review process, a final Commission order approving or denying a certificate will be issued.

Comment Date: July 24, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17483 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP02–4–004]

Northwest Pipeline Corporation; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 27, 2003, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Original Sheet No. 26 and Sheet Nos. 27 through 29, to be effective July 1, 2003.

Northwest states that this filing complies with the Commission's order dated May 7, 2003 in Docket No. CP02–4–002 requiring Northwest to file a tariff sheet containing a provision to make a one time, pro rata credit to each Evergreen Expansion Project shipper, in invoices for October, 2003, for all base tariff reservation charge revenues received by Northwest for marketing the expanded compression-only capacity in the Sumas-Chehalis corridor during July through September 2003.

Northwest states that a copy of this filing has been served upon each person designated on the official service list complied by the Secretary in this proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 17, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17484 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL03–207–000]

Outback Power Marketing, Inc., SESCO Enterprises, L.L.C., and Black Oak Energy, L.L.C. v. PJM Interconnection, L.L.C.; Notice of Filing

July 3, 2003.

Take notice that on July 3, 2003, Outback Power Marketing, Inc., SESCO Enterprises L.L.C., and Black Oak Energy, L.L.C. (Complainants), filed a complaint pursuant to Sections 206 and 306 of the Federal Power Act against PJM Interconnection, L.L.C. (PJM), alleging violations of Section 205 and 206 of the Federal Power Act in the implementation of new credit policies for financial trading. The complaint requests fast track processing.

The Complainants state that copies of the filing were served upon PJM.

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov* , using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Comment Date: July 11, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17487 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP02–309–003]

Sunoco Inc. (R&M) v. Transcontinental Gas Pipe Line Corporation; Notice of Filing

July 3, 2003.

Take notice that on June 16, 2003, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing in compliance with Ordering Paragraph (D) of the Federal Energy Regulatory Commission's (Commission) May 15, 2003 ''Order Denying Rehearing, Clarifying Order, and Requiring Filing'' (Sunoco, Inc. (R&M) v. Transcontinental Gas Pipe Line Corp., 103 FERC ¶ 61,176 (2003)), a notification to the Commission of its plans with respect to the sale of the Central Texas gathering facilities.

Transco states that copies of the filing are being mailed to its affected customers.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 10, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17498 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–389–002]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 30, 2003, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, 2nd Sub Thirteenth Revised Sheet No. 412 and Sub Second Revised Sheet No. 412A, to become effective July 1, 2003.

Tennessee states that the tariff sheets are being filed in compliance with the Federal Energy Regulatory Commission's June 20, 2003 order on Tennessee's Order No. 587-R compliance filing, requiring Tennessee to incorporate the Wholesale Gas Quadrant's (WGQ) Standards 1.4.4, 5.4.1, 5.4.3, 5.4.4, 5.4.7 and 5.4.9 by reference to Version 1.6.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17502 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–125]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate and Non-conforming Agreement Filing

July 3, 2003.

Take notice that on June 27, 2003, Tennessee Gas Pipeline Company (Tennessee), tendered for filing the transportation and corresponding negotiated rate agreements constituting a negotiated rate arrangement between Tennessee and each respective shipper (Negotiated Rate Arrangements).

Tennessee also tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, Third Revised Tariff Sheet No. 413A, which identifies the MGI Agreement as a non-conforming service agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 9, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17508 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RP03–13–003 and RP01–236–013]

Transcontinental Gas Pipe Line Corporation; Notice of Compliance Filing

July 3, 2003.

Take notice that on June 30, 2003, Transcontinental Gas Pipe Line Corporation (Transco), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Sixth Revised Sheet No. 374O, Third Revised Sheet No. 374O.00 and First Revised Sheet No. 374O.01, to be effective June 5, 2003.

Transco states that the purpose of this filing is to incorporate certain approved tariff revisions that became effective April 1, 2003, in connection with Transco's implementation of 1Line, into other approved tariff revisions that became effective June 5, 2003 pertaining to Transco's Right of First Refusal tariff provisions. In addition, Transco states that in order to correct an administrative oversight, Transco is proposing to move into effect Seventh Revised Sheet No. 211, which tariff sheet was previously approved effective April 1, 2003 in an order issued September 27, 2001 in Docket Nos. RP01–236, *et al.*

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with § 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with § 154.210 of the Commission's Regulations. Protests will

be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''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: July 14, 2003.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17500 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER03–552–000, et al.]

New York Independent System Operator, Inc., et al.; Electric Rate and Corporate Filings

July 1, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. New York Independent System Operator, Inc.

[Docket No. ER03–552–002]

Take notice that on June 26, 2003, the New York Independent System Operator, Inc. (NYISO), filed a notice that proposed tariff revisions which were originally filed in Docket No. ER03–552–000 under Section 206 of the Federal Power Act should be treated as if they were filed under Section 205 on a prospective basis.

The NYISO states that it has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: July 17, 2003.

2. New York Independent System Operator, Inc.

[Docket No. ER03–749–001]

Take notice that on June 26, 2003, the New York Independent System Operator, Inc. (NYISO) tendered for filing a compliance filing in connection with the Commission's June 11, 2003, Order in Docket No. ER03–749–000.

The NYISO states thatit has served a copy of this filing to all parties listed on the official service in this proceeding. The NYISO also states that it has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: July 17, 2003.

3. Gulf States Energy Investments L.P.

[Docket No. ER03–891–001]

Take notice that on June 26, 2003, Gulf States Energy Investments L.P. submitted an amendment to their filing of May 29, 2003 requesting for acceptance of Gulf States Energy Investments L.P. 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.

Comment Date: July 17, 2003.

4. Fox Energy Company, LLC

[Docket No. ER03–983–000]

Take notice that on June 24, 2003, Fox Energy Company, LLC (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves, and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. The Applicant states that it proposes to own and operate a 635 megawatt gas-fired, combined cycle electric generating facility in Kaukauna, Outagamie County, Wisconsin.

Comment Date: July 15, 2003.

5. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–986–000]

Take notice that on July 27, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to Section 205 of the Federal Power Act and Section 35.12 of the Commission's Regulations, 18 CFR 35.12 , submitted for filing an Interconnection and Operating Agreement among Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc (Transmission), Midwest ISO and Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.(Generation).

Midwest ISO states that a copy of this filing was sent to Montana-Dakota Utilities Co. (Transmission)and Montana-Dakota Utilities Co. (Generation).

Comment Date: July 18, 2003.

6. Illinois Power Company

[Docket No. ER03–987–000]

Take notice that on June 27, 2003, Illinois Power Company (Illinois Power), filed a Third Revised Service Agreement for Network Integration Transmission Service with Illinois Municipal Electric Agency.

Illinois Power requests an effective date of June 1, 2003 for the Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power states that the Agreement has been filed with the Commission because it contains deviations from the form of agreement which is a part of the Illinois Power Open Access Transmission Tariff. Illinois Power also states it has mailed a copy of the filing to the Transmission Customer.

Comment Date: July 18, 2003.

7. Northen Maine Independent System Administrator, Inc.

[Docket No. ER03–988–000

Take notice that on June 27, 2003, the Northern Maine Independent System Administrator, Inc. (NMISA) tendered for filing with the Federal Energy Regulatory Commission (Commission) Service Agreement No. 10 between NMISA and WPS Canada Generation, Inc. (WPS Canada), and Service Agreement No. 11 between NMISA and WPS New England Generation Inc. (WPS New England), both under its FERC Electric Tariff Original Volume No. 1.

NMISA requests waiver of the Commission's notice requirements for an effective date of June 17, 2003. NMISA states that it has served copies of this filing upon representatives of WPS Canada and WPS New England.

Comment Date: July 18, 2003.

8. Kansas City Power & Light Company

[Docket No. ER03–997–000]

Take notice that on June 27, 2003, Kansas City Power & Light Company (KCPL) submitted for filing a Capacity Purchase Extension Agreement between KCPL and the City of Independence, Missouri. *Comment Date:* July 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, 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. 03–17488 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC03–98–000, et al.]

Prairie Material Sales, Inc., et al.; Electric Rate and Corporate Filings

July 1, 2003.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Prairie Material Sales, Inc.

[Docket No. EC03–98–000]

Take notice that on June 25, 2003, Prairie Material Sales, Inc. (Prairie) filed, pursuant to section 203 of the Federal Power Act, 16 U.S.C. 824b (1994), and part 33 of the Commission's regulations, 18 CFR part 33, an application for authorization of a disposition of facilities as a result of the sale of Prairie's Dixon-Marquette Cement division to CEMEX, Inc (CEMEX). Prairie states that as part of this transaction, a lease of an approximately 14 MW cogeneration facility will be assigned by Prairie to CEMEX. Prairie consents to the Commission's jurisdiction under Section 203 and requests that the Commission approve the transaction on an expedited basis without making a determination as to its section 203 jurisdiction.

Comment Date: July 16, 2003.

2. Ingenco Wholesale Power, L.L.C.

[Docket No. EG03–54–000]

Take notice that on May 27, 2003, Ingenco Wholesale Power, L.L.C. tendered for filing with the Federal Energy Regulatory Commission (Commission) an amended application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment Date: July 11, 2003.

3. Ely Wind Company, LLC

[Docket No. EG03–59–000]

Take notice that on May 28, 2003, Ely Wind Company, LLC tendered for filing with the Federal Energy Regulatory Commission (Commission) an amended application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

Comment Date: July 11, 2003.

4. Meiya (Tao Yuan) Power Company Limited

[Docket No. EG03–81–000]

Take notice that on June 27, 2003, Meiya (Tao Yuan) Power Company Limited (MTYP), with its principal office at Level 13(E), Main Office Tower, Financial Park Labuan, Jalan Merdeka, 87000, Labuan F.T., Malaysia, filed with the Federal Energy Regulatory Commission (Commission) an application for determination of exempt wholesale generator status pursuant to part 365 of the Commission's regulations.

MTYP states that it is a company organized under the laws of Malaysia and that it will be engaged, directly or indirectly through an affiliate as defined in section 2(a)(11)(B) of the Public Utility Holding Company Act of 1935 (PUHCA), exclusively in owning, operating, or both owning and operating, a gas-fired electric generating facility with a total output of approximately 486 megawatts consisting of two combustion turbine generators, two heat recovery steam generators and one steam turbine generator and certain additional incidental facilities, located in Tao Yuan County, Taiwan, Republic of China. MTYP states that it will through an affiliate sell electric energy at wholesale from the facility and may engage in other incidental activities with respect thereto consistent with PUHCA.

Comment Date: July 22, 2003.

5. New York Independent System Operator, Inc.

[Docket No. ER03–552–002]

Take notice that on June 26, 2003, the New York Independent System Operator, Inc. (NYISO), filed a notice that proposed tariff revisions which were originally filed in Docket No. ER03–552–000 under section 206 of the Federal Power Act should be treated as if they were filed under section 205 on a prospective basis.

The NYISO states that it has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's OATT or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: July 17, 2003.

6. New York Independent System Operator, Inc.

[Docket No. ER03–749–001]

Take notice that on June 26, 2003, the New York Independent System Operator, Inc. (NYISO) tendered for filing a compliance filing in connection with the Commission's June 11, 2003, Order in Docket No. ER03–749–000.

The NYISO states that it has served a copy of this filing to all parties listed on the official service in this proceeding. The NYISO also states that it has served a copy of this filing to all parties that have executed Service Agreements under the NYISO's Open-Access Transmission Tariff or Services Tariff, the New York State Public Service Commission and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: July 17, 2003.

7. Gulf States Energy Investments L.P.

[Docket No. ER03–891–001]

Take notice that on June 26, 2003, Gulf States Energy Investments L.P. submitted an amendment to their filing of May 29, 2003 requesting for acceptance of Gulf States Energy Investments L.P. 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.

Comment Date: July 17, 2003.

8. Fox Energy Company, LLC

[Docket No. ER03–983–000]

Take notice that on June 24, 2003, Fox Energy Company, LLC (the Applicant) tendered for filing, under section 205 of the Federal Power Act (FPA), a request for authorization to make wholesale sales of electric energy, capacity, replacement reserves, and ancillary services at market-based rates, to reassign transmission capacity, and to resell firm transmission rights. The Applicant states that it proposes to own and operate a 635 megawatt gas-fired, combined cycle electric generating facility in Kaukauna, Outagamie County, Wisconsin.

Comment Date: July 15, 2003.

9. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–986–000]

Take notice that on July 27, 2003, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) pursuant to section 205 of the Federal Power Act and section 35.12 of the Commission's Regulations, 18 CFR 35.12, submitted for filing an Interconnection and Operating Agreement among Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc (Transmission), Midwest ISO and Montana-Dakota Utilities Co., a Division of MDU Resources Group, Inc.(Generation).

Midwest ISO states that a copy of this filing was sent to Montana-Dakota Utilities Co. (Transmission)and Montana-Dakota Utilities Co.(Generation).

Comment Date: July 18, 2003.

10. Illinois Power Company

[Docket No. ER03–987–000]

Take notice that on June 27, 2003, Illinois Power Company (Illinois Power), filed a Third Revised Service Agreement for Network Integration Transmission Service with Illinois Municipal Electric Agency.

Illinois Power requests an effective date of June 1, 2003 for the Agreement and seeks a waiver of the Commission's notice requirement. Illinois Power states that the Agreement has been filed with the Commission because it contains deviations from the form of agreement which is a part of the Illinois Power Open Access Transmission Tariff. Illinois Power also states it has mailed a copy of the filing to the Transmission Customer.

Comment Date: July 18, 2003.

11. Northern Maine Independent System Administrator, Inc.

[Docket No. ER03–988–000]

Take notice that on June 27, 2003, the Northern Maine Independent System Administrator, Inc. (NMISA) tendered for filing with the Federal Energy Regulatory Commission (Commission) Service Agreement No. 10 between NMISA and WPS Canada Generation, Inc. (WPS Canada), and Service Agreement No. 11 between NMISA and WPS New England Generation Inc. (WPS New England), both under its FERC Electric Tariff Original Volume No. 1.

NMISA requests waiver of the Commission's notice requirements for an effective date of June 17, 2003. NMISA states that it has served copies of this filing upon representatives of WPS Canada and WPS New England.

Comment Date: July 18, 2003.

12. Kansas City Power & Light Company

[Docket No. ER03–997–000]

Take notice that on June 27, 2003, Kansas City Power & Light Company (KCPL) submitted for filing a Capacity Purchase Extension Agreement between KCPL and the City of Independence, Missouri.

Comment Date: July 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, 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. 03–17482 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. DI03–4–000]

Notice of Declaration of Intention and Soliciting Comments, Motions To Intervene, and Protests

July 3, 2003.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI03–4–000.

c. *Date Filed:* June 19, 2003 .

d. *Applicant:* Scott Watterson.

e. *Name of Project:* Watterson Hydroelectric Project.

f. *Location:* The Watterson Hydroelectric Project would be located on Arbuckle Stream, in Morgan County near Morgan, Utah, at Section 18, Township 5 North, Range 2 East, Salt Lake Base and Meridian. The project will not occupy Federal lands.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Mr. Kenneth E. Gardner, P.E., P.L.S., Gardner Engineering, 5875 S. Adams Ave Parkway, Suite 200, Ogden, Utah 84405, telephone (801) 476–0202, Fax: (801) 476–0066; E-mail: *ken@gardnerengineering.net*.

i. *FERC Contact:* Any questions on this notice should be addressed to Patricia Gillis (202) 502–8735, or E-mail address: *patricia.gillis@ferc.gov*.

j. *Deadline for filing comments and/or motions*: August 4, 2003.

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. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov*.

Please include the docket number (DI03–4–000) on any comments or motions filed.

k. *Description of Project:* The proposed run-of-river Watterson Hydroelectric Project would consist of: (1) A diversion structure using a 2-foot-by-2-foot hydroscreen; (2) a 6-inch-diameter, 3,100-foot-long pipeline; (3) a Pelton-wheel turbine with a rated capacity of 12 kW, and an inverter which will store the power in batteries; and (4) appurtenant facilities. The project will not be connected to the local utility or any other power company, or transmission grid.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the Application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at *http://www.ferc.gov* using the ''FERRIS'' link, select ''Docket#'' and follow the instructions. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

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, 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.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Docket 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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17486 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–244]

Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

July 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No.:* 1494–244.

c. *Date Filed:* September 30, 2002, as amended March 28, 2003 and May 15, 2003.

d. *Applicant:* Grand River Dam Authority (GRDA).

e. *Name of Project:* Pensacola Dam.

f. *Location:* The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. The project does not occupy any Federal or tribal lands. The proposed non-project use would be located in Ketchum Cove on Grand Lake O' The Cherokees in Section 2, Township 23 North, Range 21 East, in Mayes County.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mary Von Drehle or Teresa Hicks, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301. Phone: (918) 256–5545.

i. *FERC Contact:* Heather Campbell, *heather.campbell@ferc.gov* or 202–502–6182.

j. *Deadline for filing comments and or motions:* August 15, 2003.

k. *Description of the Application:* GRDA requests Commission approval to permit Terry Frost d/b/a Water Front Development Company (WFDC) to construct 6 docks with 71 boat slips to be used by patrons of a new condominium development known as Colony Cove. GRDA has waived the dock-placement provisions of Artice IV(7) of the Rules and Regulations Governing the Use of Shorelands and Waters of GRDA for WFDC's proposal.

l. *Locations of the Application:* This filing is available for review at the Commission in the Public Reference Room or may 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. 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, 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.

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 the original and eight copies to: 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.

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.

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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17493 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–248]

Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

July 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No.:* 1494–248.

c. *Date Filed:* February 24, 2003.

d. *Applicant:* Grand River Dam Authority (GRDA).

e. *Name of Project:* Pensacola Dam.

f. *Location:* The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. The project does not occupy any Federal or tribal lands. The proposed non-project use would be located 5 miles south of Cleora on Grand Lake O' The Cherokees in Section 14, Township 24 North, Range 22 East, in Delaware County.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mary Von Drehle or Teresa Hicks, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301. Phone: (918) 256–5545.

i. *FERC Contact:* Heather Campbell, *heather.campbell@ferc.gov* or 202–502–6182.

j. *Deadline for filing comments and or motions:* August 15, 2003.

k. *Description of the Application:* GRDA requests Commission approval to permit John Mayes d/b/a LML Development, LLC (Vintage on Grand Lake) to add 2 docks with 24 boat slips to an existing commercial facility approved for 9 docks with 84 slips. The facilities would be used by patrons of Vintage on Grand Lake.

l. *Locations of the Application:* This filing is available for review at the Commission in the Public Reference Room or may 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. 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, 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.

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 the original and eight copies to: 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.

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.

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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17494 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1494–250]

Notice of Application To Amend License and Soliciting Comments, Motions To Intervene, and Protests

July 3, 2003.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-project use of project lands and waters.

b. *Project No.:* 1494–250.

c. *Date Filed:* February 24, 2003.

d. *Applicant:* Grand River Dam Authority (GRDA).

e. *Name of Project:* Pensacola Dam.

f. *Location:* The project is located on the Grand (Neosho) River in Craig, Delaware, Mayes, and Ottawa Counties, Oklahoma. The project does not occupy any Federal or tribal lands. The proposed non-project use would be located in the upper end of Drowning Creek on Grand Lake O' The Cherokees in Section 7, Township 23 North, Range 22 East, in Delaware County.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mary Von Drehle or Teresa Hicks, Grand River Dam Authority, P.O. Box 409, Vinita, OK 74301. Phone: (918) 256–5545.

i. *FERC Contact:* Heather Campbell, *heather.campbell@ferc.gov* or 202–502–6182.

j. *Deadline for filing comments and or motions:* August 15, 2003.

k. *Description of the Application:* GRDA requests Commission approval to permit Charles F. King d/b/a Belle View Resort to add of 1 dock with 10 slips to an existing commercial facility approved for 3 docks with 13 slips. The docks are for the patrons of Belle View Resort.

l. *Locations of the Application:* This filing is available for review at the Commission in the Public Reference Room or may 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. 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, 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.

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: 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.

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.

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.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17495 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2630–004]

Notice of Application Tendered for Filing With the Commission, Soliciting Additional Study Requests, and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

July 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 Major License.

b. *Project No.:* 2630–004.

c. *Date Filed:* June 27, 2003.

d. *Applicant:* PacifiCorp.

e. *Name of Project:* Prospect Nos. 1, 2, and 4 Hydroelectric Project.

f. *Location:* On the Rogue River, Middle Fork Rouge River, and Red Blanket Creek in Jackson County, near Prospect, Oregon. The project would not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Toby Freeman, Hydro Licensing, 825 NE Multnomah Avenue, Suite 1500, Portland, OR 97232, (503) 813–6208.

i. *FERC Contact:* Nick Jayjack at (202) 502–6073 or *nicholas.jayjack@ferc.gov*.

j. *Cooperating agencies:* We are asking Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the environmental document. Agencies who would like to request cooperating status should follow the instructions for filing comments described in item l below.

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* August 26, 2003.

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.

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.''

m. This application is not ready for environmental analysis at this time.

n. The existing Prospect Nos. 1, 2, and 4 Hydroelectric Project consists of: (1) A 10-foot-high, 165-foot-long concrete gravity-type overflow diversion dam on the Middle Fork Rogue River; (2) a 10-foot-high, 1,160-foot-long concrete and earth-fill diversion dam on Red Blanket Creek; (3) a 50-foot-high, 384-foot-long concrete gravity diversion dam on the Rogue River; (4) a 260-acre-foot impoundment behind the North Fork diversion dam (the other two dams form minimal impoundments); (5) non-functional fishways at the Red Blanket Creek and Middle Fork Rogue River diversion dams; (6) a 9.25-mile-long water conveyance system composed of gunite-lined canals (24,967 feet), unlined earthen canals (4,426 feet), open-top woodstave flumes (6,609 feet), woodstave flow lines (7,139 feet), and steel penstocks (1,796 feet); (7) three powerhouses with a combined installed capacity of 41,560-kilowatts; (8) three

69-kilovolt (kV) transmission lines (0.26, 0.28, and 0.31 miles in length) and one 2.3-kV transmission line (0.6 miles in length); (9) a developed recreation area known as North Fork Park; and (10) appurtenant facilities. The applicant is proposing certain non-power resource enhancements. The applicant estimates that the total average annual generation is 280,657 megawatt-hours. Power from the project serves the applicant's residential and commercial customers in the communities of northern Jackson County and southern Douglas County, Oregon.

o. 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.

You may also register online at *http://www.ferc.gov/esubscribenow.htm* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. With this notice, we are initiating consultation with the OREGON 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.

q. *Procedural schedule and final amendments:* The application will be processed according to the following Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue acceptance or deficiency letter: September 2003.

Request additional information: September 2003.

Issue acceptance letter: December 2003.

Issue Scoping Document 1 for comments: January 2004.

Request additional information (if necessary): March 2004.

Issue Scoping Document 2: April 2004.

Notice of application ready for environmental analysis: April 2004.

Notice of the availability of the draft EA: October 2004.

Notice of the availability of the final EA: January 2005.

Ready for Commission's decision on the application: January 2005.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of application ready for environmental analysis.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17496 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12155–001]

Arizona Independent Power, Inc.; Notice of Surrender of Preliminary Permit

July 3, 2003.

Take notice that Arizona Independent Power, Inc., permittee for the proposed Starhills Pumped Storage Project, has requested that its preliminary permit be terminated. The permit was issued on November 20, 2002, and would have expired on October 31, 2005. The project would have been located on the Gila River in Pinal County, Arizona.

The permittee filed the request on May 2, 2003, and the preliminary permit for Project No. 12155 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17492 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11865–002]

Kabatica General Partners; Notice of Surrender of Preliminary Permit

July 3, 2003.

Take notice that Kabatica General Partners, permittee for the proposed Lower Rocky Creek Project, has requested that its preliminary permit be terminated. The permit was issued on April 11, 2001, and would have expired on March 31, 2004. The project would have been located on Rocky Creek in Whatcom County, Washington.

The permittee filed the request on May 21, 2003, and the preliminary permit for Project No. 11865 shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday, or holiday as described in 18 CFR 385.2007, in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Linda Mitry,

Acting Secretary.

[FR Doc. 03–17491 Filed 7–9–03; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

Science Advisory Board, Request for Nominations, Bioethics Advisory Committee (BAC), an ad hoc Committee of the U.S. EPA Science Advisory Board

[FRL–7526–1]

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces the formation of a new SAB ad hoc Committee, the Bioethics Advisory Committee (BAC), and is soliciting nominations for members of the Committee.

DATES: Nominations should be submitted in time to arrive by July 31, 2003.

ADDRESSES: Nominations should be submitted in electronic format through the Form for Nominating Individuals to Panels of the EPA Science Advisory Board provided on the SAB Web site. The form can be accessed through a link on the blue navigational bar on the SAB Web site, *http://www.epa.gov/sab.* To be considered, all nominations must include the information required on that form. Anyone who is unable to submit nominations via this form may contact Mr. Thomas Miller, Designated Federal Officer (DFO) as indicated below.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further information regarding this Request for Nominations may contact Mr. Thomas O. Miller, by telephone/voice mail at (202) 564–4558, or via e-mail at

miller.tom@epa.gov, or by mail at: U.S. EPA Science Advisory Board Staff Office (1400A), 1200 Pennsylvania Ave., NW., Washington, DC 20460. General information about the SAB can be found on the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Summary

The EPA's SAB Staff Office is announcing the formation of a new ad hoc committee to help provide advice, through the SAB Executive Committee to the Administrator and other officials in the U.S. Environmental Protection Agency, on ethics issues that might arise in a number of situations involving the generation and/or use of human and animal data. The SAB Staff Office is soliciting nominations to establish the members of the new Committee.

The Board is a chartered Federal Advisory Committee that reports directly to the Administrator. This Committee is being formed to help provide advice to the Agency, as part of the SAB's mission, established by 42 U.S.C. 4365, to provide independent scientific and technical advice, consultation, and recommendations to the EPA Administrator on the technical bases for EPA regulations.

Members of the Bioethics Advisory Committee will help provide advice to the Agency through the SAB's Executive Committee. The Committee will comply with the openness provisions of the Federal Advisory Committee Act (FACA) and all appropriate SAB procedural policies, including the SAB process for panel formation described in the EPA Science Advisory Board (SAB) Panel Formation Process: Immediate Steps to Improve Policies and Procedures—An SAB Commentary (EPA–SAB–EC–COM–002–003), *http://www.epa.gov/sab/pdf/ecm02003.pdf.*

Background

Scientists continue to advance society's ability to understand the many factors that are relevant to the evaluation of risks associated with environmental contamination and change. The scientific study associated with such advances is often accompanied by significant and important debate because it raises new or unique questions of ethics. Therefore, in addition to the EPA's usual practice of evaluating the technical aspects of scientific approaches used to generate data, Agency staff and managers also need to consider the ethical implications of how data are developed and used in support of EPA's mission to protect human health and the environment.

To assist EPA in its consideration of the ethical implications of using various scientific and technical studies in support of its mission, the Agency has asked the SAB Staff Office to form an expert group to advise senior EPA managers on bioethics issues. Therefore, the SAB Staff Office is seeking the public's assistance in identifying and nominating experts to serve on a Bioethics Advisory Committee. Specific projects have not yet been sent to the SAB for consideration by the committee. When specific issues are identified for SAB advice, the initiation of SAB advisory actions will be announced in the **Federal Register**. In order to help the public as it considers appropriate persons to nominate for this committee, this notice describes the Committee's general purview by giving examples of issues that the Committee might be asked to consider. Topics might include: (a) Ethical issues associated with the use of human data obtained using genomics techniques; (b) ethical issues associated with the use of animals to develop data for use in EPA evaluations of risk from environmental agents; and (c) ethical issues associated with intentional dosing of humans to obtain data for use in EPA evaluations of risk from environmental agents. Each of these issues is briefly discussed in the paragraphs that follow. These examples are not intended to be all inclusive and to preclude other types of bioethical issues from being raised to the Committee.

(a) Ethical Issues Associated With the Use of Genomics Data

As used by EPA, the term genomics ''* * * is the study of all the genes of a cell, or tissue, at the DNA (genotype), mRNA (transcriptome), or protein (proteome) levels'' (Interim Policy on Genomics, U.S. EPA Science Policy Council, June 25, 2002). The Interim Policy on Genomics acknowledges the potential for genomics information to enhance EPA's assessments in support of policy development. The interim policy states that ''[g]enomics approaches have the long term promise to aid in the understanding of an organism's response to stressors and to guide the selection of informative bioindicators for monitoring the impact of stressors on human and ecological health. Thus, EPA believes that genomics will have an enormous impact on our ability to assess risk from exposure to stressors and ultimately improve our risk assessments.''

Although EPA is moving rapidly to take advantage of genomics information in support of its mission, the Agency's interim policy notes the current limitations in our knowledge, understanding, and use of genomics information. As a result, EPA does not consider genomics information sufficient, in and of itself, to serve as the sole basis for decision-making. To realize the potential for genomics information to reduce uncertainties in its assessments, EPA is encouraging research, methods development and evaluation, and data collection relating to gaps in genomics knowledge. The Agency's interim policy finally states that as the Agency ''* * *gains experience in applying genomics information and refines its understanding of the use of such information, it will develop guidance to explain how genomics data can be better utilized in informing decision-making and related ethical, legal, and social implications.'' As suggested by the interim policy, EPA foresees that it will face a number of ethical issues as its moves forward in the development and use of genomics data in support of its mission and EPA looks for advice from the SAB in addressing such issues.

(b) Use of Animals to Develop Data for Use in EPA Evaluations of Risk From Environmental Agents

Concern has been voiced about EPA's heavy reliance on animal testing protocols to generate test data that is needed to support Agency decision-making. EPA is conducting research that will help it to reduce, refine, and replace animal test protocols that now guide the development of such data. EPA is developing the science that will help it to more selectively apply these test protocols. EPA also works with national and international groups [*e.g.*, the Organisation for Economic Cooperation and Development (OECD) and the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM)] in this regard.

Notwithstanding EPA's current research into approaches that will allow the reduction, refinement, and replacement of certain animal test protocols, ethical issues will continue to be raised over the animal-based test systems to support decision-making. The Bioethics Advisory Committee can provide a venue where the Administrator can ask for consultations and advisory reviews of this important issue.

(c) Intentional Dosing of Humans To Obtain Data To Be Used in EPA Evaluations of Risk From Environmental Agents

This issue involves the use of data obtained from intentionally dosing

humans with agents that might be found in or released to the environment under different situations. The intent of these studies is to obtain data that can be used in evaluating the human health effects associated with such agents. These studies are often conducted by third parties (not the government itself) and can be used to support decision-making conducted pursuant to a variety of EPA legislative mandates. The SAB might be asked to advise on specific issues that arise in association with the use of such studies.

Request for Nominations

Background

The EPA SAB Staff Office requests nominations of individuals who are regarded as national level experts in the issues described in this notice. In soliciting these nominations, the SAB recognizes that in questions of ethical development and use of scientific information, relevant issues and expertise come from many disciplines and not just those disciplines associated with human health and environmental risk assessment. Examples of areas of expertise that reflect domains of knowledge possessed by individuals who have commonly been involved in the consideration of bioethics issues include at least the following: medicine in many specialties, human toxicology and pharmacology; ecology; risk assessment; statistics; clinical and epidemiology studies; genetics; occupational and public health; human subjects protection; ethics; religious studies; sociology; public policy; tribal health; health policy; law; psychology; technology studies; and animal welfare.

Process and Deadline for Submitting Nominations

Any interested person or organization may nominate qualified individuals for the Committee who have expertise as discussed above.

The nominating form requests contact information about the person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's resume; and a general biosketch of the nominee indicating education, expertise, past research, recent service on other advisory committees or with professional associations, and recent grant and/or contract support.

Anyone who is unable to submit nominations through the SAB Web site or has any question concerning any aspect of the nomination process may contact Mr. Thomas O. Miller as indicated above in this FR notice. Nominations should be submitted in time to arrive no later than July 31, 2003.

The EPA Science Advisory Board Staff Office will acknowledge receipt of nominations. From the nominees identified by respondents to this **Federal Register** notice and through other sources (termed the ''Widecast''), the SAB Staff Office will develop a smaller subset (known as the ''Short List'') for more detailed consideration. Criteria used by the SAB Staff in developing this Short List are given at the end of the following paragraph. The SAB Staff Office will contact individuals who are considered for inclusion on the Short List to determine whether they are willing to serve on the Committee. The Short List will be posted on the SAB Web site at: *http://www.epa.gov/sab* and will include, for each candidate, the nominee's name and their biosketch. The Short List also will be available from Mr. Miller at the address listed above. Public comments will be accepted for 21 calendar days on the Short List. During this comment period, the public will be requested to provide information, analysis or other documentation on nominees that the SAB Staff should consider in evaluating candidates for the Committee.

For the EPA SAB, a balanced committee is characterized by inclusion of candidates who possess the necessary domains of knowledge, the relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation), and the collective breadth of experience to adequately address the charge. Public responses to the Short List candidates will be considered in the selection of the Committee members, along with information provided by candidates and information gathered by the EPA SAB Staff Office independently on the background of each candidate (*e.g.*, financial disclosure information and computer searches to evaluate a nominee's prior involvement with and statements on the topic under review). Specific criteria to be used in evaluating an individual committee member include: (a) Scientific and/or technical expertise, knowledge, and experience (primary factors); (b) absence of financial conflicts of interest; (c) scientific credibility and impartiality; (d) availability and willingness to serve; and (e) ability to work constructively and effectively in committees.

Those Short List candidates ultimately chosen to serve on the Committee will be appointed as Special Government Employees. Therefore, all Short List candidates will also be required to fill-out the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows Government officials to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The blank form may be viewed and downloaded from the following URL address: *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.* Committee members will likely be asked to attend two to three public meetings and public conferences per year over the anticipated course of the advisory activity.

Dated: July 2, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 03–17511 Filed 7–9–03; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0247; FRL–7318–8]

Transition Work Group of the EPA-USDA Committee to Advise on Reassessment and Transition; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Transition Work Group of the U.S. Environmental Protection Agency-U.S. Department of Agriculture Committee to Advise on Reassessment and Transition (EPA-USDA CARAT) will hold a public meeting on July 17 and 18, 2003. This meeting will focus on recent case studies for the following selected commodities: Almonds, carrots, cranberries, peaches, potatoes, and walnuts. This first round of case studies was selected because of current pest management problems either from regulatory action, pest resistance, or a lack of adequate control measures. The Work Group intends to develop recommendations for EPA and USDA which will be presented to the full Committee to Advise on Reassessment and Transition at a future meeting.

DATES: The meeting will be held on Thursday, July 17, 2003, from 9 a.m. to 5:30 p.m., and Friday, July 18, 2003, from 9 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Hilton Crystal City, 2399 Jefferson

Davis Highway, Arlington, VA. The telephone number is (703) 418–6800. The Hilton Crystal City is a 5–minute walk from the Crystal City Metro Station and about a 10 minute taxi ride from National Airport.

FOR FURTHER INFORMATION CONTACT: Margie Fehrenbach, Office of Pesticide Programs, Mail code 7501C, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 703–308–4775; fax number: 703–308–4776; e-mail address: *Fehrenbach.Margie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general; however, persons may be interested who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**. Potentially affected entities may include but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket*. EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0247. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access*. You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. An agenda has been developed and is posted on EPA's website at *www.epa.gov/pesticides/carat.*

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

The Committee to Advise on Reassessment and Transition (CARAT) was established in accordance with the Federal Advisory Committee Act to provide advice and counsel to the Administrator of EPA and the Secretary of Agriculture regarding strategic approaches for pest management planning and tolerance reassessment for pesticides as required by the Food Quality Protection Act of 1996 (FQPA). Through CARAT, EPA and the USDA are working together to ensure smooth implementation of FQPA through use of sound science, consultation with stakeholders, increased transparency, and reasonable transition for agriculture. CARAT is composed of a balanced group of participants from the following sectors: Pesticide user, grower and commodity groups; industry and trade associations; food processors and distributors; environmental/public interest and farmworker groups; Federal, State and Tribal governments; public health organizations; and academia. The CARAT Work Group on Transition was established to identify barriers to the development and adoption by users of new, safer and effective pest management techniques and to formulate recommendations for Federal agency actions that, in partnership with the range of stakeholders, will reduce or eliminate these barriers.

III. How Can I Request to Participate in this Meeting?

This meeting will be open to the public. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit I.B.1.

List of Subjects

Environmental protection, Agricultural workers, Agriculture, Chemicals, Foods, Pesticides, Pests, Risk assessment.

Dated: July 7, 2003.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 03–17608 Filed 7–9–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2003–0252; FRL–7318–9]

Pesticide Program Dialogue Committee's Registration Review Work Group; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA's Office of Pesticide Programs will hold a public meeting of the Registration Review Work Group of the Pesticide Program Dialogue Committee (PPDC) on July 16, 2003. The Registration Review Work Group was established as a forum to provide advice and recommendations to the PPDC regarding a registration review program that is efficient and fair to all stakeholders, focuses on risk reduction, and considers user needs for agricultural, non-agricultural and public health pesticides. Under section 3(g) of the Federal Insecticide, Fungicide, and Rodenticide Act, EPA must publish procedures for reviewing the registration of pesticides every 15 years.

DATES: The meeting will be held on Wednesday, July 16, 2003, from 9 a.m. to 5 p.m.

ADDRESSES: The meeting will be held at the Sheraton Crystal City, 1800 Jefferson Davis Highway, Arlington, VA. The telephone number is (703) 486–1111.

The Sheraton Crystal City is one block from the Crystal City Metro Station.

FOR FURTHER INFORMATION: Margie Fehrenbach, Office of Pesticide Programs, Mail code 7501C, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: 703–308–4775; fax number: 703–308–4776; e-mail address: *Fehrenbach.Margie@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general; however, persons may be interested who work in agricultural settings or persons who are concerned about implementation of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA); the Federal Food, Drug, and Cosmetic Act (FFDCA); and the amendments to both of these major pesticide laws by the Food Quality Protection Act (FQPA) of 1996. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**. Potentially affected entities may include but are not limited to: Agricultural workers and farmers; pesticide industry and trade associations; environmental, consumer and farmworker groups; pesticide users and growers; pest consultants; State, local and Tribal governments; academia; public health organizations; food processors; and the public. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Information?

1. *Docket.* EPA has established an official public docket for this action under docket identification (ID) number OPP–2003–0252. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Although a part of the official docket, the public docket does not include Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. The official public docket is the collection of materials that is available for public viewing at the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. This docket facility is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The docket telephone number is (703) 305–5805.

2. *Electronic access.* You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*. An agenda has been developed and is posted on EPA's website at *www.epa.gov/pesticides/ppdc*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit I.B.1. Once in the system, select ''search,'' then key in the appropriate docket ID number.

II. Background

The PPDC is composed of 42 members appointed by EPA's Deputy Administrator. Committee members were selected from a balanced group of participants from the following sectors: Pesticide user, grower and commodity groups; industry and trade associations; environmental/public interest and farmworker groups; Federal, State and Tribal governments; public health organizations; animal welfare; and academia. PPDC was established to provide a public forum to discuss a wide variety of pesticide regulatory development and reform initiatives, evolving public policy, program implementation issues, and science policy issues associated with evaluating and reducing risks from use of pesticides. PPDC's Registration Review Work Group was recently established and is comprised of 22 members with balanced representation from the broad group of stakeholders. The Registration Review Work Group is Chaired by Jay Ellenberger, Acting Director, Field and External Affairs Division, Office of Pesticide Programs, and Betty Shackleford, Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

III. How Can I Request to Participate in this Meeting?

This meeting will be open to the public. Opportunity will be provided for questions and comments by the public. Any person who wishes to file a written statement may do so before or after the meeting. These statements will become part of the permanent record and will be available for public inspection at the address listed under Unit I.B.1.

List of Subjects

Environmental protection, Agriculture, Agricultural workers, Chemicals, Foods, Inert Ingredients, Pesticides, Pests, Registration, Risk assessment.

Dated: July 7, 2003.

James Jones,

Director, Office of Pesticide Programs.

[FR Doc. 03–17607 Filed 7–9–03; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7527–1]

Science Advisory Board; Air Toxics Research Strategy/Multi-Year Plan Review Panel; Notification of An Upcoming Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA's Science Advisory Board (SAB) is announcing a public meeting of the Air Toxics Research Strategy/Multi-Year Plan Review (Panel) to conduct a review of the Agency's Air Toxics Research Strategy/Multi-Year Plan.

DATES: July 23–24, 2003—The public meeting for the SAB Panel will begin at 9 am and adjourn no later than 5:30 pm (Eastern Time) each day. The meeting agenda and final charge questions will be posted on the SAB Web site *http://www.epa.gov/sab/agendas.htm* one week before the meeting.

ADDRESSES: The public meeting of the Panel will be held at the U.S. Environmental Protection Agency (EPA), 109 T.W. Alexander Drive, Research Triangle Park, North Carolina 27709. The room number is C111–C for July 23 and C111–B for July 24. For further information concerning the public meeting, please contact Dr. James Rowe, Designated Federal Officer (DFO) (see contact information below).

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing further

information regarding the public meeting may contact Dr. James Rowe, Designated Federal Officer (DFO), U.S. EPA Science Advisory Board (1400A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460, telephone/voice mail: (202) 564–6488, Fax (202) 501–0582, or via e-mail at *rowe.james@epa.gov.* Requests to present oral comments must be *in writing* (e-mail, fax or mail) and received by Dr. Rowe no later than noon Eastern Time on July 18, 2003. General information about the SAB can be found in the SAB Web site at *http://www.epa.gov/sab.*

SUPPLEMENTARY INFORMATION:

Summary: Pursuant to the Federal Advisory Committee Act, Public Law 92–463, Notice is hereby given that the Panel will hold a public meeting to provide advice to the EPA on the Agency's Air Toxics Research Strategy and associated implementation plan (Multi-Year Plan). The dates and times for the meeting are provided above.

Background: Background on the Panel or the focus of the meeting described in this notice was provided in a **Federal Register** Notice published on April 30, 2003 (68 FR 23132–23133).

Availability of Meeting Materials: Copies of any available meeting materials, including a draft agenda, will be posted on the SAB Web site for this panel at: *http://www.epa.gov/sab/panels/atrsmyrprpanel.html* approximately 10 days before the meeting.

Providing Oral or Written Comments at SAB Meetings: It is the policy of the EPA Science Advisory Board to accept written public comments of any length, and to accommodate oral public comments whenever possible. The EPA Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously-submitted oral or written statements. *Oral Comments:* In general, each individual or group requesting an oral presentation at a face-to-face meeting will be limited to a total time of ten minutes (unless otherwise indicated). For teleconference meetings, opportunities for oral comment will usually be limited to no more than three minutes per speaker and no more than fifteen minutes total. Deadlines for getting on the public speaker list for a meeting are given above. Speakers should bring at least 35 copies of their comments and presentation slides for distribution to the reviewers and public at the meeting. *Written Comments:* Although the SAB accepts written comments until the date of the meeting (unless otherwise stated), written comments should be received in the SAB Staff Office at least one week prior to the meeting date so that the comments may be made available to the committee for their consideration. Comments should be supplied to Dr. Rowe at the address/contact information noted above in the following formats: one hard copy with original signature, and one electronic copy via e-mail (acceptable file format: Adobe Acrobat, WordPerfect, Word, or Rich Text files (in IBM–PC/Windows 95/98 format)). Those providing written comments and who attend the meeting are also asked to bring 35 copies of their comments for public distribution.

Meeting Accommodations: Individuals requiring special accommodation to access the public meetings listed above, should contact Dr. Rowe at least five business days prior to the meeting so that appropriate arrangements can be made.

Dated: July 7, 2003.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. 03–17606 Filed 7–9–03; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 03–2100]

Bureau Mails Second Audit Letter and Notice of Cancellation to Certain 220–222 MHz Licensees

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document the Wireless Telecommunications Bureau (Bureau) announces it will mail its second audit letter and notice of cancellation to licensees that did not respond to the first inquiry. The audit involves certain site-specific licenses operating in three commercial radio services in the 220—222 MHz band. Licensees must respond to the second audit letter and notice of cancellation electronically.

DATES: Responses are due by August 7, 2003.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Denise D. Walter, Commercial Wireless Division, at 202–418–0620.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's *Public Notice,* DA 03–2100, released on June 30, 2003. 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://wireless.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 July 8, 2003 the Wireless Telecommunications Bureau will mail its second audit letter and notice of cancellation to certain licensees operating in the 220–222 MHz band. The audit, which includes licenses in the QT, QD, and QO radio services, is being performed to determine the operational status of these licenses. The audit was announced on April 9, 2003 and began on May 14, 2003.

2. Each licensee to whom this second audit letter and notice of cancellation is being sent must respond and certify by August 7, 2003 that its authorized stations have not discontinued operations for one year or more.

3. Audit letters are mailed to licensees at their address of record in the Universal Licensing System. If a licensee receives more than one audit letter, they must respond to each letter sent by the Commission in order to account for all of its call signs that are part of the audit. Licensees can use the *Audit Search* at *http://wireless.fcc.gov/licensing/audits/220* to determine if a particular call sign is part of the audit. If the *Audit Search* shows a letter was mailed, the licensee is required to respond to the audit even though the audit letter may not have been received. For instructions on how to proceed in this instance, licensees should call the Commission at 717–338–2888 or 888–CALLFCC (888–225–5322) and select option 2.

4. The process for responding to the audit is included in the second audit letter and notice of cancellation. A response is mandatory and must be submitted electronically by August 7, 2003. Failure to provide a timely response to the second audit letter and notice of cancellation may result in the Commission presuming that the station has been non-operational for one year or more, and thus the license may be presumed to have automatically cancelled. Failure to provide a timely response may also result in enforcement action, including monetary forfeiture,

pursuant to section 503(b)(1)(B) of the Communications Act and 47 CFR 1.80(a)(2).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 03–17437 Filed 7–9–03; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission

DATE AND TIME: Tuesday, July 15, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, July 17, 2003 at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DICUSSED:

Correction and Approval of Minutes.

Final Rules and Explanation and Justification on Public Financing of Presidential Candidates and National Nominating Conventions.

Draft Advisory Opinion 2003–12: Stop Taxpayer Money for Politicians Committee (''STMP'') and Representative Jeff Flake of Arizona by counsel, Benjamin L. Ginsberg. (Tentative)

Routine Administrative Matters.

FOR FURTHER INFORMATION CONTACT: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 03–17655 Filed 7–8–03; 3:15 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 17, 2003.

A. Federal Reserve Bank of Chicago (Phillip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Boulevard Financial, LP, Tuscola, Illinois, and its general partners, Lloyd Murphy, Tuscola, Illinois, Dixie Lee Curry, Arcola, Illinois, and Michael S. Murphy, Sterling, Illinois; to acquire outstanding shares of TNB Bancorp, Inc., Tuscola, Illinois, and thereby indirectly acquire Tuscola National Bank, Tuscola, Illinois.

Board of Governors of the Federal Reserve System, July 3, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–17424 Filed 7–9–03; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center Web site at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 2, 2003.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Cornerstone Bancshares, Inc., Lebanon, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Heritage Bank of the Ozarks, Lebanon, Missouri, a *de novo* bank.

2. Mercantile Bancorp, Inc., Quincy, Illinois; to acquire up to 48.73 percent of the voting shares of Mid—America Bancorp, Inc., Leawood, Kansas, and thereby indirectly acquire Heartland Bank, Leawood, Kansas.

3. Peoples Bancshares Corp., Boonville, Indiana; to become a bank holding company by acquiring 100 percent of the Peoples Trust & Savings Bank, Boonville, Indiana.

B. Federal Reserve Bank of Minneapolis (Richard M. Todd, Vice President and Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. Tomah Bancshares, Inc., Tomah, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Wabeno Bancorporation, Inc., Venice, Florida, and thereby indirectly acquire voting shares of Timberwood Bank, Wabeno, Wisconsin.

C. Federal Reserve Bank of Kansas City (James Hunter, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Coffeyville Bancorp, Inc., Coffeyville, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of CSB Bancorp, Inc., Coffeyville, Kansas, and thereby indirectly acquire voting shares of Community State Bank, Coffeyville, Kansas.

2. Lauritzen Corporation, Omaha, Nebraska; to acquire up to 28 percent of the voting shares of First National of Nebraska, Inc., Omaha, Nebraska, and thereby indirectly acquire voting shares of First National Bank of Omaha, Omaha, Nebraska, First National Bank &

Trust Company of Columbus, Columbus, Nebraska, First National Bank, North Platte, Nebraska, First National Bank South Dakota, Yankton, South Dakota, Platte Valley State Bank & Trust Company, Kearney, Nebraska, Fremont National Bank & Trust Company, Fremont, Nebraska, First National Bank of Kansas, Overland Park, Kansas; First National of Colorado, Inc., Fort Collins, Colorado, First National Bank, and thereby indirectly acquired shares of Fort Collins, Colorado; First National Bank of Colorado, Boulder, Colorado, Union Colony Bank, Greeley, Colorado, First National of Illinois, Omaha, Nebraska, and Castle Bank N.A., Dekalb, Illinois.

Board of Governors of the Federal Reserve System, July 3, 2003.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 03–17425 Filed 7–9–03; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Announcement of Anticipated Availability of Funds for Family Planning Services Grants

AGENCY: Department of Health and Human Services, Office of the Secretary, Office of Public Health and Science, Office of Population Affairs.

ACTION: Notice; correction.

SUMMARY: The Office of Population Affairs, OPHS, HHS published a notice in the **Federal Register** of Thursday, June 19, 2003 announcing the anticipated availability of funds for family planning services grants. This notice contains an error. One of the Populations/areas (Washington, Seattle area) listed as available for competition is not available for competition in 2004. This document corrects this error.

FOR FURTHER INFORMATION CONTACT: Susan B. Moskosky, 301–594–4008.

Correction

In the **Federal Register** of June 19, 2003, FR Doc. 03–15514, on page 36,805, correct Table I to read:

TABLE I

States/Populations/Areas to be served	Approximate funding available	Application due date	Approx. grant funding date
Region I:			
Massachusetts—Central/Southeast	$1,468,500	09–01–03	01–01–04
Connecticut	1,793,300	09–01–03	01–01–04
Vermont	655,100	09–01–03	01–01–04
Maine	1,368,300	09–01–03	01–01–04
Region II: Virgin Islands	719,300	05–30–04	09–30–04
Region III: No competitive grants in 2004.			
Region IV:			
Florida, Miami, Dade County and Florida Keys	525,300	05–30–04	09–30–04
Florida, Greater Orlando area (including Orange, Seminole, Osceola and Lake Counties)	525,300	05–30–04	09–30–04
Region V:			
Illinois	7,599,000	09–01–03	01–01–04
Wisconsin	3,233,900	11–01–03	03–01–04
Michigan	6,916,100	12–01–03	04–01–04
Ohio	2,056,500	12–01–03	04–01–04
Illinois—Chicago Area	200,250	05–30–04	09–30–04
Region VI: Texas	11,074,000	12–01–03	04–01–04
Region VII: No competitive grants in 2004.			
Region VIII:.			
Colorado	2,887,200	09–01–03	01–01–04
North Dakota	807,000	03–01–04	07–01–04
Utah	1,084,000	03–01–04	07–01–04
Region IX:			
Northern Mariana Islands	115,400	09–01–03	01–01–04
Arizona, Navajo Nation	638,300	03–01–04	07–01–04
Samoa	145,600	03–01–04	07–01–04
Nevada (excluding Washoe and Clark Counties)	600,350	03–01–04	07–01–04
Republic of the Marshall Islands	146,400	03–01–04	07–01–04
Region X:			
Washington	3,616,000	09–01–03	01–01–04
Alaska, Municipality of Anchorage, Sitka Borough, Kenai Peninsula	665,500	03–01–04	07–01–04

Dated: July 2, 2003.

Alma L. Golden,

Deputy Assistant Secretary for Population Affairs.

[FR Doc. 03–17478 Filed 7–9–03; 8:45 am]

BILLING CODE 4150–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ).

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, July 25, 2003, from 8:30 a.m. to 4 p.m. and is open to the public.

ADDRESSES: The meeting will be held at the Agency Conference Center, 540

Gaither Road, First Floor, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Anne Lebbon, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1215. For press-related information, please contact Karen Migdail at (301) 427–1855.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program, Program Support Center, on (301) 443–1144 no later than July 18, 2003.

Agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Quality and Research, 540 Gaither Road, Rockville, Maryland 20850. Her phone number is (301) 427–1554. Minutes will be available after August 15, 2003.

SUPPLEMENTARY INFORMATION:

I. Purpose

Section 921 of the Public Health Service Act (42 U.S.C. 299c) established the National Advisory Council for Healthcare Research and Quality. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to actions of the Agency to enhance the quality, improve the outcomes, reduce the costs of health care services, improve access to such services through scientific research, and to promote improvements in clinical practice and in the organization, financing, and delivery of health care services. The Council is composed of members of the public appointed by the Secretary and Federal ex-officio members.

II. Agenda

On Friday, July 25, 2003, the meeting will begin at 8:30 a.m., with the call to order by Council Chairwoman. The Director, AHRQ, will present the status of the Agency's current research, programs, and initiatives. Tentative agenda items include a discussion of AHRQ's Strategic Directions, Information Technology, the National Healthcare Quality Report, and the National Healthcare Disparities Report. The official agenda will be available on AHRQ's Web site at *http:www.ahrq.gov* no later than July 11, 2003. The meeting will adjourn at 4 p.m.

Dated: July 2, 2003.

Carolyn M. Clancy,

Director.

[FR Doc. 03–17418 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–90]

Agency for Toxic Substances and Disease Registry; 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 week comment period. CDC is requesting OMB approval of this package seven 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 Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333. Written comments should be received within seven days of this notice.

Proposed Project: Monkeypox 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 *Monkeypox virus*, which belongs to the orthopoxvirus group of viruses. Monkeypox clinically resembles smallpox but differs both biologically and epidemiologically. Monkeypox was first introduced into the Western hemisphere in April 2003. The source of the virus was traced back to a distributor of exotic animals, where prairie dogs and Gambian giant rats were housed together in Illinois. These rats were shipped from Ghana in April to a wildlife importer in Texas and subsequently sold to the Illinois distributor.

On June 4, 2003, the first human cases of monkeypox in the U.S. were discovered in patients in Illinois and Wisconsin. The source of the contact was a pet prairie dog. Since then, 81 confirmed, probable and suspect human cases have been reported in six different states. CDC has been involved in the investigation of this outbreak. In order to further the investigation, 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 an emergency clearance (six-month) on the current surveillance forms. The information collected includes contact information for patients and animal distributors. There are no costs to the respondents.

Form	Respondent	No. of respondents	No. of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
1. Monkeypox Case Investigation Form	State/local health department.	81	1	30/60	41
2. Monkeypox Contact/Site Worksheet	Case Contacts	320	1	20/60	107
3. Monkeypox Contact Surveillance Form	Case Contacts	320	1	10/60	53
4. Vaccine	State/local health department.	100	1	15/60	25

Form	Respondent	No. of respondents	No. of responses per respondent	Avg. burden per response (in hrs.)	Total burden (in hrs.)
5. Detailed Data Collection Form	State/local health department.	32	1	60/60	32
Total					258

Dated: July 3, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–17433 Filed 7–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–03–91]

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.

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 60 days of this notice.

Proposed Project: Evaluation of Customer Satisfaction of the Centers for Disease Control and Prevention (CDC) and Agency for Toxic Substances and Disease Registry (ATSDR) Internet Home Page and Links (OMB No. 0920–0449)—Extension—CDC and ATSDR proposes to continue to conduct consumer satisfaction research around its Internet site in order to determine whether the information, services, and materials on this web site are presented in an appropriate technological format and whether it meets the needs, wants, and preferences of visitors or ''customers'' to the Internet site. The re-authorized survey will be conducted over the next three years, and survey results will be analyzed and interpreted semiannually. Customers on the web site will only be asked to respond once.

Information on the site focuses on disease prevention, health promotion, and epidemiology. The site is designed to serve the general public, persons at risk for disease, injury, and illness, and health professionals. This research will ensure that these audiences have the opportunity to provide ''customer feedback'' regarding the value and effectiveness of the information, services, and products of the CDC and ATSDR web site and whether these materials are easy to access, clear and informative. There are no costs to respondents.

Respondents	Number of respondents	Number of responses/ respondent	Average burden/ response (in hours)	Total burden (in hours)
Visitors to CDC Internet Site	13,000	1	10/60	2,166
Total				2,166

Dated: July 3, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning, and Evaluation, Centers for Disease Control and Prevention.

[FR Doc. 03–17434 Filed 7–9–03; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–50–03]

Proposed Data Collections Submitted for Public Comment and Recommendations

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 or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

A Community-based Intervention Model to Promote Neighborhood Participation in the Reduction of Aedes aegypti Indices in Puerto Rico—New—National Center for Infectious Diseases (NCID), Centers for Disease Control and Prevention (CDC). The Aedes aegypti mosquito transmits dengue, a mosquito-borne viral disease of the tropics. The symptoms of dengue disease include

fever, headache, rash, retro-orbital pain, myalgias, arthralgias, nausea or vomiting, abdominal pain, and hemorrhagic manifestations.

Since there is no vaccine available to prevent dengue, prevention efforts are directed to control the vector mosquito. The limited efficacy of insecticides in preventing disease transmission has prompted the search for new approaches involving community participation.

Research in Puerto Rico, where dengue is endemic and intermittently epidemic, has shown that levels of awareness about dengue are very high in the population and that the next step should be the translation of this knowledge into practice (behavior change). To achieve this goal a model of community participation to prevent and control dengue should be developed. This model of community participation must be an effectively implemented prevention project.

The objective of the dengue prevention project is to develop and evaluate a community-based participation intervention model that will reduce Aedes aegypti infestation in a community in Puerto Rico. To accomplish this two comparable communities in the San Juan, Puerto Rico area will be selected for this study. One community will be a ''control community'' and the second community will be an ''intervened community.'' Entomologic surveys and person-to-person interviews to assess knowledge, attitudes, and practices (KAP) will be conducted during the project in both communities. The entomologic surveys and person-to-person interviews will be conducted three times during the project: the beginning of the project, the end of the first year of the project, and 18 months after the beginning of the project.

An additional interview will also be conducted in the intervened community to assess the function and significance of artificial containers that hold water. An ethnographic assessment will be performed to determine the resources and needs of the intervened community. The specific dengue prevention activities that the intervened community will perform will be based on results of the initial entomologic survey, KAP, function and significance of artificial containers, and the ethnographic assessment of the community. The total burden hours are 759.

Form	Respondents	Number of respondents	Number of responses/ respondent	Average burden/response (in hrs.)
Intervened Community	400	2	45/60	600
Informal Interview	3	1	30/60	1.5
In-Depth Interview	15	1	30/60	7.5
Focus Groups	10	2	90/60	30
Larval Survey (sub-sample)	80	3	30/60	120

Dated: July 3, 2003.

Thomas A. Bartenfeld,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention.

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BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04012]

HIV Prevention Projects; Notice of Availability of Funds

Application Deadline: October 6, 2003.

A. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under sections 301(a) and 317 (k)(2) of the Public Health Service Act, 42 U.S.C. 241 and 42 U.S.C. section 247b(k)(2), 45 CFR part 92. The Catalog of Federal Domestic Assistance number is 93.943.

B. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 2004 funds for cooperative agreement programs for HIV prevention. This program addresses the ''Healthy People 2010'' priority area of HIV infection and the goals of CDC's HIV Prevention Strategic Plan Through 2005.

The overall goal of the strategic plan is to reduce the number of new HIV infections in the United States from an estimated 40,000 to 20,000 per year, focusing particularly on reducing the disproportionate impact of HIV infection in racial, ethnic minority populations.

The majority of transmission of HIV is by persons unaware of their infection; one quarter of the people in the United States who are infected with HIV do not yet know they are infected. Knowing their HIV status would allow these people to receive the benefits of improved treatment and care, as well as ongoing prevention services that can prevent infection of others.

CDC is refocusing some HIV prevention activities to reduce the number of new HIV infections in the United States (Advancing HIV Prevention: New Strategies for a Changing Epidemic—United States, MMWR 2003; 52(15): 329–332). CDC is doing so by putting more emphasis on counseling, testing, and referral for the estimated 180,000 to 280,000 persons who are unaware of their HIV infection; partner notification, including partner counseling and referral services; and prevention services for persons living with HIV to help prevent further transmission once they are diagnosed with HIV. In addition, since perinatal HIV transmission can be prevented, CDC is strengthening efforts to promote routine, universal HIV screening as a part of prenatal care. All of this will be accomplished through four strategies: (1) Making HIV screening a routine part of medical care; (2) creating new models for diagnosing HIV infection, including the use of rapid testing; (3) improving and expanding prevention services for people living with HIV; and, (4) further decreasing perinatal HIV transmission.

Performance Goals

The goals of this program are to assist public health departments to decrease transmission of HIV by:

1. Decreasing the number of persons at high risk for acquiring or transmitting HIV infection by delivering targeted, sustained, and evidence-based HIV prevention interventions, including prevention of perinatal HIV transmission.

2. Increasing, through voluntary counseling and testing, the proportion of HIV-infected people who know they are infected, focusing particularly on populations with high rates of undiagnosed HIV infection by incorporating the new HIV rapid test

where applicable, by reconfiguring counseling and testing resources to increase the efficiency of such services, by increasing the number of providers who routinely provide HIV screening in health care settings, and by increasing the number of partners who receive partner counseling, testing, and referral services.

3. Increasing the proportion of HIV-infected people who are linked to appropriate prevention, care, and treatment services.

4. Strengthening the capacity of health department and community-based organizations to implement effective HIV prevention programs and to evaluate them.

To ensure quality programs and to measure progress, applicants are required to report on a core set of indicators appropriate for their program activities. Each project area will set their own annual target level of performance for each indicator.

Project areas are accountable for achieving the target levels of performance established in their plans. If a project area fails to achieve their target, CDC will work with the grantee to determine what steps can be taken to improve performance. CDC actions could include technical assistance, placing conditions or restrictions on the award of funds, or with chronic failure to improve, a reduction in funds.

C. Eligible Applicants

Applications may be submitted by health departments of states and their bona fide agents that currently receive CDC HIV prevention funds under Program Announcement 99004 (HIV Prevention Projects). This includes the 50 states, six cities (Chicago, Houston, Los Angeles, New York, Philadelphia, and San Francisco), the District of Columbia, Puerto Rico, and the Virgin Islands. United States Affiliated Pacific Island jurisdictions will be funded under a separate program announcement.

For the five states in which there is a CDC directly funded city (Chicago, Houston, Los Angeles, New York, Philadelphia, and San Francisco), the application must be developed and submitted by a coalition of the state and directly funded city health department(s) to ensure continuity of services. Either the state or directly funded city may submit the application, but only one application may be submitted from California, Illinois, New York, Pennsylvania, and Texas. Proof of formal collaboration between the state and city is required in the application from these jurisdictions.

Eligible recipients for additional HIV Perinatal Transmission Prevention funding must have reported at least 150 cases of perinatally acquired AIDS (cumulative) by December 31, 2001 or have Survey of Childbearing Women seroprevalence rates in 1994 of greater than or equal to 2.0/1000. The following areas meet these criteria: California, Connecticut, Delaware, Florida, Georgia, Illinois, Louisiana, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Puerto Rico, South Carolina, Texas, and Washington, DC.

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 $275,000,000 is available in FY 2004 to fund 59 awards. Award amounts for each project area will be comparable to previous year's funding.

In addition, approximately $6,300,000 is available for those jurisdictions eligible for HIV Perinatal Transmission Prevention project funding. Eligible applicants for perinatal funds should submit a separate budget in addition to the budget for core services.

It is expected that the awards will begin on or about January 1, 2004 and will be made for a 12-month budget period within a five-year project period. Funding estimates may change.

Continuation awards within an approved project period will be made based on satisfactory progress as evidenced by successfully implementing required recipient activities, meeting annual targets for program indicators, and submitting required reports. Continuation awards are subject to the availability of funds.

Direct Assistance

You may request federal personnel, equipment, or supplies as direct assistance, in lieu of a portion of financial assistance.

Use of Funds

Funds may not be used to supplant state or local health department funds available for HIV prevention.

The use of funds should be consistent with the jurisdiction's Comprehensive HIV Prevention Plan.

These funds may not be used to provide direct patient medical care, *e.g.*, ongoing medical management and provision of medications, except for STD treatment related to HIV prevention when approved by CDC.

Carryover funds are available only from the previous budget period. The request and use of carryover funds from the previous year must be consistent with the priorities outlined in the jurisdiction's Comprehensive HIV Prevention Plan. Carryover funds are not available after the end of the project period.

Recipient Financial Participation

Recipient financial participation is not required for this program.

E. Program Requirements

In conducting activities to achieve the purpose of this program announcement, the recipient will be responsible for all the activities under section 1, below. CDC will be responsible for conducting the activities under section 2, below.

1. Recipient Activities

A comprehensive HIV prevention program that includes the following components:

a. HIV prevention community planning;

b. HIV prevention activities;

(1) HIV prevention counseling, testing, and referral services (CTR);

(2) Partner notification, including partner counseling and referral services (hereafter known as PCRS) with strong linkages to prevention and care services;

(3) Prevention for HIV-infected persons;

(4) Health education and risk reduction (HE/RR) activities;

(5) Public information programs; and,

(6) Perinatal transmission prevention

c. Quality assurance;

d. Evaluation of major program activities, interventions, and services, including data collection on interventions and clients served;

e. Capacity-building activities;

f. Sexually Transmitted Disease (STD) prevention activities;

g. Collaboration and coordination with other related programs;

h. Laboratory support; and,

i. HIV/AIDS epidemiologic and behavioral surveillance.

2. CDC Activities

a. Provide consultation and technical assistance (TA) to health departments in all aspects of their comprehensive HIV prevention program, including the community planning process and program evaluation activities;

b. Work with state and local health departments to assess training needs and provide training to managers, supervisors, and staff of CTR, outreach, or other prevention programs, either

directly or through its network of TA providers and STD/HIV prevention training centers;

c. Disseminate current information, including best practices, in all areas of HIV prevention; facilitate the adoption and adaptation of effective intervention models through workshops, conferences, and written materials; and provide TA in the development and evaluation of new or innovative prevention models;

d. Develop intervention and program evaluation guidelines and program monitoring systems (including indicators);

e. Facilitate coordination of activities among other CDC programs, health departments, community planning groups, directly-funded community-based organizations (CBOs), national capacity-building assistance (CBA) providers, and with care providers and recipients of Ryan White CARE Act funds; and,

f. Monitor progress in achieving target levels of performance for each core indicator, including those for community planning, and take appropriate steps when target levels of performance are not met.

F. Application Content

The Program Announcement title and number must appear in the application. Follow the instructions and outline for application content in completing your application. Sequentially number all pages in the application and attachments, and include a table of contents reflecting major categories and corresponding page numbers. Submit the original and two copies of the application, unstapled and unbound. Provide only those attachments directly relevant to this application. All materials must be single spaced, printed in unreduced 12-point font, on eight and a half by eleven paper, with at least one margins and printing on one side only.

This section describes program requirements and asks you to describe how you will address the requirements. It also lists core program indicators to measure program success. Program indicators must be objective and quantitative, and must measure the intended outcome of the program's activities. You are required to report on the base-line level for each indicator in your application as well as a one-year interim target and a five-year overall target level of achievement. In subsequent progress reports, you will be required to report on progress in achieving target levels of performance for each core indicator.

1. HIV Prevention Community Planning

a. *All recipients must:*

(1) Adhere to the HIV Prevention Community Planning Guidance (see Attachment 1) by ensuring that the following goals are achieved:

(a) Goal One—Community planning supports broad-based community participation in HIV prevention planning.

(b) Goal Two—Community planning identifies priority HIV prevention needs (a set of priority target populations and interventions for each identified target population) in each jurisdiction. All jurisdictions are required to prioritize HIV-infected persons as the highest priority population for appropriate prevention services. Uninfected, high-risk populations such as sex or needle-using partners of people living with HIV, should be prioritized based on community needs.

(c) Goal Three—Community Planning ensures that HIV prevention resources target priority populations and interventions set forth in the Comprehensive HIV Prevention Plan.

(2) Ensure that the priorities of the Comprehensive HIV Prevention Plan are reflected in your funding application to CDC.

(3) Ensure that adequate funds are provided to support the responsibilities of the community planning group.

(4) Adhere to the health department roles and responsibilities identified in the Community Planning Guidance.

(5) Collect and report community planning data consistent with the Community Planning Guidance. Health departments are required to report on progress in meeting the target levels of performance for the core indicators of community planning as listed below in F1b(2).

(6) Ensure that the community planning group develops at least one Comprehensive HIV Prevention Plan every five years. This jurisdiction-wide plan should address all HIV prevention activities; the plan should inform decisions about how all HIV prevention funds are to be used, including federal, state, local and, when possible, private resources. These activities include community planning, CTR/PCRS, HE/RR, prevention for people living with HIV, capacity-building, evaluation, and other health department activities conducted under this program. The plan should summarize any regional planning and community planning groups into one summary document.

(a) Ideally, start the new plan as soon as possible to implement the strategies in this announcement and plan through approximately December 2007. A new plan should be written in 2008, which will guide prevention activities during the following five-year funding cycle (January 2009—December 2013).

(b) Update the Comprehensive HIV Prevention Plan annually.

b. *In your application:*

(1) Report on how performance on each of the three community planning goals will be sustained or improved over the five-year project period of this program announcement.

(2) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core indicators: (Refer to HIV Prevention Community Planning Guidance, Monitoring and Evaluation Section of Attachment 1 for data collection tools).

(a) Proportion of populations most at risk, as documented in the epidemiologic profile, that have at least one community planning group (CPG) member that reflects the perspective of each population.

(b) Proportion of key attributes of an HIV prevention planning process that CPG membership agreed have occurred.

(c) Proportion of prevention interventions and supporting activities in the health department CDC funding application specified as a priority in the Comprehensive HIV Prevention Plan.

(d) Proportion of health department-funded prevention interventions and supporting activities that correspond to priorities specified in the Comprehensive HIV Prevention Plan.

(3) Provide, as an attachment:

(a) A copy of the community planning group's letter of concurrence, concurrence with reservations, or nonconcurrence. This letter must describe the method and timeline for the review of this application by the community planning group (CPG). Instances of planning group nonconcurrence will be evaluated on a case-by-case basis. After consultation with the grantee and the CPG, CDC will determine what action is appropriate as outlined in the guidance.

(b) Your new Comprehensive HIV Prevention Plan, or if your jurisdiction has developed a supplementary document that updates and describes refinements or changes to the most recent Comprehensive HIV Prevention Plan, attach only this supplementary document.

2. HIV Prevention Activities

There are two overall HIV prevention program performance indicators. Specify base-line level for the following two overall program measures:

- Number of newly diagnosed HIV infections.

• Number of HIV/AIDS cases 13–24 years of age diagnosed each year.

a. Counseling, Testing, and Referral (CTR) Services

All jurisdictions must provide counseling, testing, and referral services with a focus on diagnosing as many new cases of HIV as possible.

(1) *All recipients must:*

(a) Provide CTR services. These services must be consistent with the priorities identified in your Comprehensive HIV Prevention Plan and CDC's most current CTR guidelines (*CDC Revised Guidelines for HIV Counseling, Testing, and Referral.* MMWR 2001,50 (RR–19); 1–58) and should be designed to diagnose as many new HIV infections as possible.

(b) Provide, unless prohibited by law or regulation, opportunities for persons to receive anonymous CTR services.

(c) Ensure that appropriate CTR services are provided in settings most likely to reach persons who are likely to be infected, but unaware of their status. This means that CTR services should be provided in settings with high HIV prevalence, *e.g.*, greater than one percent or the one-year interim target for the jurisdiction (see 2b, below in this section). These services should include use of rapid and other test technologies where applicable.

(e) Ensure the provision of test results, particularly to clients testing positive.

(f) Provide support (*e.g.*, financial, technical assistance, training, coordination) to both health department and non-health department providers to increase the number of persons diagnosed with HIV through strengthening current CTR services or creating new services. Work with departments of corrections in their jurisdictions to encourage and, when appropriate, support routine voluntary HIV screening and referral in correctional facilities. Work with hospitals, health maintenance organizations, and other medical providers to provide routine HIV screening in high prevalence medical settings. Work with community-based organizations to develop or strengthen outreach into their communities to increase the number of HIV infections diagnosed by increasing the number of high-risk persons participating in counseling, testing and referral services.

(h) Collect and report CTR data as will be specified in the new Program Evaluation and Monitoring System (PEMS) (approximately January 2004), including core indicators.

(i) Encourage opportunities to integrate CTR and STD services.

(2) *In your application:*

(a) Describe your plan to provide CTR services, including:

• How you will improve your efforts to identify newly infected persons;

• How you will improve provision of test results (especially positive results),

• Your plan for providing and tracking the completion of referrals for persons with positive test results;

• How you will work with medical care entities to encourage and support routine HIV screening in high prevalence settings; and,

• How you will support providers of CTR services.

(b) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core program indicators:

• Percent of newly identified, confirmed HIV-positive test results among all tests reported by CDC-funded HIV counseling, testing and referral sites.

• Percent of newly identified, confirmed HIV-positive test results returned to clients.

• Percent of facilities reporting a prevalence of new HIV-positive tests equal to or greater than the jurisdiction's target as specified in the first indicator immediately above.

b. Partner Counseling and Referral Services (PCRS)

(1) *All recipients must:*

(a) Ensure that PCRS is a high priority within the jurisdiction's HIV prevention activities and is so identified in the Comprehensive HIV Prevention Plan. These services must be consistent with the most current PCRS guidelines. The most current guidance is ''HIV Partner Counseling and Referral Services Guidance'' (December 30, 1998).

(b) Provide PCRS for HIV-infected persons who have been tested either anonymously or confidentially in CDC-funded sites. Ideally, PCRS should be offered to all persons with positive test results, regardless of where they are tested. Make a good faith effort to notify sexual or needle sharing partners. Efforts should be documented. Collaborate with STD programs and non-health department providers, including community-based organizations, to provide PCRS.

(d) Collect and report PCRS data consistent with core data elements as will be specified in PEMS, including core indicators.

(2) *In your application:*

(a) Describe your plan to provide PCRS, including how you will address provision of PCRS for clients from non-health department settings.

(b) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core program indicators:

• Percent of contacts with unknown or negative serostatus who receive an HIV test after PCRS notification.

• Percent of contacts with a newly identified, confirmed HIV-positive test among contacts who are tested.

• Percent of contacts with a known, confirmed HIV-positive test among all contacts.

c. Prevention for HIV-Infected Persons

(1) *All recipients must:*

(a) Provide prevention services to persons infected with HIV/AIDS as outlined in the Comprehensive HIV Prevention Plan.

(b) Develop a plan to provide financial assistance to CBOs and other HIV prevention providers (including local health departments) and to collaborate with health care providers to provide prevention services such as prevention case management(PCM) and prevention counseling.

(c) Work with primary care clinics in the community that serve persons with or at risk for HIV to integrate HIV prevention services into care and treatment services.

(d) Collect and report data on prevention for HIV-positives, including core indicators, as will be specified in PEMS.

(2) *In your application:*

(a) Describe your plan to provide prevention services for people living with HIV/AIDS.

(b) Describe your plan to provide financial assistance to CBOs and other HIV prevention providers (including local health departments) and to collaborate with health care providers to provide prevention services such as prevention case management (PCM) and prevention counseling.

(c) Describe how you will encourage primary care clinics to integrate prevention and care services; and,

(d) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core program indicators:

• Of those enrolled in PCM, proportion of HIV-infected persons that completed the intended number of sessions for PCM.

• Percent of HIV-infected persons who, after a specified period of participation in PCM, report a reduction in sexual or drug using risk behaviors or maintain protective behaviors with sero-negative partners or with partners of unknown status.

d. Health Education and Risk Reduction Services

(HE/RR)—These include individual, group, community, and structural level

interventions as well as PCM and outreach for high risk HIV negative and HIV positive individuals. See glossary for a definition of these services.

(1) *All recipients must:*

(a) Develop a plan to provide financial assistance to CBOs and other HIV prevention providers (including local health departments) consistent with the prioritized populations and interventions established in the Comprehensive HIV Prevention Plan.

(b) Fund providers who provide services that:

- Show evidence that their services focus on those most at risk of transmitting or acquiring HIV infection, reflecting the priorities established in the Comprehensive HIV Prevention Plan and;
- Are based on scientific theory, or have evidence of demonstrated or probable outcome effectiveness (see CDC's most current Compendium of HIV Prevention Interventions with Evidence of Effectiveness, 1999);
- Are directed by written procedures or protocols;
- Are acceptable to and understood by the target population, *i.e.*, are culturally appropriate.
- Have quality assurance and evaluation procedures in place.

(c) Collect and report data on HE/RR activities including core indicators as will be specified in PEMS.

(2) *In your application:*

(a) Describe your plan to provide financial assistance to prevention providers. Explain any instances of non-competitive award of CDC funds. Identify existing providers by prioritized populations and interventions that are currently funded. Also prepare a separate list identifying interventions that will be funded.

(b) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core program indicators:

- Proportion of persons that completed the intended number of sessions for each of the following interventions: individual level intervention (ILI), group level intervention (GLI), and PCM.
- Proportion of the intended number of the target populations to be reached with any of the following specific interventions (ILI, or GLI, or PCM) who were actually reached.
- The mean number of outreach encounters required to get one person to access any of the following services: CT, STD screening and testing, ILI, GLI or PCM.

e. Public Information Programs

(1) *All recipients must:*

(a) Develop public information programs based on local needs. CPGs must be involved in this decision, *e.g.*, indicate in the HIV Comprehensive Prevention Plan the need to provide such services.

(b) Collect and report data on public information activities as will be specified in PEMS.

(2) *In your application:*

Complete this section only if you are requesting program funds to support public information programs. Describe your public information efforts and how they are consistent with your Comprehensive HIV Prevention Plan.

f. Perinatal Transmission Prevention

(1) *All recipients must:*

(a) Work with all health-care providers to promote routine, universal HIV screening of all of their pregnant patients. The Department of Health and Human Services recommends that all pregnant women in the United States be tested for HIV infection (Revised Recommendations for HIV Screening of Pregnant Women. MMWR. 2001; 50 (RR19); 59–86 and Advancing HIV Prevention: New Strategies for a Changing Epidemic—United States, 2003, MMWR April 18, 2003/52 (15); 329–332 425).

(b) Work with organizations and institutions involved in prenatal and postnatal care for HIV-infected women to ensure that appropriate HIV prevention counseling, testing, and therapies are provided to reduce the risk of perinatal transmission.

(2) *All recipients eligible for perinatal transmission prevention funding (see eligibility requirements under ''Eligible Applicants'' must:*

(a) Conduct perinatal HIV prevention activities to achieve routine, universal HIV screening among pregnant women, incorporating the new HIV rapid test where applicable.

(b) Evaluate perinatal HIV prevention programs using the ''Perinatal HIV Prevention Programs Evaluation Protocol'' in collaboration with CDC staff.

(c) Work with CDC staff and CDC contractors to facilitate the collection of data on prenatal HIV testing rates through a representative sample of maternal medical records, and disseminate findings to local jurisdictions and delivery hospitals.

(d) Work closely with organizations and institutions involved in prenatal and postnatal care for HIV-infected women to ensure that proper HIV prevention counseling, testing and therapies are provided during prenatal care, delivery, and postnatal care.

(3) *In your application:*

If your project will not receive funding for HIV perinatal prevention:

(a) Describe how you will work with health care providers to promote routine, universal HIV screening to their pregnant patients and how you will work with organizations and institutions involved in prenatal and postnatal care for HIV-infected women to ensure that appropriate HIV prevention counseling, testing, and therapies are provided to reduce the risk of transmission.

(b) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core program indicator: Proportion of pregnant women who receive an HIV test during pregnancy.

If your project is eligible for HIV perinatal prevention funding (*see* page 2):

(a) Describe your current and planned perinatal HIV prevention activities.

(b) Include a budget detailing the planned funding for your targeted perinatal HIV prevention programs; using as the amount per year the perinatal funding your jurisdiction has received for targeted perinatal HIV prevention programs per year since 1999.

(c) For the five states in which there is a CDC directly funded city, provide evidence of formal collaboration between the state and city.

(d) Indicate your willingness to work with CDC staff and to utilize a standardized approach to the gathering of HIV screening rates during pregnancy based on medical record data, as well as to carry out evaluations of your planned targeted perinatal HIV prevention activities as detailed in the ''Perinatal HIV Prevention Programs Evaluation Protocol.''

(e) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following core program indicators:

- Proportion of women who receive an HIV test during pregnancy.
- Proportion of HIV-infected pregnant women who receive appropriate interventions to prevent perinatal transmission.
- Proportion of HIV-infected pregnant women whose infants are perinatally infected.

3. Quality Assurance

a. *All recipients must:*

Develop, implement, and maintain quality assurance plans in the following programmatic areas:

(1) CTR and PCRS—the following refer to both health department and community based programs funded through the health department.

(a) Counseling—Conduct routine, periodic assessments to ensure that the counseling being provided includes the recommended, essential counseling elements (Please reference Attachment 1 for a link to the *CDC Revised Guidelines for HIV Counseling, Testing, and Referral.* MMWR 2001,50 (RR–19); 1–58). Quality assurance elements may include but are not limited to the following components: training and continuing education; supervisor observation with feedback to counselors; case conferences; counselor or client satisfaction evaluations; or periodic evaluation of space, flow, and time concerns.

(b) HIV Testing—Develop and implement a quality assurance system for all CTR and PCRS providers, with special attention to ensuring that HIV-positive clients learn their test results. Develop and implement a quality assurance system for implementation of HIV rapid testing.

(c) Referral—Develop and implement a mechanism for assessing the proportion of HIV-positive persons referred for additional services who complete their referrals. Review data and improve process as necessary.

(d) PCRS—Develop, implement, and maintain a system to assess the PCRS program and improve its function, e.g., improving the percentage of persons who receive PCRS, the quality of PCRS interview sessions, and the notification of partners.

(2) HE/RR Activities

(a) Develop and implement a mechanism to ensure HE/RR activities are appropriate, understandable and acceptable for the specific populations served.

(b) Develop and maintain a mechanism to ensure the consistency, accuracy, and relevance of information provided to the public through local hotlines and other channels, including information about referral services.

(c) Develop or use existing standard procedures or protocols for interventions implemented by health departments and their contractors.

(d) Actively monitor services and programs provided by funded CBOs and other contractors to assist in identifying training and technical assistance needs and to ensure that interventions are implemented as planned and that program objectives are met.

(e) Use feedback from client satisfaction surveys in assessing the services provided, including prevention services for people living with HIV/AIDS. Other science-based methods of assessing services provided can also be used.

(3) Policies, Procedures, and Training

(a) Develop comprehensive written quality assurance policies and procedures to ensure that all HIV prevention activities are delivered in an appropriate, competent, and sensitive manner.

(b) Make quality assurance policies and procedures available to all program staff (health departments and their contractors).

(c) Deliver training to all staff providing HIV prevention activities, especially those staff providing CTR, PCRS, and HE/RR (health departments and their contractors).

(d) Train all managers (health departments and their contractors) to ensure that quality assurance policies and procedures are followed.

(4) Data Collection—Develop, implement, and maintain a system to assess the quality of data collection.

b. *In your application:*

Describe your quality assurance efforts regarding CTR, PCRS, HE/RR, data collection, training, procedures, and any other relevant programmatic areas for which you have quality assurance plans.

4. Evaluation

a. *All recipients must:*

(1) Conduct program evaluation. Follow the requirements specified in PEMS.

(2) Collect and report data for the core indicators for community planning, HIV prevention activities, evaluation, and capacity-building as will be specified in PEMS. For each indicator, provide the information as specified on the indicator reporting form (see all attachments as posted on CDC website).

(3) Develop and implement an annual evaluation plan to be updated each year. The evaluation plan for the first year shall include at a minimum, the following topics:

- Description of how the minimum data requirements for counseling, testing, and referral, financial reporting, community planning, and core indicators will be met;
- Description of current data collected for program evaluation and monitoring and how these data are compatible with (and not in place of) the CDC counseling, testing, and referral reporting system, financial reporting, community planning, and core indicators;
- Current system of data collection and reporting of HIV prevention activities including data system specifications and data management information systems; and,
- Procedures to ensure that data quality and data security are consistent with CDC guidelines.

For subsequent years, develop and implement a comprehensive evaluation plan that includes, at a minimum, the above elements and addresses the following topics:

- Collection of process monitoring data including client-level information;
- Priority prevention activities selected for outcome monitoring and the rationale for their selection; and,
- Plans for entry and transmission of data on CDC's browser-based system or plans to make a local system compatible with CDC's requirements as outlined in the most current evaluation guidance.

(4) Identify the prioritized populations and prevention activities funded under this cooperative agreement.

(5) Collect and report data on the following:

- Community planning related to the goals outlined in the Community Planning Guidance;
- Financial and other service agency characteristics (this includes information previously reported in budget tables);
- HIV prevention services that may be measured through client-level data, including but not limited to ILI, GLI, PCM, CTR, PCRS, and outreach; and,
- Aggregate-level data for interventions including, but not limited to health communication and public information as specified in the most recent evaluation guidance.

(6) Collect and report outcome monitoring and evaluation data for prioritized populations and prevention activities.

(7) Collect and report data on prevention of perinatal transmission.

(8) Collect and report data consistent with the CDC requirements to ensure client confidentiality and security.

(9) Collaborate with CDC in assessing the impact of HIV prevention activities by participating in special projects upon request, e.g., national behavioral surveillance and incidence.

(10) Use either the CDC data system or compatible local systems to report data electronically as specified in the most recent evaluation guidance.

b. *In your application:*

(1) Provide a copy of your evaluation plan for community planning and process and outcome monitoring and evaluation of HIV prevention activities for the first year.

(2) Provide a description of your local program evaluation and data management system functions and specifications and copies of statewide uniform data reporting forms, if they exist.

(3) Specify base-line level, one-year interim target, and a five-year overall

target level of performance for the following core program indicators:

• Proportion of providers reporting representative process monitoring data to the health department in compliance with the CDC program announcement;

• Proportion of providers reporting representative outcome monitoring data to the health department. (Base-line and performance targets are not reported until September 2004).

5. Capacity-Building Activities

a. *All recipients must:*

(1) Conduct a capacity-building needs assessment in the jurisdiction for the health department, HIV prevention service providers, and other prevention agencies/partners including community-based organizations. This assessment should include the capacity to provide outreach testing, PCRS, and prevention for people living with HIV. This requirement can be waived if you can show that you have completed a capacity building needs assessment within the last year, including an assessment of capacity to provide outreach testing, PCRS, and prevention for HIV-positive individuals.

(2) Develop a comprehensive capacity building plan based on the assessment.

(3) Provide capacity-building assistance, based on the capacity building needs assessment, to HIV prevention service providers, and other prevention agencies and partners. Create linkages with national capacity-building assistance providers (CBAs), where necessary and appropriate. Capacity-building assistance may include, but should not be limited to:

(a) Strengthening organizational infrastructure, including financial management and compliance with grant or contract requirements;

(b) Enhancing the design, implementation, and evaluation of HIV prevention interventions,

(c) Developing community infrastructure, and

(d) Strengthening HIV prevention community planning.

(4) Provide capacity-building assistance to staff of health department HIV prevention programs and other staff, e.g., counseling and testing programs.

(5) Provide capacity building assistance to CBOs to provide outreach testing and PCRS, including the use of rapid tests.

(6) Improve the capacity of medical providers to provide routine HIV testing, including the use of rapid HIV tests.

(7) Provide capacity-building assistance to design, implement, and sustain prevention interventions for persons living with HIV/AIDS and other prioritized target populations.

(8) Collect and report data on capacity-building activities, including core indicators as will be specified in PEMS.

b. *In your application:*

(1) Describe your capacity-building activities in the areas listed above. Include the plan if already developed.

(2) Discuss your plans to strengthen your capacity-building activities over the five-year project period for this program announcement.

(3) Discuss how you will assess (for the first time, as well as update) capacity-building needs throughout the project period.

(4) Specify base-line level and a one-year interim target and a five-year overall target level of performance for the following indicator: Proportion of funded providers who have received health department supported capacity building assistance specifically training/workshops in the design, implementation or evaluation of science-based HIV prevention interventions.

6. STD Prevention Activities

a. *All recipients must:*

(1) Support local efforts to identify persons with STDs that may facilitate the transmission of HIV infection.

(a) STD diagnosis is funded primarily through the STD prevention cooperative agreement. However, HIV prevention funds can be used to augment STD detection services if there is a documented opportunity to enhance HIV prevention efforts, e.g., encourage screening for syphilis in areas experiencing syphilis outbreaks. CPGs must be involved in this decision, e.g., indicate in the Comprehensive HIV Prevention Plan the need to provide such services.

(b) Funds can be used to underwrite the cost of STD treatment when it is intended to specifically reduce HIV trasmission, on a case-by-case basis, upon approval of CDC.

(c) When feasible, counseling and testing sites should offer STD diagnostic services and referrals for STD treatment. This should also be encouraged when HIV testing is offered through outreach activities.

(2) Incorporate STD messages into HIV prevention messages whenever appropriate.

(3) Collaborate with STD programs in providing PCRS.

b. *In your application:*

Describe your plans to collaborate and coordinate with local STD prevention efforts, particularly as they relate to HIV prevention activities and screening and treatment for STDs.

7. Collaboration and Coordination

a. *All recipients must:*

Coordinate and collaborate with other agencies, organizations, and providers to strengthen HIV prevention and care activities and minimize duplication of effort in the jurisdiction. Meaningful coordination and collaboration efforts are characterized by joint participatory planning to address common areas of service need; development of recommendations for program planning and implementation; development of relevant policy and/or legislative initiatives; identification of specific steps for furthering collaborative efforts within definite time-frames; and, outcomes that reflect HIV prevention program goals. At a minimum, recipients are expected to coordinate and collaborate with the following:

(1) CDC directly funded CBOs

The Health Department will review the program plan (i.e., proposed target population, intervention, number of persons to be served, and service location) of those CBOs considered for funding by CDC. The health department will review the plans to ensure no duplication of effort, to assess consistency of the proposed target population and intervention(s) with the HIV Prevention Comprehensive Plan, and to rate the past performance with state/city funded programs. Based on this review, the health department will provide a letter of support, support with conditions, or non-support to CDC. In a letter of support, the health department should describe how they will work with the directly funded CBO. The Health Department must also invite the directly funded CBOs to community planning meetings and include them in health department provided training sessions whenever possible or appropriate.

(2) HIV/AIDS Care Programs

To ensure early treatment for HIV-positive individuals, as well as to coordinate the provision of HE/RR for HIV-positive individuals, jurisdictions are encouraged to collaborate with providers and planners of care services for persons living with HIV/AIDS, particularly those funded by the Health Resources and Services Administration (HRSA) through its Ryan White CARE Act programs. These programs include Title I Planning Councils; Title II consortia, Special Projects of National Significance, HIV/AIDS CBOs, and community groups; Title III Early Intervention Services Programs; and, Title IV Programs serving children, youth, women and their families. For a list of currently funded CARE Act Programs and for more information on

the Ryan White CARE Act, please go to *http://hab.hrsa.gov/.*

(3) Other Programs—Collaboration and coordination should also occur with the following:

- Substance abuse prevention and treatment programs, including state and local substance abuse agencies and community-based and other drug treatment or detoxification programs;
- Juvenile and adult criminal justice, correctional, and parole systems and programs;
- American Indian/Alaska Native tribal councils, Tribal community-based organizations, Tribal governments, and Indian Health Service-funded programs. Where appropriate, representatives from American Indian/Alaska Native tribal councils or a local Indian Health Board Member (with support of tribal council) should be involved in community planning. Where appropriate, provide financial support based on priorities established in the Comprehensive HIV Prevention Plan and provide capacity building support for HIV prevention programs.
- Hepatitis prevention programs—Support local efforts to integrate viral hepatitis services into existing public health programs serving persons at risk for multiple infections (including HIV, STDs, and hepatitis A, B, or C).
- When possible, HIV prevention services should include screening for hepatitis viruses (e.g., hepatitis A and B in MSM and hepatitis B and C in injection drug users) and provide or link those needing immunizations for hepatitis A and B to such services. HIV funds may be used for hepatitis testing, but not immunizations against hepatitis A or B. CPGs must be involved in this decision, e.g., indicate in the HIV Comprehensive Prevention Plan the need to provide such services.
- Collaborate with Hepatitis B Coordinators and Hepatitis C Coordinators in your jurisdiction to integrate services where feasible.
- TB clinics and programs;
- State and local mental health departments and community mental heath centers;
- Family planning and women's health agencies and programs, including providers of service to women in high-risk situations;
- State or local education agencies; schools, boards of education, universities and schools of public health.
- Other community groups, businesses, and faith-based organizations.

b. *In your application:*

Describe your plans to collaborate and coordinate with the programs and groups listed above. Also, describe the intended outcomes of your collaboration and coordination efforts and plan to strengthen these activities over the five-year project period.

8. Laboratory Support

a. *All recipients may:*

Use program funds to support the cost of HIV testing for specimens obtained via counseling and testing activities, including rapid tests and CD4 and viral load tests. Grantees are encouraged to ensure that testing laboratories provide tests of adequate quality, report findings promptly, and participate in a laboratory performance evaluation program for HIV 1 antibody testing. Grantees are encouraged to include participation of their public health laboratory in efforts to assure laboratory quality, so as to minimize any inaccuracies that may occur during specimen collection, testing, or the reporting of laboratory tests.

b. *In your application:*

Briefly describe all laboratory support activities funded under this announcement, including participation of any laboratory(s) in a performance evaluation program for HIV antibody testing, and the use of various testing technologies.

9. HIV/AIDS Epidemiologic and Behavioral Surveillance

a. *All recipients must:*

(1) Respond to the surveillance data needs of prevention program managers and CPGs. The needs include analysis, interpretation, and presentation of surveillance data; preparation of the epidemiologic profiles and other reports for use by the CPGs; and other related activities that directly improve and support the implementation and evaluation of HIV prevention activities. Although the Surveillance Cooperative Agreement provides support to jurisdictions to meet surveillance needs, funds under this announcement may be used to help support unmet HIV/AIDS surveillance activities as described above. CPGs must be involved in the decision-making process. Funds may also be used to address data gaps or unmet state or local needs for supplemental surveillance, HIV incidence surveillance, or behavioral surveillance.

(2) Collaborate with surveillance programs to collect data needed for HIV incidence surveillance efforts.

(3) In areas participating in CDC's National Behavioral Surveillance Program, collaborate with surveillance to assess exposure to, utilization of, and effect of HIV prevention programs.

(4) Collaborate with CDC for surveillance activities.

b. *In your application:*

Complete this section only if you are requesting program funds to support this activity. Describe any surveillance activities you expect to conduct with support provided through this program announcement.

Additional Information to be Addressed in the Application Content

1. Other Activities

a. *All recipients must:*

Ensure that appropriate health department and community representatives attend CDC-sponsored meetings, *e.g.* the annual Community Planning Leadership Summit and mandatory training sessions such as training for rapid testing.

b. *In your application:*

(1) Budget funds provided through this cooperative agreement for three persons to attend at least three CDC-sponsored three day conferences or meetings each year in Atlanta.

(2) Describe any other planned activities not previously addressed.

2. Summarize Unmet Needs

In your application, summarize any HIV prevention needs that will remain even if the total application is funded. Provide an estimate of funds required to meet these needs.

3. Management and Staffing Plan

a. *All recipients must:*

Have the staff and infrastructure to implement the components of a comprehensive HIV prevention program for their jurisdiction. Recipients must maintain appropriate staffing to fulfill their responsibility to provide capacity-building, evaluation, and quality assurance; to support the community planning process; to disburse and monitor funds; and to support programs and services provided directly by the health department or through CBOs.

b. *In your application:*

Describe your management and staffing plan to conduct or support the essential components of your comprehensive HIV prevention program. Please include an organizational chart that reflects the current management structure and a description of the roles, responsibilities and relationships of all staff in the program, regardless of funding source. Identify the positions supported through this cooperative agreement and those funded through other sources, as well as any unfunded staffing needs.

4. Budget Information

In accordance with Form CDC 0.1246E (*www.cdc.gov/od/pgo/forms/01246.pdf*), provide a line item budget and narrative justification for all requested costs that are consistent with the purpose, objectives, and proposed program activities. Within this budget, please provide the documentation requested for each cost category:

a. Line item breakdown and justification for all personnel, *i.e.*, name, position title, annual salary, percentage of time and effort, and amount requested.

b. Line item breakdown and justification for all contracts, including: (1) Name of contractor, (2) period of performance, (3) method of selection (*e.g.*, competitive or sole source), (4) description of activities, (5) target population and (6) itemized budget.

c. Requests for any new Direct Assistance Federal assignees, include:

(1) Justification for request;

(2) The number of assignees requested;

(3) A description of the position and proposed duties;

(4) The ability or inability to hire locally with financial assistance;

(5) An organizational chart and the name of the intended supervisor;

(6) The availability of career-enhancing training, education, and work experience opportunities for the assignee(s) and;

(7) Assignee access to computer equipment for electronic communication with CDC.

G. Submission and Deadline

Submission Date, Time, and Address

Submit the signed original and two copies of CDC 0.1246. Forms are available at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

If you do not have access to the Internet, or if you have difficulty accessing the forms on-line, you may contact the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) at: 770–488–2700. Application forms can be mailed to you.

The application must be received by 4 p.m. Eastern time on October 6, 2003. Submit the application to:

Technical Information Management—PA 04012, Procurement and Grants Office, Centers for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146.

Applications may not be submitted electronically.

CDC Acknowledgement of Application Receipt

A postcard will be mailed by PGO–TIM, notifying you that CDC has received your application.

Deadline

Your applications will be considered as meeting the deadline if they are received before 4 p.m. Eastern Time on the deadline date. Applicants sending applications by the United States Postal Service or commercial delivery services must ensure that the carrier will be able to guarantee delivery of the application by the closing date and time. If an application is received after closing due to (1) carrier error (*i.e.*, 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 consider the application as having been received by the deadline upon receipt of proper documentation.

Applications that do not meet the above criteria may not be funded. Applicants will be notified of their failure to meet the submission requirements.

H. Evaluation Criteria

All applications will be reviewed for technical acceptability.

I. Other Requirements

Technical Reporting Requirements

1. Data reports of agency, financial, and HIV interventions including but not limited to HIV individual and group level; PCM; outreach; health communication/public information; counseling, testing, and referral; partner counseling and referral service; and perinatal (for eligible areas) activities are required 45 days after the end of each quarter or as specified in the most recent evaluation guidance. Project areas may request technical assistance to achieve this. Data should be submitted electronically directly to the Program Evaluation Research Branch. Following this action, please send an electronic notification of your data submission to the Grants Management Specialist listed in the ''Where to Obtain Additional Information'' section of this announcement.

2. This program requires progress reporting on a semi-annual basis. The first semi-annual progress report (Interim progress report) shall be due on the 15th of July each year through 2009. This report will serve as your non-competing continuation application and must contain the following elements:

a. Current Budget Period Financial Progress.

b. Base-line and target level for core and optional indicators.

c. New budget period proposed program activities.

d. Detailed Line-Item Budget and Justification.

e. Additional Requested Information.

3. The second semi-annual report, and a Financial Status Report (FSR) shall be due April 1st of each year. Specific guidance on what to include in this report will be provided at least three months before the due date. It should include the following:

a. Base-line and actual level of performance on core and optional indicators.

b. Current Budget Period Financial Progress.

c. Additional requested Information.

4. A final FSR and final progress report will be due on April 1, 2009.

5. Submit any newly developed public information resources and materials to the CDC National Prevention Information Network (formerly the AIDS Information Clearinghouse) so that they can be incorporated into the current database for access by other organizations and agencies.

6. Submit any newly developed public information resources and materials to the CDC National Prevention Information Network (formerly the AIDS Information Clearinghouse) so that they can be incorporated into the current database for access by other organizations and agencies.

7. HIV Content Review Guidelines

a. Submit completed Assurance of Compliance with the Requirements for Contents of AIDS-Related Written Materials Form (CDC form—0.1113). This form lists the members of your program review panel. The form is enclosed with your application kit. You can also download this form from the CDC Web site: *http://www.cdc.gov/od/pgo/forminfo.htm*. Please include this completed form with your application. This form must be signed by the Project Director and authorized business official. In addition, you must certify that your program review panel represents a reasonable cross-section of the community in which the program is based.

b. You must also include documentation of approval by the relevant program review panel of any HIV educational materials that you or your grantees are currently using. Use the enclosed form, Report of Approval. If you have nothing to submit, you must complete the enclosed form ''No Report Necessary.'' Either the ''Report of Approval'' or ''No Report Necessary''

must be included with all progress reports and continuation requests. In addition, using the Report of Approval, you must include a certification that accountable state or local health officials independently review the federally-funded HIV prevention materials for compliance with Section 2500 of the Public Health Service Act and approve the use of such materials in their jurisdiction for directly and indirectly funded organizations.

c. Ensure that a web page notice be used for those grantees whose web sites contain HIV/AIDS educational information subject to the CDC content review guidelines. Contact your project officer for a copy of this guidance.

8. Address your organization's adherence to CDC policies for securing approval for CDC sponsorship of conferences. If you plan to hold a conference, you must send a copy of the agenda to CDC's Grants Management Office.

9. If you plan to use materials using CDC's name, send a copy of the proposed material to CDC's Grants Management Office for approval.

Note: Send all reports (except for the first item) to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements may be applicable to this program. For a complete description of each, see Attachment I as posted on CDC Web site.

AR–1 Human Subjects Requirements

Before a grant or a cooperative agreement involving research can be awarded, an institutional committee must certify a review (described in 45 CFR part 46). Continuing review is also required.

AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research

AR–4 HIV/AIDS Confidentiality Provisions

AR–5 HIV Program Review Panel Requirements

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–14 Accounting System Requirements

AR–15 Proof of Non-Profit Status

AR–16 Security Clearance Requirement

AR–20 Conference Support

AR–21 Small, Minority, and Women-Owned Business

AR–22 Research Integrity

J. Where to Obtain Additional Information

For this and other CDC announcements, the necessary applications, and associated forms can be found on the CDC home page, *http://www.cdc.gov*.

Click on ''Funding Opportunities'' then ''Grants and Cooperative Agreements.''

For general questions about this announcement, contact:

Technical Information Management, Procurement and Grants Office, Center for Disease Control and Prevention, 2920 Brandywine Rd, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For business management and budget assistance, contact: Carlos Smiley, Grants Management Specialist, Procurement and Grants Office, Center for Disease Control and Prevention, 2920 Brandywine Rd, Atlanta, GA 30341–4146, Telephone: 770–488–2722, E-mail *address:anx3@cdc.gov*.

For business management and budge assistance in the territories contact: Charlotte Flitcraft, Procurement and Grants Office, Center for Disease Control and Prevention, 2920 Brandywine Rd, Room 3000, Atlanta, GA 30341–4146, Telephone: 770–488–2632, E-mail address: *caf5@cdc.gov*.

For program technical assistance, contact: Robert N. Kohmescher, Office of the Director, Division of HIV/AIDS Prevention, Centers for Disease Control and Prevention, 1600 Clifton Road, M/S E35, Telephone: (404) 639–1914, E-mail address: *rnk1@cdc.gov*.

Sandra R. Manning,

CGFM, Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Community Services

[Program Announcement No. ACF–OCS–07–08–2003]

Compassion Capital Fund Targeted Capacity-Building Program

AGENCY: The Office of Community Services (OCS), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Announcement of the request for competitive applications and the availability of Federal funding to increase the capacity of faith-based and community organizations with a proven track record in serving the needs of at-risk youth or the homeless.

CFDA Number: The Catalog of Federal Domestic Assistance Number is 93.647.

SUMMARY: The program announced here will provide Compassion Capital Fund (CCF) awards to build the capacity of faith-based and community organizations, especially partnerships and coalitions, that address the needs of at-risk youth or the homeless. Awards will assist these organizations to improve their program effectiveness and sustainability, access funds from diverse sources, and emulate model programs and best practices.

To be eligible for these one-time, $50,000 CCF capacity-building awards, applicants must have a proven track record of at least one year in serving the needs of at-risk youth or the homeless.

The Administration for Children and Families (ACF) issues awards under the Fund. The Compassion Capital Fund will help further the President's goals and objectives regarding faith-based and community organizations and will enhance work being supported by multiple Federal agencies. ACF estimates that the funds available under this announcement will support approximately 50 grants.

DATES: The closing date for submission of applications is August 11, 2003. Applications received after the closing date will be classified as late. See Part IV of this announcement for more information on submitting applications.

In order to determine the number of expert reviewers that will be necessary, if you plan to submit an application, you are asked, but not required, to mail, fax, or e-mail written notification of your intentions at least 15 calendar days prior to the submission deadline date. Send the notification, with the following information: the name, address, telephone and fax numbers, and e-mail address of the project director and the name of the applicant to: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209 or fax to (703) 248–8765 or e-mail to *OCS@lcgnet.com.* Label this submission as follows: Intent to Apply for Compassion Capital Fund Targeted Capacity-Building Program.

ADDRESSES: Mailed applications should be sent to OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209 and labeled as follows: Application for Compassion Capital Fund Targeted Capacity-Building Program.

Hand delivered, courier or overnight delivery applications are accepted during the normal working hours of 8 a.m. to 4:30 p.m., Monday through Friday (excluding Federal holidays), on or prior to the established closing date. All packages should be clearly labeled as follows: Application for Compassion Capital Fund Targeted Capacity-Building Program. The address for these applications is: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209.

The printed **Federal Register** notice is the only official program announcement. Any corrections to this announcement will be published in the **Federal Register** as well as published on the ACF World Wide Web Pages. The Web site is *http://www.acf.dhhs.gov/programs/opre/frpa.htm.*

Although reasonable efforts are taken to assure that the files on the ACF World Wide Web Pages containing electronic copies of this Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

FOR FURTHER INFORMATION CONTACT: LCG OCS Operations Center, 1–800–281–9519; e-mail: *OCS@lcgnet.com.* ACF intends to post answers to frequently asked questions on the ACF Web site at *http://www.acf.dhhs.gov/programs/ocs.* Required application forms are available at: *http://www.acf.dhhs.gov/programs/ofs/forms.htm.*

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts: Part I: Background and Program Purpose—legislative authority, background, applicable legal rules, and program purpose and objectives; Part II: Project and Applicant Eligibility—eligible applicants, funding availability and instruments; Part III: The Review Process—intergovernmental review, initial ACF screening, general instructions for the Uniform Project Description, competitive review and evaluation criteria, and review process; and Part IV: The Application Process—required forms, application limits, checklist for complete application, application submission, and Paperwork Reduction Act.

Part I. Background and Program Purpose

A. Legislative Authority

Funding under this announcement is authorized by section 1110 of the Social Security Act governing Social Services Research and Demonstration activities and the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2003, Pub. L. 108–7.

B. Background

Faith-based and community organizations have a long history of providing an array of important services to people and communities in need of charitable services in the United States. These groups have unique strengths that government cannot duplicate. They often operate very close to the daily lives of individuals and families in need and, thus, can reach needy individuals and families that government cannot reach. They hold the trust of their community neighbors and leaders and have great understanding of the needs of the community and its systems. As a result, they are well positioned to understand the needs of individuals and families, particularly those struggling with homelessness and at-risk youth. Furthermore, the sense of mission from which these organizations work often translates into a unique approach to service delivery, a dedication of service to others, and a cultural awareness specific to their surrounding communities.

In recognition of this history and ability, President Bush believes it is in the public's interest to broaden Federal efforts to work with faith-based and community organizations, and he has made it a priority to ensure that these groups are treated on an equal footing with other organizations that apply for Federal funding. A key part of the effort to enhance and expand the participation of faith-based and community groups in serving those in need is the Compassion Capital Fund Capacity Building program described in this announcement.

Organizations will use these one-time grants to improve their capacity to provide services in a sustainable way. ACF believes that organizations working together—rather than in isolation—are best positioned to address their community's problems. Therefore, ACF will give a preference to applications submitted by an organization that is a member of a partnership or coalition of faith-based and/or community organizations that are working together to address the needs of at-risk youth or the homeless. This preference will be extended to those partnerships or coalitions consisting of three or more faith-based and/or community organizations located in the same geographic region that have worked together for at least one year before applying for CCF funding.

CCF Capacity-Building awards will enable grantees to improve program effectiveness and organizational management in diverse ways. The goal is to help promising organizations to bolster their sustainability and ultimately be able to serve more people on a continuing basis. Applicants must describe, in concrete terms, their plans for using funds to improve their organization in a sustainable way. Grantees should use these awards to increase efficiency and capacity; these awards cannot be used to augment or supplant direct service delivery funds. For example, an organization that distributes food to the poor will not receive a grant simply to purchase additional food. Nor, for example, will an organization that provides substance abuse treatment services receive additional funds simply to enable it to provide exactly the same services to more people. Although these awards might well enable these organizations to assist additional individuals, they would not serve to improve the organizations' sustainability, efficiency, or capacity. Rather, the organizations would simply use additional funds in the same way that it used existing funds, without fundamentally changing or improving its services. The program described in this announcement is part of this year's CCF program. ACF expects to award approximately 50 grants totaling $2.5 million.

C. Legal Rules That Apply to Faith-Based Organizations That Receive Government Funds

CCF Capacity-Building monies shall not be used to support inherently religious practices such as religious instruction, worship, or proselytization. Grant recipients therefore, may not and will not be defined by reference to religion. Neutral criteria that neither favor nor disfavor religion must be employed in the selection of grant recipients. For further information concerning the legal rules that apply when faith-based organizations receive government funds please visit Guidance to Faith-based and Community Organizations on Partnering with the Federal Government at *http://www.fbci.gov.*

D. Program Purpose and Objectives

The purpose of the Compassion Capital Fund Targeted Capacity-Building Program is to increase the capacity of faith-based and community organizations with a proven track record of serving the needs of at-risk youth or the homeless. This will be accomplished by funding experienced faith-based and community organizations, especially partnerships and coalitions of faith and community

groups that work collaboratively to address the needs of at-risk youth or the homeless. Preferences will be given to applications submitted by partnerships or coalitions of faith-based and community-level organizations. This will be accomplished by the award of 5 points as described in Part III.D, item (2).

Part II. Project and Applicant Eligibility

The Administration for Children and Families (ACF), Department of Health and Human Services (HHS) invites eligible entities to submit competing applications for the Compassion Capital Fund Targeted Capacity-Building Program.

A. Eligible Applicants

ACF invites applications from private, non-profit, faith-based and community organizations, particularly partnerships or coalitions, with a proven track record in serving the needs of at-risk youth or the homeless. Applicants are required to submit proof of non-profit status with the application. Applications lacking proof of non-profit status will not be reviewed. Eligible organizations must have been established for at least one year and addressing the needs of the homeless or at-risk youth in the proposed geographic area. Coalitions of eligible organizations must have been in existence for at least one year. In the case of partnerships or coalitions that do not have a separate governing structure, one member must serve as lead organization for the purposes of the grant award.

Private, nonprofit organizations are encouraged to submit with their applications the optional survey located under ''Grant Manuals & Forms'' at *www.acf.hhs.gov/programs/ofs/forms.htm.*

B. Funding Availability and Instruments

Instrument and Funding: ACF will issue the Financial Assistance Awards under this announcement as grants. ACF expects to award a total of up to $2.5 million under this announcement. There is no matching or cost share requirement for this announcement. ACF reserves the right to award less than the funds described, in the absence of worthy applications, or under such circumstances as may be deemed to be in the best interest of the government. ACF estimates that 50 organizations or coalitions can be supported by this level of funding. Applicants must apply for a one-time funding of up to $50,000. Any application requesting in excess of $50,000 will be considered ''non-responsive'' and subsequently returned to the applicant without further review.

Project and Budget Period: This announcement is soliciting applications for a 12-month project period. Awards, on a competitive basis, will be for a 12-month budget period.

Part III: The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, states may design their own processes for reviewing and commenting on proposed applications for Federal assistance under covered programs.

As of April 8, 2003, the jurisdictions listed below have elected not to participate in the Executive Order process. Applicants from these jurisdictions or for projects administered by Federally recognized Indian Tribes need not take action in regard to Executive Order 12372. Although the jurisdictions listed below no longer participate in the process, grant applicants are still eligible to apply for a grant even if a state, territory, commonwealth, etc. does not have a Single Point of Contact (SPOC).

Alabama; Alaska; Arizona; Colorado; Connecticut; Kansas; Hawaii; Idaho; Indiana; Louisiana; Massachusetts; Minnesota; Montana; Nebraska; New Jersey; New York; Ohio; Oklahoma; Oregon; Palau; Pennsylvania; South Dakota; Tennessee; Vermont; Virginia; Washington and Wyoming.

All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them about the prospective applications and receive instructions. The applicant must submit all required materials, if any, to the SPOC and indicate the date of the submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards. Applicants must submit any required material to the SPOCs as soon as possible so that the Federal program office can obtain and review SPOC comments as part of the award process. A listing of the SPOC for each participating state and territory with contact and address information is available at: *http://www.whitehouse.gov/omb/grants/spoc.html.*

B. Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that (1) the application was received by the closing date and submitted in accordance with the instructions in this announcement and (2) the applicant is eligible for funding.

C. General Instructions for the Uniform Project Description

The following ACF Uniform Project Description has been approved under OMB Control Number 0970–0139, which expires 12/31/2003. This format is to be used to submit an application under this announcement. Consistent with the Uniform Program Description format, the specific evaluation criteria applicable to this program follows in section D.

1. *Objectives and need for assistance:* Clearly identify the physical, economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer or be requested to provide information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

2. *Results or benefits expected:* Identify the results and benefits to be derived. For example, when applying for an award to expand program capacity; increase the types of services offered; increase access to funding from different sources and sectors; improve staff capabilities, describe the goals and objectives of the activity and expected outcomes.

3. *Approach:* Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors that might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others.

Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Describe the reasons why the applicant believes its services would benefit through the award of a Compassion Capital Fund Targeted Capacity-Building Grant. Describe past experience working to address the needs of the homeless and/or at-risk youth.

Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in, for example, such terms as the average number of days of technical assistance to be provided, the number of faith-based and/or community organizations to be provided services, or number of sub-awards to be issued to faith-or community organizations. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates.

If any data is to be collected, maintained, and/or disseminated, clearance may be required from the U.S. Office of Management and Budget (OMB). This clearance pertains to any ''collection of information that is conducted or sponsored by HHS.'' List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

4. *Geographic location:* Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

5. *Staff and position data:* Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

6. *Budget and budget justification:* Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF 424.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources must be detailed and justified in the budget and narrative justification. For purposes of preparing the budget and budget justification, ''Federal resources'' should refer only to the HHS grant for which you are applying. For these purposes, ''Non-federal resources'' are all other resources. If other Federal resources will be used, they should be included under Non-Federal for budget display purposes. It is suggested that budget amounts and computations be presented in a columnar format: first column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the person's title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, amount of salary derived from the grant, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend HHS sponsored workshops should be detailed in the budget.

Equipment

Description: ''Equipment'' means an article of tangible, non-expendable, personal property having a useful life of more than one year and an acquisition cost which equals or exceeds the lesser of (a) the capitalization level established by the organization for the financial statement purposes, or (b) $5,000. (Note: Acquisition cost means the net invoice unit price of an item of equipment, including the cost of any modifications, attachments, accessories, or auxiliary apparatus necessary to make it usable for the purpose for which it is acquired. Ancillary charges, such as taxes, duty, protective in-transit insurance, freight, and installation shall be included in or excluded from acquisition cost in accordance with the organization's regular written accounting practices.)

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information that supports the amount requested.

Contractual

Description: Costs of all contracts for services and goods except for those that belong under other categories such as equipment, supplies, construction, *etc.* Third-party evaluation contracts (if applicable) and contracts with secondary recipient organizations, including delegate agencies and specific project(s) or businesses to be financed by the applicant, should be included under this category.

Justification: All procurement transactions must be conducted in a manner to provide, to the maximum extent practical, open and free competition. Recipients, other than States that are required to use Part 92 procedures, must justify any anticipated procurement action that is expected to be awarded without competition and exceed the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at $100,000). Recipients might be required to make available to HHS pre-award review and procurement documents, such as requests for proposals or invitations for bids, independent cost estimates, etc.

Note: Whenever the applicant intends to delegate part of the project to another agency, the applicant must provide a detailed budget and budget narrative for each delegate agency, by agency title, along with the

required supporting information referred to in these instructions.

Construction

N/A.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Charges

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency. Applicants without an approved indirect cost rate may charge related costs as direct costs.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgment that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Note: In the SF 424A, Section B, Budget Categories, list in column 2 non-federal resources separately from federal resources, which must be listed in column 1.

D. Competitive Review and Evaluation Criteria

Applications that have been determined to be eligible for funding through the initial ACF pre-review screening will be evaluated and rated by independent review panels on the basis of specific evaluation criteria. The evaluation criteria are designed to assess the quality of the proposed project and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement.

There is a five-page limit for the application narrative, and a seven-page limit for the budget narrative with all supporting documents including letters of support and proof of non-profit status. Applications that exceed these limits will not be reviewed. Applicants should be concise and provide only the information requested and needed. Applicants should take care to ensure that budgets are clear and easy to understand.

Supplemental information (*e.g.*, brochures, reports) not required in this announcement will not be reviewed. More information about application submission is provided under Part IV, below.

Proposed projects will be reviewed based upon the extent to which applicants address the following evaluation criteria:

Objectives and Need for Assistance (25 points)

- The applicant should describe a compelling need in the community for an increase or improvement in services for at-risk youth or the homeless. (15 points)
- The applicant should describe how the receipt of this Federal grant will enable the applicant to increase its capacity to address this vital need. (10 points)

(2) Approach (25 points)

- The applicant should summarize its history and achievements to date with regard to at-risk youth or the homeless. (10 points)
- The applicant should describe the strategy it has employed to serve the vital need in the community and fully explain in concrete terms, the key improvements that would be made if the applicant received this Federal grant. (10 points)
- Preference will be extended to partnerships or coalitions of three or more faith-based and/or community organizations located in the same geographic region that have worked together for at least one year addressing the needs of at-risk youth or the homeless. In the case of partnerships or coalitions, the application should describe the individual achievements of collaborating members in related efforts. (5 points)

(3) Results or Benefits Expected (15 points)

- The applicant should describe the benefits to be achieved through receipt of this grant and how they will be sustainable. In that regard, the applicant should also provide a list of reasonable and measurable outcomes that will support the stated goals under this announcement.

(4) Staff and Position Data (10 points)

- The application should include a list of key staff that will oversee use of the grant funds and a brief description of their duties.

(5) Geographic Location (15 points)

- The applicant should describe the precise location to be served. This location should be limited to one community or locality, and should not be national or regional in scope. (10 points)
- The applicant should provide demographic data of the proposed location in support of the proposal. (5 points)

(6) Budget and Budget Justification (10 points)

- The applicant must include a budget that is clear, easy to understand, and that provides detailed justification for the amount requested.

(Applicants should refer to the budget information presented in the Standard Forms 424 and 424A and to the budget justification instructions in section C. General Instructions for the Uniform Project Description. Since non-Federal

reviewers will be used in the review of applications, applicants may omit from the copies of the application submitted (not from the original), the specific salary rates or amounts for individuals in the application budget and instead provide only summary information.)

E. The Review Process

Applications received by the due date will be reviewed and scored competitively. Experts in the field, generally persons from outside the Federal Government, will use the evaluation criteria listed in Part III of this announcement to review and score the applications. The results of this review are a primary factor in making funding decisions. ACF may also solicit comments from Regional Office staff and other Federal agencies. In order to ensure that the interests of the Federal Government are met in making the final selections, in addition to the review criteria identified above, ACF may consider a variety of factors including geographic diversity/coverage, distribution among those serving at-risk youth or the homeless and types of applicant organizations. Further, ACF may limit the number of awards made to the same or affiliated organizations although they would serve different geographic areas. In this way, ACF may increase opportunities for supporting the efforts of faith-based and community organizations to address the needs of at-risk youth and the homeless.

Please note that applicants that do not comply with the requirements in the section on ''Eligible Applicants'' will not be included in the review process.

Part IV. The Application Process

A. Required Forms

Eligible applicants interested in applying for funds must submit a complete application including the required forms listed under the ''Checklist for complete application'' in Part IV of this announcement. All necessary forms are available at: *http://www.acf.dhhs.gov/programs/ofs/forms.htm.*

In order to be considered for a grant under this announcement, an application must be submitted on the Standard Form 424 approved by the Office of Management and Budget under Control Number 0348–0043. Each application must be signed by an individual authorized to act for the applicant and to assume responsibility for the obligations imposed by the terms and conditions of the grant award. Applicants requesting financial assistance for non-construction projects must file the Standard Form 424B, Assurances: Non-Construction Programs (approved by the Office of Management and Budget under control number 0348–0040). Applicants must sign and return the Standard Form 424B with their application.

Applicants must provide a certification concerning lobbying.

Applicants must make the appropriate certification of their compliance with the Drug-Free Workplace Act of 1988. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Applicants must make the appropriate certification that they are not presently debarred, suspended or otherwise ineligible for award. By signing and submitting the application, applicants are providing the certification and need not mail back the certification with the application.

Any non-profit organization submitting an application must submit proof of its non-profit status at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in Section 501(c)(3) of the IRS code, *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled, *or* by providing a certified copy of the organization's certificate of incorporation or similar document that clearly establishes non-profit status, *or* any of the items above for a State or national parent organization and a statement signed by the parent organization that the applicant organization is a local non-profit affiliate. Private, nonprofit organizations are encouraged to submit with their applications the optional survey located under ''Grants Manuals & Forms'' at *http://www.acf.hhs.gov/programs/ofs/forms.htm.*

Applicants will be notified of receipt of their application via postcard.

B. Application Limits

Each application should include one signed original and two additional copies of the following:

The application should be double-spaced and single-sided on 8½ x 11 plain white paper, with 1″ margins on all sides. Use only a standard size font no smaller than 12 pitch throughout the application. All pages of the application (including appendices, resumes, charts, references/ footnotes, tables, maps and exhibits) must be sequentially numbered, beginning on the first page after the budget justification, the principal investigator contact information and the Table of Contents. There is a five-page limit for the application narrative, and a seven-page limit for the budget narrative with all supporting documents, including letters of support, and proof of non-profit status. Pages submitted beyond these page limits will not be reviewed. Applicants are requested not to send pamphlets, brochures, or other printed material along with their applications as these pose copying difficulties. These materials, if submitted, will not be included in the review process. In addition, applicants must not submit any additional letters of endorsement beyond any that may be required.

C. Checklist for a Complete Application

The checklist below is for your use to ensure that the application package has been properly prepared.

—One original, signed and dated application plus two copies.

—Attachments/Appendices, when included, should be used only to provide supporting documentation such as resumes, and letters of agreement/support.

(1) Application for Federal Assistance (SF–424, Rev. 7–97).

(2) Budget information-non-construction programs (SF424A&B).

(3) Budget Justification, including subcontract agency budgets.

(4) Application Narrative and Appendices.

(5) Assurances Non-Construction Program.

(6) Certification Regarding Lobbying.

(7) Certification regarding Compliance with the Drug-Free Workplace Act.

(8) Certification regarding non-debarment, suspension, or ineligibility.

(9) If appropriate, a completed SPOC certification with the date of SPOC contact entered in line 16, page 1 of the SF–424, Rev. 7–97.

(10) Proof of non-profit status.

D. Application Submission

Deadline. The closing (deadline) time and date for receipt of applications is 4:30 p.m. (Eastern Time Zone) on the date indicated under closing time and date at the beginning of this announcement. Applications received after 4:30 p.m. will be classified as late.

Mailed applications shall be considered as meeting an announced deadline if they are received on or before the deadline time and date at the: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209 and labeled: Application for Compassion Capital Fund Coalition Program. Applicants are responsible for

mailing applications well in advance, when using all mail services, to ensure that the applications are received on or before the deadline time and date.

Applications hand carried by applicants, applicant couriers, or other representatives of the applicant or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date, between the hours of 8 a.m. and 4:30 p.m. at: OCS Operations Center, 1815 North Fort Myer Drive, Suite 300, Arlington, Virginia 22209 and labeled: Application for Compassion Capital Fund Coalition Program. Applicants are cautioned that express/overnight mail services may not always deliver as agreed.

ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF or the OCS Operations Center electronically will not be accepted regardless of date or time of submission and time of receipt.

Late applications. Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

Extension of deadlines. ACF may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, when there is widespread disruption of the mail service, or for other disruptions of services, such as a prolonged blackout, that affect the public at large. A determination to waive or extend deadline requirements rest with ACF's Chief Grants Management Officer.

E. Paperwork Reduction Act of 1995 (Public Law 104–23)

Under the Paperwork Reduction Act of 1995, Public Law 104–13 the Department is required to submit to OMB for review and approval any reporting and record keeping requirements in regulations including program announcements. All information collections within this program announcement are approved under the following current valid OMB control numbers 0348–0043, 0348–0044, 034800040, 0348–0046, 0925–0418 and 0970–0139.

Public reporting burden for this collection is estimated to average 10 hours per response, including the time for reviewing instructions, gathering and maintaining the data needed and reviewing the collection of information.

An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Wade F. Horn,

Assistant Secretary for Children and Families.

[FR Doc. 03–17412 Filed 7–9–03; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0269]

Agency Information Collection Activities; Proposed Collection; Comment Request; Infectious Disease Issues in Xenotransplantation

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information contained in the Public Health Service (PHS) guideline entitled ''PHS Guideline on Infectious Disease Issues in Xenotransplantation'' dated January 19, 2001.

DATES: Submit written or electronic comments on the collection of information by September 8, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: JonnaLynn P. Capezzuto, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Infectious Disease Issues in Xenotransplantation (OMB Control Number 0910–0456)—Extension

The statutory authority to collect this information is provided under sections 351 and 361 of the PHS Act (42 U.S.C. 262 and 264) and the provisions of the Federal Food, Drug, and Cosmetic Act that apply to drugs (21 U.S.C. 301 *et seq.*). The PHS guideline recommends procedures to diminish the risk of transmission of infectious agents to the xenotransplantation product recipient and the general public. The PHS guideline is intended to address public health issues raised by xenotransplantation, through identification of general principles of prevention and control of infectious diseases associated with xenotransplantation that may pose a hazard to the public health. The collection of information described in this guideline is intended to provide general guidance to sponsors in: (1) The development of xenotransplantation clinical protocols, (2) the preparation of submissions to FDA, and (3) the

conduct of xenotransplantation clinical trials. Also, the collection of information will help ensure that the sponsor maintains important information in a cross-referenced system that links the relevant records of the xenotransplantation product recipient, xenotransplantation product, source animal(s), animal procurement center, and significant nosocomial exposures. The PHS guideline describes an occupational health service program for the protection of health care workers involved in xenotransplantation procedures, caring for xenotransplantation product recipients, and performing associated laboratory testing. The guideline also describes public health needs for: (1) A national xenotransplantation database, which is currently under development by the PHS; (2) a central PHS biologic specimen archive, also under consideration; and (3) the Secretary's Advisory Committee on Xenotransplantation, which was developed and has been implemented by the Department of Health and Human Services (DHHS). These public health programs and the PHS guideline are intended to protect the public health and to help ensure the safety of using xenotransplantation products in humans by preventing the introduction, transmission, and spread of infectious diseases associated with xenotransplantation.

The PHS guideline also recommends that certain specimens and records be maintained for 50 years beyond the date of the xenotransplantation. These include: (1) Records linking each xenotransplantation product recipient with relevant health records of the source animal, herd or colony, and the specific organ, tissue, or cell type included in or used in the manufacture of the product (3.2.7.1); (2) aliquots of serum samples from randomly selected animal and specific disease investigations (3.4.3.1); (3) source animal biological specimens designated for PHS use (3.7.1); animal health records (3.7.2), including necropsy results (3.6.4); and (4) recipients' biological specimens (4.1.2).

The retention period is intended to assist health care practitioners and officials in surveillance and in tracking the source of an infection, disease, or illness that might emerge in the recipient, the source animal, or the animal herd or colony after a xenotransplantation.

The recommendation for maintaining records for 50 years is based on clinical experience with several human viruses that have presented problems in human to human transplantation and are therefore thought to share certain characteristics with viruses that may pose potential risks in xenotransplantation. These characteristics include long latency periods and the ability to establish persistent infections. Several also share the possibility of transmission among individuals through intimate contact with human body fluids. Human immunodeficiency virus (HIV) and Human T-lymphotropic virus are human retroviruses. Retroviruses contain ribonucleic acid that is reverse-transcribed into deoxyribonucleic acid (DNA) using an enzyme provided by the virus and the human cell machinery. That viral DNA can then be integrated into the human cellular DNA. Both viruses establish persistent infections and have long latency periods before the onset of disease, 10 years and 40 to 60 years, respectively. The human hepatitis viruses are not retroviruses, but several share with HIV the characteristic that they can be transmitted through body fluids, can establish persistent infections, and have long latency periods, e.g., approximately 30 years for Hepatitis C.

In addition, the PHS guideline recommends that a record system be developed that allows easy, accurate, and rapid linkage of information among the specimen archive, the recipient's medical records, and the records of the source animal for 50 years. The development of such a record system is a one-time burden. Such a system is intended to cross-reference and locate relevant records of recipients, products, source animals, animal procurement centers, and nosocomial exposures.

Respondents to this collection of information are the sponsors of clinical studies of investigational xenotransplantation products under investigational new drug applications (INDs) and xenotransplantation product procurement centers, referred to as source animal facilities. Currently, there are 12 respondents who are sponsors of INDs that include protocols for xenotransplantation in humans. Other respondents for this collection of information are 18 source animal facilities which provide source xenotransplantation product material to sponsors for use in human xenotransplantation procedures. These 18 source animal facilities keep medical records of the herds/colonies as well as the medical records of the individual source animal(s). The total annual reporting and recordkeeping burden is estimated to be approximately 156 hours. The burden estimates are based on FDA's records of xenotransplantation-related INDs and estimates of time required to complete the various reporting and recordkeeping tasks described in the guideline. FDA does not expect the level of clinical studies using xenotransplantation to increase significantly in the next few years.

FDA is requesting an extension of OMB approval for the following reporting and recordkeeping recommendations in the PHS guideline:

TABLE 1.—REPORTING RECOMMENDATIONS

PHS Guideline Section	Description
3.2.7.2	Notify sponsor or FDA of new archive site when the source animal facility or sponsor ceases operations.
3.4	Standard operating procedures (SOPs) of source animal facility should be available to review bodies.
3.5.1	Include increased infectious risk in informed consent if source animal quarantine period of 3 weeks is shortened.
3.5.4	Sponsor to make linked records described in section 3.2.7 available for review.
3.5.5	Source animal facility to notify clinical center when infectious agent is identified in source animal or herd after xenotransplantation product procurement.

TABLE 2.—RECORDKEEPING RECOMMENDATIONS

PHS Guideline Section	Description
3.2.7	Establish records linking each xenotransplantation product recipient with relevant records.
4.3	Sponsor to maintain cross-referenced system that links all relevant records (recipient, product, source animal, animal procurement center, and nosocomial exposures).
3.4.2	Document results of monitoring program used to detect introduction of infectious agents which may not be apparent clinically.

TABLE 2.—RECORDKEEPING RECOMMENDATIONS—Continued

PHS Guideline Section	Description
3.4.3.2	Document full necropsy investigations including evaluation for infectious etiologies.
3.5.1	Justify shortening a source animal's quarantine period of 3 weeks prior to xenotransplantation product procurement.
3.5.2	Document absence of infectious agent in xenotransplantation product if its presence elsewhere in source animal does not preclude using it.
3.5.4	Add summary of individual source animal record to permanent medical record of the xenotransplantation product recipient.
3.6.4	Document complete necropsy results on source animals (50-year record retention).
3.7	Link xenotransplantation product recipients to individual source animal records and archived biologic specimens.
4.2.3.2	Record base-line sera of xenotransplantation health care workers and specific nosocomial exposure.
4.2.3.3 and 4.3.2	Keep a log of health care workers' significant nosocomial exposure(s).
4.3.1	Document each xenotransplant procedure.
5.2	Document location and nature of archived PHS specimens in health care records of xenotransplantation product recipient and source animal.

FDA estimates the burden for this collection of information as follows:

TABLE 3.—ESTIMATED ANNUAL REPORTING BURDEN[1]

PHS Guideline Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
3.2.7.2[2]	18	0	0	0.5	0
3.2.7.2[2]	2	1	2	0.5	1.0
3.4[3]	12	0.33	4	0.08	0.32
3.5.1[4]	12	0.08	(0-1) 1	0.25	0.25
3.5.4[5]	12	1	12	0.5	6.0
3.5.5[4]	18	0.06	(0-1) 1	0.2	0.2
Total					7.77

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]No animal facility and 2 sponsors have ceased operations in the last 3 years.
[3]FDA's records indicate that an average of 4 INDs are expected to be submitted per year.
[4]Has not occurred in the past 3 years and is expected to continue to be a rare occurrence.
[5]Based on 36 patients treated over a 3 year period, the average number of xenotransplantation product recipients per year is estimated to be 12.

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

PHS Guideline Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
3.2.7[2]	1	1	1	16	16.0
4.3[3]	12	1	12	0.83	9.96
3.4.2[4]	12	11	132	0.25	33.0
3.4.3.2[5]	18	4	72	0.3	21.6
3.5.1[6]	12	0.08	(0-1) 1	0.5	0.5
3.5.2[6]	12	0.08	(0-1) 1	0.25	0.25
3.5.4	12	1	12	0.17	2.04
3.6.4[7]	12	2	24	0.25	6.0

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]—Continued

PHS Guideline Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
3.7[7]	18	1.33	24	0.08	1.92
4.2.3.2[8]	12	25	300	0.17	51.0
4.2.3.2[6]	12	0.08	(0-1) 1	0.17	0.17
4.2.3.3 and 4.3.2[6]	12	0.08	(0-1) 1	0.17	0.17
4.3.1	12	1	12	0.25	3.0
5.2[9]	12	3	36	0.08	2.88
Total					148.49

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.
[2]A one-time burden for new respondents to set up a recordkeeping system linking all relevant records. FDA estimates 1 new sponsor annually.
[3]FDA estimates there is minimal recordkeeping burden associated with maintaining the record system.
[4]Monitoring for sentinel animals (subset representative of herd) plus all source animals. There are approximately 6 sentinel animals per herd x 1 herd per facility x 18 facilities = 108 sentinel animals. There are approximately 24 source animals per year (see footnote 7 of this table); 108 + 24 = 132 monitoring records to document.
[5]Necropsy for animal deaths of unknown cause estimated to be approximately 4 per herd per year x 1 herd per facility x 18 facilities = 72.
[6]Has not occurred in the past 3 years and is expected to continue to be a rare occurrence.
[7]On average 2 source animals are used for preparing xenotransplantation product material for one recipient. The average number of source animals is 2 source animals per recipient x 12 recipients annually = 24 source animals per year. (See footnote 5 of table 3 of this document.)
[8]FDA estimates there are approximately 12 clinical centers doing xenotransplantation procedures x approximately 25 health care workers involved per center = 300 health care workers.
[9]Twenty-four source animal records + 12 recipient records = 36 total records.

Because of the potential risk for cross-species transmission of pathogenic persistent virus, the guideline recommends that health records be retained for 50 years. Since these records are medical records, the retention of such records for up to 50 years is not information subject to the PRA (5 CFR 1320.3(h)(5)). Also, because of the limited number of clinical studies with small patient populations, the number of records is expected to be insignificant at this time.

Information collections in this guideline not included in tables 1 through 4 can be found under existing regulations and approved under the OMB control numbers as follows: (1) ''Current Good Manufacturing Practice for Finished Pharmaceuticals,'' 21 CFR 211.1 through 211.208, approved under OMB control number 0910–0139; (2) ''Investigational New Drug Application,'' 21 CFR 312.1 through 312.160, approved under OMB control number 0910–0014; and (3) information included in a license application, 21 CFR 601.2, approved under OMB control number 0910–0338. (Although it is possible that a xenotransplantation product may not be regulated as a biological product (e.g., it may be regulated as a medical device), FDA believes, based on its knowledge and experience with xenotransplantation, that any xenotransplantation product subject to FDA regulation within the next 3 years will most likely be regulated as a biological product.) However, FDA recognized that some of the information collections go beyond approved collections; assessments for these burdens are included in tables 1 through 4.

In table 5 of this document, FDA identifies those collection of information activities that are already encompassed by existing regulations or are consistent with voluntary standards which reflect industry's usual and customary business practice.

TABLE 5.—COLLECTION OF INFORMATION REQUIRED BY CURRENT REGULATIONS AND STANDARDS

21 CFR Section	Description of Collection of Information Activity	21 CFR Section (unless otherwise stated)
2.2.1	Document off-site collaborations	312.52
2.5	Sponsor ensure counseling patient + family + contacts	312.62(c)
3.1.1 and 3.1.6	Document well-characterized health history and lineage of source animals	312.23(a)(7)(a) and 211.84
3.1.8	Registration with and import permit from the Centers for Disease Control and Prevention	42 CFR 71.53
3.2.2	Document collaboration with accredited microbiology labs	312.52
3.2.3	Procedures to ensure the humane care of animals	9 CFR parts 1, 2, and 3 and PHS Policy[1]
3.2.4	Procedures consistent for accreditation by the Association for Assessment and Accreditation of Laboratory Animal Care International (AAALAC International) and consistent with the National Research Council's (NRC) Guide	AAALAC International Rules of Accreditation[2] and NRC Guide[3]

TABLE 5.—COLLECTION OF INFORMATION REQUIRED BY CURRENT REGULATIONS AND STANDARDS—Continued

21 CFR Section	Description of Collection of Information Activity	21 CFR Section (unless otherwise stated)
3.2.5, 3.4, and 3.4.1	Herd health maintenance and surveillance to be documented, available, and in accordance with documented procedures; record standard veterinary care	211.100 and 211.122
3.2.6	Animal facility SOPs	PHS Policy[1]
3.3.3	Validate assay methods	211.160(a)
3.6.1	Procurement and processing of xenografts using documented aseptic conditions	211.100 and 211.122
3.6.2	Develop, implement, and enforce SOPs for procurement and screening processes	211.84(d) and 211.122(c)
3.6.4	Communicate to FDA animal necropsy findings pertinent to health of recipient	312.32(c)
3.7.1	PHS specimens to be linked to health records; provide to FDA justification for types of tissues, cells, and plasma, and quantities of plasma and leukocytes collected	312.23(a)(6)
4.1.1	Surveillance of xenotransplant recipient; sponsor ensures documentation of surveillance program life-long (justify >2 yrs.); investigator case histories (2 yrs. after investigation is discontinued)	312.23(a)(6)(iii)(f) and (g), and 312.62(b) and (c)
4.1.2	Sponsor to justify amount and type of reserve samples	211.122
4.1.2.2	System for prompt retrieval of PHS specimens and linkage to medical records (recipient and source animal)	312.57(a)
4.1.2.3	Notify FDA of a clinical episode potentially representing a xenogeneic infection	312.32
4.2.2.1	Document collaborations (transfer of obligation)	312.52
4.2.3.1	Develop educational materials (sponsor provides investigators with information needed to conduct investigation properly)	312.50
4.3	Sponsor to keep records of receipt, shipment, and disposition of investigative drug; investigator to keep records of case histories	312.57 and 312.62(b)

[1]The ''Public Health Service Policy on Humane Care and Use of Laboratory Animals'' (*http://www.grants.nih.gov/grants/olaw/references/phspol.htm*). (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*.)

[2]AAALAC International Rules of Accreditation (*http://www.aaalac.org*). (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*.)

[3]The NRC's ''Guide for the Care and Use of Laboratory Animals'' (1996).

Dated: July 2, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–17407 Filed 7–9–03; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0295]

Agency Information Collection Activities; Proposed Collection; Comment Request; Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors With Interest in Exporting to Chile

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the procedures being implemented by FDA to assist U.S. dairy product manufacturers and processors that wish to export dairy products to Chile. In the **Federal Register** of May 21, 2003 (68 FR 27821), FDA published a notice announcing the Office of Management and Budget's (OMB) approval of this collection of information (OMB control number 0910–0509). Since this was an emergency approval that expires on

October 31, 2003, FDA is following the normal PRA clearance procedures by issuing this notice.

DATES: Submit written or electronic comments on the collection of information by September 8, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry and FDA: Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors 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.

In the **Federal Register** of May 23, 2003 (68 FR 28237), FDA announced the availability of a guidance entitled ''Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors With Interest in Exporting to Chile.'' The guidance provided voluntary recommendations on the process for firms that wish to export dairy products to Chile. FDA is taking this action in response to 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 recognized FDA as the competent food safety authority in the United States to identify U.S. dairy product manufacturers and processors eligible to export to Chile and 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 identifying U.S. manufacturers/processors 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. 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, telephone number, and e-mail address (if available) 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 term ''dairy products,'' for purposes of this list, is not intended to cover the raw agricultural commodity raw milk. The guidance can be found at *http://www.cfsan.fda.gov/guidance.html*.

The burden estimates presented in the following paragraphs considered the number of U.S. firms that FDA believes produce dairy products and that will be interested in exporting to Chile, which is estimated to total 75. After the first year, FDA believes that approximately eight new firms each year will be interested in exporting dairy products to Chile, and thus, being placed on the list.

In the **Federal Register** of April 10, 2003 (68 FR 17655), FDA published an emergency notice requesting public comment on the information collection provisions that had been submitted to OMB for emergency processing under the PRA. Four comments were received from trade associations and private industry.

Two comments expressed concern that there may be a significant delay between the time a firm submits a request to FDA to be listed and the time it is actually placed on the list for export to Chile. FDA believes that it has addressed this situation in development of its guidance. The agency developed procedures for establishing and maintaining the list to minimize the time required for placement of an eligible firm within a reasonable and predictable time after making a request to FDA to be listed.

One comment expressed concern that it is unnecessary for FDA to request, for firms already on other recognized Federal Government lists, the identity of the agencies that inspect the plant and the date of last inspection; plant number and copy of the last inspection notice; and, if other than an FDA inspection, a copy of the last inspection. FDA believes that it is necessary to verify the status of all firms making application to the agency to be included on the list. This process will be greatly facilitated by the information that is being requested. By placing a firm on the list, FDA will be attesting that the firm is under the regulatory jurisdiction of FDA and is not the subject of a pending FDA judicial enforcement action or an unresolved warning letter. The lists identified by the comments, ''The Interstate Milk Shippers List for Grade 'A' Dairy Plants'' and ''The List of Dairy Plants Surveyed and Approved for USDA Grading Service,'' are product specific and may not include the products the firms intend to export to Chile. This would preclude the use of these lists for some firms.

One comment noted that FDA should make use of existing lists and inspection programs when determining if a firm should be placed on the list. FDA believes that it is necessary, for each initial listing of a firm, for the agency to create a complete and unique file corresponding to each request for placement on the list. The documentation contained in this file

would include all relevant information necessary to demonstrate satisfaction of the minimum conditions for listing of a firm, including a copy of the most current inspection report, whether that inspection was conducted by FDA or by another regulatory entity, i.e., the U.S. Department of Agriculture (USDA) or a State regulatory agency. FDA believes that a copy of the inspection report, appended to the request for placement on the list, is necessary to meet minimum documentation requirements. A firm's presence on any other list would not be sufficient to document satisfaction of the listing criteria. FDA's request to receive information on the Federal or State agency that conducted the most current inspection and, if other than FDA, a copy of the most current inspection report, will facilitate the completion of the documentation file and the review process and will expedite the overall listing procedure.

One comment encouraged FDA to establish a system for adding plants to the list that is simple and rapid, with clear administrative rules and to consider allowing application to the list through the Internet. FDA will be using the Internet to post and maintain the list. FDA is not prepared to allow application to the list through the Internet at this time. Once the list is established and in use, FDA will consider whether it is feasible to use the Internet to receive applications.

One comment expressed concern that FDA, by establishing a list of U.S. dairy product manufacturers/processors that wish to export dairy products to Chile, would do the following actions: (1) Duplicate existing procedures already in place at USDA and State Departments of Agriculture for obtaining export ''documents'' necessary for market access of U.S. dairy products into Chile; (2) cause manufacturers to have to obtain such documents from more than one Federal or State agency; and (3) otherwise complicate the procedures whereby U.S. dairy manufacturers could export their products to Chile. These comments also suggested that, in the future, FDA should defer to the USDA on ''negotiations'' pertaining to export of U.S. dairy products to other countries.

The comments indicate that some clarification of the roles and responsibilities of U.S. Government agencies is necessary. While FDA participates in many cooperative activities with U.S. States and with USDA in the area of food safety, FDA is the principal Federal agency within the U.S. Government responsible for the human health aspects of dairy product safety. As such, FDA is the appropriate U.S. agency to participate in discussions with foreign governments on matters relevant to the public (human) health aspects of U.S. dairy products. As stated in the April 10, 2003, **Federal Register** document, Chilean authorities have recognized FDA as the competent food safety (public health) authority in the United States to identify U.S. dairy product manufacturers eligible to export to Chile. In this context, Chilean authorities will rely on FDA to list these firms and to notify Chile regularly of all U.S. dairy firms that have met the criteria to be listed. On the basis of a regularly updated list identifying firms that have applied to FDA to be listed, that are under FDA jurisdiction, and that are not the subject of a pending judicial FDA enforcement action or unresolved FDA warning letter, Chilean authorities will consider U.S. dairy products entering Chile to have satisfied public (human) health requirements. Contrary to the suggestion in the comment, no consignment-specific ''document'' issued by FDA must accompany any individual consignment of these dairy products.

USDA's Animal and Plant Health Inspection Service (APHIS) is responsible for dairy product safety with respect to animal health. Many countries, including Chile, mandate that each exported consignment of U.S. dairy products be accompanied by a certificate issued by APHIS attesting to satisfaction of certain animal health requirements. With regard to the present situation, Chilean authorities will still require the consignment-specific certificate demonstrating satisfaction of certain animal health provisions. The establishment of the proposed list of U.S. dairy product manufacturers and processors by FDA will not affect the requirement for the consignment-specific APHIS certificate.

Negotiations with Chile which led to the proposal for, and decision to move forward with, the list were conducted by a U.S. Government team comprised of, among others, both FDA and several USDA agencies, including APHIS and Agricultural Marketing Service.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL RECORDKEEPING BURDEN[1]

No. of Respondents	Annual Frequency per Response	Total Annual Records	Hours per Response	Total Hours
75[2]	1	75	1.5	112.5
8[3]	1	8	1.5	12
8[4]	1	8	0.5	4
Total				129

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] First year burden.
[3] Recurring burden.
[4] Recurring burden in reporting changes, including time reviewing collection of information and corresponding to FDA.

The estimate of the number of firms is based on the actual number of U.S. firms that applied to be placed on the list as a result of the **Federal Register** of May 23, 2003 (68 FR 28237), publication of the availability of a guidance entitled ''Establishing and Maintaining a List of U.S. Dairy Product Manufacturers/Processors With Interest 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 to prepare a communication to FDA that contains the information and

requests that the firm be placed on the list. We estimate the recurring burden in subsequent years to be 1.5 hours for a new firm to be placed on the list and 0.5

hours for reporting changes to FDA for firms already on the list.

Dated: July 2, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003D–0117]

Agency Information Collection Activities; Proposed Collection; Comment Request; Inspection by Accredited Persons Program Under the Medical Device User Fee and Modernization Act of 2002

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the publication of the criteria FDA intends to use to accredit third parties to conduct inspections of eligible manufacturers of class II or class III medical devices.

DATES: Submit written or electronic comments on the collection of information by September 8, 2003.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.fda.gov/dockets/ecomments*. Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Robbins, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 26, 2003 (68 FR 38065), FDA published a notice announcing the Office of Management and Budget's (OMB) approval of this collection of information (OMB control number 0910–0510). Since this was an emergency approval that expires on September 30, 2003, FDA is following the normal PRA clearance procedures by issuing this notice. Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from OMB for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Medical Devices: Inspection by Accredited Persons Program Under MDUFMA (OMB Control Number 0910–0510)—Extension

The Medical Device User Fee and Modernization Act of 2002 (MDUFMA) (Public Law 107–250) was signed into law on October 26, 2002. Section 201 of MDUFMA adds a new paragraph ''g'' to section 704 of the Federal Food, Drug and Cosmetic Act (the act) (21 U.S.C. 374), directing FDA to accredit third parties (accredited persons or APs) to conduct inspections of eligible manufacturers of class II or class III devices. This is a voluntary program; eligible manufacturers have the option of being inspected by an AP or by FDA. The new law requires FDA, within 180 days from the date of MDUFMA was signed into law, to publish in the **Federal Register** criteria to accredit or deny accreditation to persons who request to perform these inspections (section 704(g)(2) of the act).

In the **Federal Register** of April 28, 2003 (68 FR 22388), FDA published a notice announcing that a proposed collection of information has been submitted to OMB for emergency processing under the PRA. Interested persons were given until May 28, 2003, to comment on the notice. Elsewhere in that issue of the **Federal Register** (68 FR 22400), FDA published a document announcing the criteria it will use to accredit persons to inspect eligible device manufacturers and the availability of a guidance entitled ''Implementation of the Inspection by Accredited Persons Program Under the Medical Device User Fee and Modernization Act of 2002; Accreditation Criteria: Guidance for Industry, FDA Staff, and Third Parties.''

FDA received a total of three comments from a trade association, an industry association, and a consultant. These comments were not specifically related to the information collection for the submission of applications to become an accredited person. The comments addressed the implementation of the third party inspection program. FDA will take these comments into consideration in further developing its third party inspection program.

Description of Respondents: Businesses or other for profit organizations.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

Item	No. of Respondents	Annual Frequency per Response	Total Annual Records	Hours per Response	Total Hours
Request for Accreditation (First Year)	25	1	25	80	2,000
Request for Accreditation (Second Year)	10	1	10	15	150
Request for Accreditation (Third Year)	5	1	5	80	400
Total Hours					2,550

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA based these estimates on conversations with industry, trade association representatives, and internal FDA estimates. Our expectation is that 25 bodies will apply and meet the minimum standard for being accredited. Under MDUFMA, we can only accredit 15 persons during the first year. We expect that the lowest ranking 10 (the ones not accredited) will reapply the following year and will submit an updated application. Five new applicants may apply the third year. Once an organization is accredited, it will not be required to reapply.

Dated: July 2, 2003.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 03–17411 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notice of Approval of New Animal Drug Applications; Chlortetracycline

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that in 2001 it approved a supplemental new animal drug application (NADA) filed by Alpharma, Inc. The supplemental NADA provided for use of chlortetracycline Type A medicated articles to make Type B and Type C medicated swine feeds for the control of porcine proliferative enteropathies (ileitis). The applicable section of the regulation did not require amendment.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7571, e-mail: *jgotthar@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)) and 21 CFR 514.105(a) and 514.106(a), FDA is providing notice that in 2001 it approved a supplemental NADA that was not the subject of a final rule. A final rule was not published because 21 CFR 558.128 did not require amendment.

On November 15, 2001, FDA approved a supplement filed by Alpharma, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024 to NADA 48–761 for AUREOMYCIN (chlortetracycline) Type A medicated articles. The supplemental NADA provided for use of AUREOMYCIN Type A medicated articles to make Type B and Type C medicated swine feeds for the control of porcine proliferative enteropathies (ileitis) caused by *Lawsonia intracellularis* susceptible to chlortetracycline. No new data were submitted. The necessary amendment to 21 CFR 558.128 was made in a final rule (65 FR 45881, July 26, 2000) for the 2000 supplemental approval of the identical claim for Alpharma, Inc.'s CHLORMAX (chlortetracycline) Type A medicated articles, approved under NADA 046–699.

A freedom of information summary containing approved product labeling may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 25, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–17440 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Notice of Approval of New Animal Drug Applications; Bacitracin; Lasalocid; Narasin; Roxarsone

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice that in 2002 it approved two original abbreviated new animal drug applications (ANADAs) for clindamycin hydrochloride oral dosage forms for dogs that were not the subject of final rules. Final rules were not published because the drug-specific section of the regulation did not require amendment.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–104), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 301–827–8549, e-mail: *lluther@cvm.fda.gov*.

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(i)) and 21 CFR 514.105(a) and 514.106(a), FDA is providing notice that in 2002 it approved two original ANADAs for clindamycin hydrochloride oral dosage forms for dogs that were not the subject of final rules. Final rules were not published because 21 CFR 520.446 did not require amendment.

On June 6, 2001, FDA approved original ANADA 200–316 filed by Delmarva Laboratories, Inc., 2200 Wadebridge Rd., P.O. Box 525, Midlothian, VA 23113, for the veterinary prescription use of CLINTABS (clindamycin hydrochloride) Tablets in dogs. On June 14, 2002, FDA approved original ANADA 200–298 filed by Phoenix Scientific, Inc., 3915 South 48th St. Terrace, P.O. Box 6457, St. Joseph, MO 64506–0457, for the veterinary prescription use of

Clindamycin Hydrochloride Capsules in dogs.

Both Delmarva Laboratories' CLINTABS Tablets and Phoenix Scientific's Clindamycin Hydrochloride Capsules are approved for the for treatment of soft tissue infections (wounds and abscesses), dental infections, and osteomyelitis caused by susceptible strains of *Staphylococcus aureus*, soft tissue infections (deep wounds and abscesses), dental infections, and osteomyelitis caused by or associated with susceptible strains of *Bacteroides fragilis*, *Bacteroides melaninogenicus*, *Fusobacterium necrophorum*, and *Clostridium perfringens* as generic copies of Pharmacia & Upjohn's ANTIROBE Capsules, approved under NADA 120–161. The necessary amendments adding these sponsors' drug label codes to 21 CFR 520.446 were made in a final rule (67 FR 54954, August 27, 2002) for the approval of an unrelated supplemental NADA for the pioneer product.

Freedom of information summaries containing approved product labeling may be seen in the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 25, 2003.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 03–17438 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2003N–0232]

Universal Reagents, Inc.; Opportunity for Hearing on a Proposal to Revoke U.S. License No. 0887

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for hearing on a proposal to revoke the biologics license (U.S. License No. 0887) issued to Universal Reagents, Inc. (URI), for the manufacture of Source Plasma. The proposed revocation is based on the failure of the establishment and the product for which the license has been issued to conform to the applicable standards established in the license and in the regulations.

DATES: URI may submit a written or electronic request for a hearing to the Division of Dockets Management by August 11, 2003, and any data and information justifying a hearing by September 8, 2003. Other interested persons may submit written or electronic comments on the proposed revocation to the Division of Dockets Management by September 8, 2003.

ADDRESSES: Submit written requests for a hearing, any data and information justifying a hearing, and any written comments on the proposed revocation to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic requests or comments to *http://www.fda.gov/dockets/ecomments*.

FOR FURTHER INFORMATION CONTACT: Nathaniel L. Geary, Center for Biologics Evaluation and Research (HFM–17), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6210.

SUPPLEMENTARY INFORMATION: FDA is initiating proceedings to revoke the biologics license (U.S. License No. 0887) issued to URI, 2858 North Pennsylvania St., Indianapolis, IN 46202, for the manufacture of Source Plasma. The proposed revocation is based on the failure of URI to conform to the applicable standards established in its license and certain requirements of subchapter F, parts 600 to 640 (21 CFR parts 600 to 640).

I. Findings

FDA inspected URI between May 29 and June 3, 2002. Additionally, on June 7, 2002, FDA inspected Central Indiana Regional Blood Center, Inc. (CIRBC), Indianapolis, IN, which performs infectious disease testing for URI under a contract agreement. FDA determined, through its investigation and inspections of both URI and CIRBC, that URI had significant deviations from the standards established in its license as well as in the applicable Federal regulations. FDA also documented that URI has willfully engaged in violative recordkeeping practices and falsified records it submitted to FDA. The deviations noted during the inspections included, but were not limited to, the following:

1. In violation of §§ 610.40(a) and 606.160(b)(2)(i), test results for Source Plasma units 0730900, 0730911, and 0730912 for the hepatitis B surface antigen (HBsAg) and the antibody to the human immunodeficiency virus types 1 and 2 (anti-HIV–1/2) were missing from the Transfer PC Mainframe Unit Rejection Report (a computer generated report). On June 3, 2002, URI provided the FDA investigator with what URI identified as the missing test results. According to these results, the HBsAg and anti-HIV–1/2 tests, which purportedly were performed by CIRBC, were negative for Source Plasma units 0730900, 0730911, and 0730912. However, the document did not bear a date or time in the designated reporting fields. Contrary to the documents obtained at the URI inspection, FDA's inspection of CIRBC disclosed that the required testing for HBsAg and anti-HIV–1/2 was not completed or performed for these Source Plasma units.

2. In violation of §§ 610.40(a) and 606.160(b)(2)(i), HBsAg and anti-HIV–1/2 test results for Source Plasma unit 0729859 were missing on a Transfer Report and on a Testing Status Report. An additional notation on the Testing Status Report stated ''sample too old to complete testing.'' An additional record that FDA collected during the URI inspection, a Laboratory Request Form dated June 4, 2001, that URI generated, showed that all test results for unit 0729859, including HBsAg and anti-HIV–1/2 testing, were documented as ''NR'' or nonreactive. During the closeout discussion on June 3, 2002, URI provided the FDA investigator with a Testing Status Report stating that the testing had been performed at CIRBC and that test results for HBsAg and anti-HIV–1/2 were ''N'' or negative for unit 0729859. Contrary to the documents obtained at the URI inspection, FDA's inspection of CIRBC disclosed that infectious disease testing for HBsAg and anti-HIV–1/2 was not performed on Source Plasma unit 0729859.

3. In violation of § 606.160(b)(2)(i), URI failed to maintain anti-HIV–1/2 re-testing results for Source Plasma unit 0729718. On a Transfer Report dated May 5, 2001, Source Plasma unit 0729718 tested reactive for anti-HIV–1/2 in testing conducted by CIRBC. Rather than producing the results of re-testing on that unit, however, URI provided the FDA investigator, during the closeout discussion on June 3, 2002, with a Testing Status Report for unit 0729718 that noted an ''N'' or ''nonreactive'' test result for the initial anti-HIV–1/2 test. No date or time was documented on the report; however, a notation on the report stated that it was reviewed by URI on May 9, 2000 [sic]. The sequence number noted on the report was 7899. FDA's inspection of CIRBC disclosed that all infectious disease testing related to anti-HIV–1/2 that CIRBC performed on unit 0729718 in 2001 was associated with sequence number 1995, not 7899. CIRBC's records showed that anti-HIV–

1/2 testing for unit 0729718 was performed on or about May 5, 2001, and the result was reactive. CIRBC's records showed that the results of repeat duplicate anti-HIV–1/2 tests on unit 0729718, conducted on May 7, 2001, were negative.

In a certified, return-receipt letter dated October 23, 2002, and issued under § 601.5(b), FDA outlined the deviations noted at the inspection of URI. FDA notified URI of FDA's intent to revoke U.S. License No. 0887 and announced the agency's intent to offer an opportunity for hearing. In situations involving willfulness, FDA need not provide an opportunity for the licensee to demonstrate or achieve compliance. FDA acknowledged receipt of URI's June 7, 2002, response to the Form FDA–483 for the May 29 to June 3, 2002, inspection to which URI had attached copies of the same falsified and discrepant records that URI previously provided to the FDA investigator during the inspection. FDA's review of the response disclosed continuing inconsistencies with the results of the inspection and investigation.

Based on FDA's inspectional and investigational results, FDA has determined that URI willfully engaged in violative recordkeeping practices and provided false manufacturing records to FDA as corrective actions for the previously noted deficiencies. Additionally, URI's June 7, 2002, response to the Form FDA–483 demonstrates that URI willfully continued to submit falsified documents to FDA.

FDA also notes that URI has had a history of noncompliance with the applicable standards and regulations as shown by significant deviations that were documented during previous inspections of URI. Among those various deviations were discrepancies in URI's test result records, including discrepancies in the test results for the antibody to HIV type 1. FDA emphasized the seriousness of URI's various deviations in letters to URI, including a notice of adverse findings letter dated October 20, 1988, a notice of adverse findings letter dated September 26, 1989, a warning letter dated October 19, 1992, and a warning letter dated July 20, 2000.

II. Notice of Opportunity for Hearing

Because URI did not submit a response to the FDA letter dated October 23, 2002, and did not waive an opportunity for hearing under 21 CFR 12.21(b), FDA is issuing a notice of opportunity for hearing on a proposal to revoke the biologics license (U.S. License No. 0887) issued to URI for Source Plasma.

FDA has placed copies of the documents relevant to the proposed revocation on file with the Division of Dockets Management (see **ADDRESSES**) under the docket number found in brackets in the heading of this document. These documents include FDA's letters to URI dated October 20, 1988, September 26, 1989, October 19, 1992, July 20, 2000, and October 23, 2002, and URI's response to FDA dated June 7, 2002. These documents are available for public examination in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

FDA procedures and requirements governing a notice of opportunity for a hearing, notice of appearance and request for a hearing, grant or denial of a hearing, and submission of data and information to justify a hearing on a proposed revocation of a license are contained in parts 601 and 12 (21 CFR part 12). In requesting a hearing, a person must submit to FDA's Division of Dockets Management objections and a request for a hearing on each objection, along with a detailed description and analysis of the factual information to be presented in support of each objection, as provided in § 12.22. A deficient request or objection will be returned; however, the deficient submission may be supplemented and subsequently filed if submitted within the 30-day time period (§ 12.22(c)). The objections should identify the specific fact or facts that are genuine, substantial, and in dispute (§ 12.24(b)(1)). Mere allegations or denials are not enough to obtain a hearing (§ 12.24(b)(2)). The Commissioner of Food and Drugs (the Commissioner) will deny the hearing request if the Commissioner concludes that the data and information submitted are insufficient to justify the factual determination urged, even if accurate (§ 12.24(b)(3)).

Two copies of any submissions are to be provided to FDA, except that individuals may submit one copy. Submissions are to be identified with the docket number found in brackets in the heading of this document. Submissions, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be examined in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under section 351 of the Public Health Service Act (42 U.S.C. 262) and sections 201, 501, 502, 505, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 355, and 371), and under authority delegated to the Commissioner (21 CFR 5.10) and redelegated to the Director of the Center for Biologics Evaluation and Research (21 CFR 5.202).

Dated: June 30, 2003.

Jesse Goodman,

Director, Center for Biologics Evaluation and Research.

[FR Doc. 03–17410 Filed 7–9–03; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Fiscal Year 2003 Application Cycle for the Nursing Scholarship Program CFDA 93.908

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Extension of time for application deadline.

SUMMARY: This notice extends the time that applications will be accepted for fiscal year 2003 for the Nursing Scholarship Program. A May 6, 2003 **Federal Register** Notice (68 FR 24006) announced that applications for the Nursing Scholarship Program must be received, or postmarked, on or before June 30, 2003. For individuals who requested a Nursing Scholarship Program application before June 30, 2003, the deadline for receipt of an application has been extended to July 14, 2003. These applications must be received by the Nursing Scholarship Program, c/o I.Q. Solutions, 11300 Rockville Pike, Suite 801, Rockville, Maryland 20852, on or before July 14, 2003.

FOR FURTHER INFORMATION CONTACT: Capt. Bruce Baggett, Division of National Health Service Corps, Bureau of Health Professions, Room 8A–55, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857; 1–800–435–6464 (*bbaggett@hrsa.gov*).

Dated: July 7, 2003.

Elizabeth M. Duke,

Administrator.

[FR Doc. 03–17587 Filed 7–8–03; 11:59 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 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 Drug Abuse Special Emphasis Panel, Drug Abuse and HIV Prevention in Youth.

Date: July 8, 2003.

Time: 8:30 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: Kesinee Nimit, MD, 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) 435–1432.

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 on Drug Abuse Special Emphasis Panel, Minority Institutions Drug Abuse Research Program (MIDARP).

Date: July 29, 2003.

Time: 8:30 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: Eliane Lazar-Wesley, Ph.D., 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) 451–4530.

(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: July 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–17403 Filed 7–9–03; 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 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 on Drug Abuse Special Emphasis Panel. ''DESPR Clinical Data Management and Support''.

Date: August 5, 2003.

Time: 9:30 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave., Bethesda, MD 20814.

Contact Person: Lyle Furr, Contract Review Specialist, 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) 435–1439.

(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: July 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–17404 Filed 7–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, July 9, 2003, 8 AM to July 9, 2003, 5 PM, Governor's House Hotel, 1615 Rhode Island Avenue, NW., Washington, DC, 20036, which was published in the **Federal Register** on June 23, 2003, 68 FR 37163–37166.

The meeting will be held at the St. Gregory Hotel, 2033 M Street, NW., Washington, DC, 20036. The meeting date and time remains the same. The meeting is closed to the public.

Dated: July 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–17401 Filed 7–9–03; 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, Cell Death and Injury in Neurodegeneration.

Date: July 18, 2003.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Jefferson Hotel, 1200 16th Street, NW., Washington, DC 20036.

Contact Person: David L. Simpson, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5192, MSC 7846, Bethesda, MD 20892, (301) 435–1278, *simpsod@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.

Name of Committee: Center for Scientific Review Special Emphasis Panel, SEP to Review Applications Responsive to Global Health Research Initiative Program.
Date: July 24–25, 2003.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.
Contact Person: Ping Fan, MD, Ph.D., Scientific Review Administrator, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive Rm. 5154, MSC 7840, Bethesda, MD 20892, 301–435–1740, *fanp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business: Occupational Health.
Date: July 24, 2003.
Time: 10 a.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: The Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Charles N. Rafferty, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, 301–435–3562, *raffertc@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Small Business Orthopedic Medicine Special Emphasis.
Date: July 24–25, 2003.
Time: 10 a.m. to 1 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn Hotel, 924 25th Street, NW., Washington, DC 20037.
Contact Person: Paul D. Wagner, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4108, MSC 7814, Bethesda, MD 20892, (301) 435–6809, *wagnerp@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Viral Pathogenesis.
Date: July 24, 2003.
Time: 1 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: Victor A. Fung, Ph.D., Scientific Review Administrator, Oncological Sciences Initial Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 20814–9692, 301–435–3504, *vf6n@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 PTHB 03M: Cell Signaling in Cancer.
Date: July 24, 2003.
Time: 1 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: Martin L. Padarathsingh, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6212, MSC 7804, Bethesda, MD 20892, (301) 435–1717.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Circadian Rhythms & HPA Axis.
Date: July 24, 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: Daniel R. Kenshalo, Ph.D., 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, Cancer Therapy.
Date: July 25, 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, Ph.D., 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.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, MDCN Fellowship Review Group B—Physiology, Pharmacology and Molecular Structure.
Date: July 25, 2003.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Peter B. Guthrie, Ph.D., Research Associate Professor, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4142, MSC 7850, Bethesda, MD 20892, (301) 435–1239, *guthriep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, NHLBI Competitive Supplements for Human Embryonic Stem Cell Research.
Date: July 25, 2003.
Time: 9 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel, 3000 M Street, NW., Washington, DC 20007.
Contact Person: Sherry L. Dupere, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5136, MSC 7840, Bethesda, MD 20892, (301) 435–1021, *duperes@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Pain: Imaging.
Date: July 25, 2003.
Time: 10 a.m. to 11 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: John Bishop, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250.

Name of Committee: Center for Scientific Review Special Emphasis Panel, ZRG1 GMA–1 11B: Small Business: Dermatology.
Date: July 25, 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: Harold M. Davidson, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4216, MSC 7814, Bethesda, MD 20892, 301/435–1776, *davidsoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Immunology: Computer Modeling.
Date: July 25, 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: Stephen M. Nigida, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4112, MSC 7812, Bethesda, MD 20892, (301) 435–3565.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Heart Development.
Date: July 25, 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: Robert T. Su, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 1, 2003.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 03–17402 Filed 7–9–03; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Vaccine For Protection Against Shigella sonnei Disease

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in: United States Patent Application 10/346,706 entitled ''Vaccine For Protection Against Shigella Sonnei Disease'' filed on January 15, 2003, to Aridis, Inc., having a place of business in Portola Valley, California. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before September 8, 2003 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Peter Soukas, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Email: *ps193c@nih.gov;* Telephone: (301) 435–4646; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: Shigellosis is a global human health problem. Transmission usually occurs by contaminated food and water or through person-to-person contact. The bacterium is highly infectious by the oral route, and ingestion of as few as 10 organisms can cause an infection in volunteers. An estimated 200 million people worldwide suffer from shigellosis, with more than 650,000 associated deaths annually. A recent CDC estimate indicates the occurrence of over 440,000 annual shigellosis cases in the United States alone, approximately eighty percent (80%) of which are caused by *Shigella sonnei.*

Shigella sonnei is more active in developing countries. *Shigella* infections are typically treated with a course of antibiotics. However, due to the emergence of multidrug resistant *Shigella* strains, a safe and effective vaccine is highly desirable. No vaccines against *Shigella* infection currently exist. Immunity to Shigellae is mediated largely by immune responses directed against the serotype specific O-polysaccharide. Claimed in the invention are compositions and methods for inducing an immunoprotective response against *S. sonnei.* Specifically claimed is an attenuated bacteria capable of expressing a *S. sonnei* antigen comprised of the *S. sonnei* form I O-polysaccharide expressed from the *S. sonnei* rfb/rfc gene cluster. The inventors have shown that the claimed vaccine compositions exhibited one hundred percent (100%) protection against parenteral challenge with virulent *S. sonnei* in mice.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to vaccines against *S. sonnei.*

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 2, 2003.

Steven M. Ferguson,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 03–17406 Filed 7–9–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Vaccine Products for Prevention and Treatment of Chronic Hepatitis C Infections (HCV)

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license to practice the invention embodied in:

(1) U.S. Patent No. 6,387,662, issued May 14, 2002, entitled ''Synthesis and Purification of Hepatitis C Virus-Like particles'' (E–009–1997/0) (Inventors: T. Jake Liang and Thomas F. Baumert (NIDDK)). This application is a continuation of and claims the benefit of priority of International Application No. PCT/US97/05096 filed on March 25, 1997, which claims priority to U.S. patent application No. 60/030,238, filed November 8, 1996.

(2) PCT/US97/05096 filed March 25, 1997, entitled ''Synthesis and Purification of Hepatitis C Virus-Like particles in vitro'' (related to E–009–1997/0) (Inventors: T. Jake Liang and Thomas F. Baumert (NIDDK)), National Stage filed in Australia (Patent No. 738585, issued January 03, 2002), the European Union (European Patent Office Patent Application Number 9791652.6), Canada (Patent Application Number 2269097), and in Japan (Patent Application Number 10–522521).

to Virionics Corporation, having a place of business in Odenton, Maryland. The patent rights in this invention have been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before September 8, 2003 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Peter Soukas, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; E-mail: *ps193c@nih.gov;* Telephone: (301) 435–4646; Facsimile: (301) 402–0220.

SUPPLEMENTARY INFORMATION: The technology relates to production of

enveloped RNA virus-like particles in vitro in insect cells using a recombinant baculovirus vector containing a cDNA coding for viral structural proteins. In vitro production and purification of hepatitis C virus (HCV)-like particles containing HCV core protein, E1 protein and E2 protein is described. Sucrose gradient purified HCV-like particles exhibited similar biophysical properties as putative HCV virions. Mice injected with HCV-like particles developed HCV-specific antibodies indicating that the particles are immunogenic. HCV-like particles, purified in large quantities, may be useful in HCV vaccine development or in diagnostic kits.

The prospective exclusive license will be royalty bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to vaccine products for prevention and treatment of chronic hepatitis C (HCV) infections.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: July 2, 2003.

Steven M. Ferguson,

Acting Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 03–17405 Filed 7–9–03; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by August 11, 2003.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following application(s) for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

PRT–073579

Applicant: Ron D. Stoller, Raymond, WA

The applicant requests a permit to import the sport hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–073581

Applicant: Darrel D. Stoller, Raymond, WA

The applicant requests a permit to import the sport hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–073774

Applicant: Gerald A. Beathard, Jr., Austin, TX

The applicant requests a permit to import the sport hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–069323

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to export and re-export live captive-bred/captive hatched specimens of California condors (*Gymnogyps californianus*) to La Secretaria de Medio Ambiente y Rescoursos Naturales (SEMARNAT), San Angel, Mexico, for re-introduction into the wild to enhance the survival of the species through the completion of identified tasks and objectives mandated under the U.S. Fish and Wildlife Service California Condor Recovery Plan. This notification covers activities to be conducted by the applicant over a five-year period.

PRT–057398

Applicant: Zoological Society of San Diego, San Diego, CA

This is a correction to the notice published March 31, 2003, (68 FR 15478), for the import of live wild specimens and biological samples of California condors (*Gymnogyps californianus*) from Mexico. The applicant is requesting an amendment and renewal of their permit to allow for the re-import of captive-bred/captive hatched live specimens, as well as biological samples and salvaged materials from specimens exported/re-exported to Mexico from the U.S. under PRT–069323, to enhance the survival of the species through completion of identified tasks and objectives mandated under the U.S. Fish and Wildlife Service California Condor Recovery Plan. This notification covers activities conducted by the applicant over a five-year period.

Endangered Marine Mammals and Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered marine mammals and/or marine mammals. The applications were submitted to satisfy requirements of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*) and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*), and the regulations governing endangered species (50 CFR part 17) and/or marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a

hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

PRT–770191

Applicant: Jacksonville Field Office, U.S. Fish and Wildlife Service, Jacksonville, FL

The applicant requests renewal of their permit to salvage dead specimens and rescue, provide medical treatment (including routine sampling for diagnostic & treatment purposes), rehabilitate and, if feasible, release rehabilitated West Indian manatees (*Trichechus manatus*) to the wild for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a five-year period.

PRT–071799

Applicant: Jennifer L. Miksis, University of Rhode Island, Narragansett, RI

The applicant requests a permit to take by harassment up to 75 wild West Indian manatees (*Trichechus manatus*) by exposing them to the acoustic playback of boat noise and observing the behavioral responses for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a five-year period.

Concurrent with the publication of this notice in the **Federal Register**, the Division of Management Authority is forwarding copies of the above applications to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

PRT–073841

Applicant: Ryan C. Hoerauf, Odessa, TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–072820

Applicant: Joe. P. Murphy, Santa Rosa, CA

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

PRT–073481

Applicant: Gerald E. Meyer, Sr., Waterford, WI

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Southern Beaufort Sea polar bear population in Canada for personal use.

PRT–073526

Applicant: Robert E. Kastle, Denver, CO

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

Applicant: Charles W. Walker, Gardena, CA

PRT–073605

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal use.

PRT–073795

Applicant: Chuck L. Raleigh, Seagoville, TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal use.

The U.S. Fish and Wildlife Service has information collection approval from OMB through March 31, 2004, OMB Control Number 1018–0093. Federal Agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a current valid OMB control number.

Dated: June 27, 2003.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–17427 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for [Marine Mammals and/or Endangered Species].

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the [Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*), and/or the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*),] the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. [For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.]

Endangered Species

Permit no.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
068965	Sea-El Carmen	68 FR 15478; March 31, 2003	June 24, 2003

Marine Mammals

Permit no.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
070875	Paul L. Van Dam	68 FR 25620; May 13, 2003	June 25, 2003
070876	Stanley D. Jager	68 FR 25620; May 13, 2003	June 23, 2003
070954	John J. Michelotti	68 FR 25620; May 13, 2003	June 24, 2003

Dated: June 27, 2003.

Michael S. Moore,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. 03–17428 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; 90-day Finding for a Petition To List a Distinct Population Segment of the Fisher in Its West Coast Range as Endangered and To Designate Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding and initiation of status review.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 90-day finding for a petition to list a distinct population segment (DPS) of the fisher (*Martes pennanti*) in its West Coast range, including portions of California, Oregon, and Washington, as endangered and to concurrently designate critical habitat in accordance with the Endangered Species Act of 1973, as amended. We find the petition presents substantial information that the West Coast population of the fisher may be a distinct population segment for which listing may be warranted. We are initiating a status review to determine if listing this population is warranted.

DATES: The finding announced in this document was made on July 3, 2003. To be considered in the 12-month finding on this petition, comments and information should be submitted to us by September 8, 2003.

ADDRESSES: Data, information, comments, or questions concerning this petition should be submitted to the Sacramento Fish and Wildlife Office, U.S. Fish and Wildlife Service, 2800 Cottage Way, Sacramento, CA 95825–1846. The petition finding and supporting information are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jesse Wild, at the address given above (telephone 916/414–6600; facsimile 916/414–6713; electronic mail: fisher@fws.gov).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that the Service make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. We are to base this finding on all information available to us at the time we make the finding. To the maximum extent practicable, we are to make this finding within 90 days of the date we received the petition, and publish the notice of the finding promptly in the **Federal Register**. Our standard for substantial information for petitions is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (50 CFR 424.14(b)). If we find that substantial information was presented, the Act requires that we promptly commence a review of the status of the species involved.

On December 5, 2000, we received a petition, dated November 28, 2000, to list a DPS of the fisher in its West Coast range, including portions of California, Oregon, and Washington, as endangered pursuant to the Act, and to concurrently designate critical habitat. The petitioners include 19 organizations and one individual, with the lead organizations identified as the Center for Biological Diversity and the Sierra Nevada Forest Protection Campaign. We have reached our 90-day finding on this petition in accordance with an April 4, 2003, order by the U.S. District Court, Northern District of California. The order requires us to complete a finding by July 3, 2003 (*Center for Biological Diversity* v. *Norton,* Order Granting Plaintiffs' Motion for Summary Judgment, No. C 01–2950 SC).

Biology and Distribution

The fisher is classified in the order Carnivora, family Mustelidae, which also includes weasels, mink, martens, and otters. It is a member of the genus *Martes*, and occurs only in North America. Goldman (1935 as cited in Powell 1993) recognized three subspecies of fisher, although he stated they were difficult to distinguish: *Martes pennanti pennanti* in the east and central regions; *M. p. columbiana* in the central and northwestern regions; and *M. p. pacifica* in the western region. Subsequent analyses, however, questioned whether there is a sufficient basis to support recognition of different subspecies (Grinnell *et al.* 1937; Hagmeier 1959). Recent consideration of genetic variation indicates patterns of population subdivision similar to the earlier described subspecies, although it is not clear whether Goldman's designations of subspecies are taxonomically valid (Kyle *et al.* 2001; Drew *et al.* 2003).

Fishers occur in the northern coniferous and mixed forests of Canada and northern contiguous United States, from the mountainous areas in the southern Yukon and Labrador Provinces in Canada southward to central California and Wyoming, the Great Lakes, New England, and Appalachian regions (Graham and Graham 1994; Powell 1994). The current distribution of fishers is much reduced from the historical distribution (Gibilisco 1994). The distribution has recovered since the 1950s in some of the central and northeastern areas, a change attributed to factors such as trapping closures and reintroductions (Brander and Books 1973; Powell and Zielinski 1994).

In Washington, Oregon, and California, fishers probably occupied most coniferous forest habitats prior to extensive settlement by Europeans (Grinnell *et al* 1937; Bailey 1936 and Dalquest 1948 as cited in Aubry and Lewis in press 2003). They use low-to mid-elevational forests up to 8,200 feet (ft) (2,500 meters (m)) (Grinnell *et al.* 1937; Schempf and White 1977; Aubry and Houston 1992). Extensive trapping in the 1800s and 1900s is frequently cited as the principal initial cause of the substantial reduction of the range of the fisher in all three States. Commercial trapping of the fisher has been prohibited in each of these States for decades. Other factors consistently identified as contributing to the reduction of the fisher's distribution in these states include the alteration of forest habitats as a result of logging and conversion to other land uses (*e.g.*, Grinnell *et al.* 1937; Powell 1993; Powell and Zielinski 1994; Lewis and Stinson 1998; U.S. Department of Agriculture (USDA) Forest Service 2000).

In Washington, the fisher historically occurred both east and west of the Cascade Crest (Scheffer 1938; Aubry and Houston 1992), in the Olympic Peninsula, and probably in southwestern and northeastern Washington (Lewis and Stinson 1998). An estimated 15 million acres (ac) (60,700 square kilometers (km^2)), or 60 percent of the forested landscape in the State, was potential fisher habitat when European settlers arrived (Lewis and Stinson 1998). Based on extensive surveys and a lack of recent sightings or trapping reports, the fisher currently is considered to have been extirpated or reduced to scattered individuals in Washington (Aubry and Houston 1992; Lewis and Stinson 1998). The State has listed the fisher as endangered (WAC 232–12–297).

In Oregon, the fisher apparently has been extirpated from all but two portions of its historical range (Aubry and Lewis in press 2003). The two known extant populations are in the southwestern portion of the State: one in the southern Cascade Range that was established through reintroductions of fishers from British Columbia and Minnesota that occurred between 1961 and 1981, and one in the northern Siskiyou Mountains of southwestern Oregon that is presumed to be an extension of the population in northern California. The two populations appear to be disjunct and genetically isolated from each other (Aubry and Lewis in press 2003). The State has designated the fisher as a protected nongame species, considering it as a ''Sensitive Species—Critical Category.''

In California, the fisher historically ranged throughout forested lands of the Sierra Nevada from Greenhorn Mountain in northern Kern County northward to the southern Cascades at Mount Shasta, and from the Klamath Mountains and north Coast Range near the Oregon border southward to Lake and Marin Counties (Grinnell *et al.* 1937). By the mid-1920s, the fisher was considered to still occur in much of its historical range in California, but at ''markedly reduced'' numbers (Grinnell *et al.* 1937). Recent surveys suggest there has been a reduction in the occupied range since the early 1900s, particularly in the central and northern portions of the Sierra Nevada (Zielinski *et al.* 1995). Currently, there are two known populations in California, one in the northwestern part of the State (extending into southwestern Oregon) and the other in the southern Sierra Nevada, separated by approximately 260 miles (mi) (420 km) (Zielinski *et al.* 1995). The extent of this separation is far beyond the species' known maximum dispersal distance. The State considers the fisher to be a ''Species of Special Concern.''

In the western United States, fisher denning and resting sites are forest stands with complex structural characteristics that are typical of late-successional forests (Powell and Zielinski 1994; Seglund 1995; Dark 1997; Truex *et al.* 1998; Aubry *et al.* 1999; Carroll *et al.* 1999; USDA Forest Service 2000; Zielinski *et al. in litt.* 2002). These characteristics include large trees and snags, coarse down woody-debris and other complex structure near the ground, a high amount of canopy closure and overhead cover, and multiple-layered vegetation. Large tree cavities and snags in areas of dense canopy cover are often used as natal and maternal den sites (Lewis and Stinson 1998; USDA Forest Service 2000); this may provide kits protection from predators while the mother is hunting (Lewis and Stinson 1998).

Late-successional coniferous or mixed forests are considered to provide the most suitable fisher habitat because they provide abundant potential den sites and preferred prey species (Allen 1987). However, according to Powell (1993), forest type is probably not as important as the vegetative and structural aspects that lead to abundant prey populations and reduce fisher vulnerability to predation. Younger forests in which complex forest floor components such as large logs, snags, and tree cavities are maintained in significant numbers, and which provide a diverse prey base, may be suitable habitat for the fisher (Lewis and Stinson 1998). Powell and Zielinski (1994) concluded that although there has been some indication of fishers being detected in second-growth forests and areas with limited overhead canopy, it was not known whether the use was transient or based on stable (regularly used) home ranges. Based on their work and a review of other information, Powell and Zielinski stated that early- and mid-successional forests are unlikely to provide the same prey resources, rest sites, and den sites as more mature forests. They also suggested that habitat for resting and denning sites may be more limiting for fishers than foraging habitat.

Fishers have been found to be associated with riparian areas (Aubry and Houston 1992). Forested riparian areas often are protected from logging and generally are more productive, thus having the dense canopy closure, large trees, and general structural complexity such as broken top trees, snags, and coarse woody debris, all of which provide important rest site elements (Seglund 1995; Dark 1997).

Fishers avoid areas with little forest cover or significant human disturbance and conversely prefer large areas of contiguous interior forest (Rosenberg and Raphael 1986; Powell 1993; Jones and Garton 1994; Seglund 1995; Dark 1997). At a landscape scale, patches of preferred habitat and the location of open areas with respect to these patches may be crucial to the distribution and abundance of fishers in an area; fishers will probably use patches of preferred habitat that are interconnected by other forest types, whereas they will not likely use patches of habitat that are separated by sufficiently large open areas (Buskirk and Powell 1994). Riparian corridors (Heinemeyer and Jones 1994) and forested saddles between major drainages (Buck *et al.* 1983) may provide important dispersal habitat or landscape linkages (travel corridors) for the species.

The fisher is a generalized predator with a diverse diet that includes snowshoe hares (*Lepus americanus*), porcupines (*Erithizon dorsatum*), birds, squirrels, mice, shrews, voles, reptiles, insects, deer carrion, vegetation, and fruit (Powell 1993; Martin 1994; Zielinski *et al.* 1999; Zielinski and Duncan *in litt.* 2002). They usually hunt on the ground and occasionally hunt in trees (Raine 1987; Powell 1993).

Other than the breeding season, fishers are solitary. Their home ranges are large, varying across North America from 3,954 to 30,147 ac (16 to 122 km^2) for males and from 988 to 13,096 ac (4 to 53 km^2) for females (Powell and Zielinski 1994; Lewis and Stinson 1998).

Fishers have a low annual reproductive capacity. Males may not be effective breeders until they are 2 years old (Powell 1993). Females breed at the end of their first year, but because of delayed embryo implantation, do not produce a litter until their second year. Not all females produce young every year. Litters usually consist of 2 to 3 kits, and are raised entirely by the female. Kits have developed their own home ranges by age 1 (Powell 1993). Although relatively little information exists on dispersal by young, recent evidence suggests that only juvenile males disperse long distances, which would affect the rate at which the fisher may be able to colonize formerly occupied areas within its historical range (Aubry *et al.* in press 2003).

Fishers are estimated to live up to 7 to 10 years of age in the wild (Powell 1993). The most commonly reported mortality factors include predation, incidental trapping (*i.e.*, in traps set for other species), and being struck by vehicles (*e.g.*, Buck *et al.* 1994; Lewis and Zielinski 1996; Lewis and Stinson 1998; Truex *et al.* 1998).

Distinct Population Segment

Under the Act, we must consider for listing any species, subspecies, or, for vertebrates, any distinct population segment of these taxa, if there is sufficient information to indicate that such action may be warranted. To implement the measures prescribed by the Act and its Congressional guidance, we and the National Marine Fisheries Service (National Oceanic and Atmospheric Administration—Fisheries) developed a joint policy that addresses the recognition of DPSs of vertebrate species for potential listing actions (61 FR 4722). The policy specifies that we are to use two elements to assess whether a population

segment under consideration for listing may be recognized as a DPS: (1) the population segment's discreteness from the remainder of the species to which it belongs; and (2) the significance of the population segment to the species to which it belongs. Our evaluation of significance is made in light of Congressional guidance that the authority to list DPSs be used ''sparingly'' while encouraging the conservation of genetic diversity. If we determine that a population segment meets the discreteness and significance standards, then the level of threat to that population segment is evaluated based on the five listing factors established by the Act to determine whether listing the DPS as either threatened or endangered is warranted.

Under our DPS policy, a population segment of a vertebrate species may be considered discrete if it satisfies either one of the following two conditions: (1) it is markedly separated from other populations of the same taxon as a consequence of physical, physiological, ecological, or behavioral factors (quantitative measures of genetic or morphological discontinuity may provide evidence of this separation); or (2) it is delimited by international governmental boundaries within which differences in control of exploitation, management of habitat, conservation status, or regulatory mechanisms exist that are significant in light of section 4(a)(1)(D) of the Act.

Substantial information is presented in the petition and other documents in our files indicating the West Coast population may be markedly separated from other populations of the fisher. Physical barriers that result in separation from fisher populations that occur in the Rocky Mountains and the eastern United States include major highways, major rivers, urban and rural nonforested areas, agricultural development, and other areas such as the Okanogan Valley in Washington. Along the West Coast, the Oregon Cascade Range population is described as being separated from the population in British Columbia by more than 400 mi (650 km) (Aubry and Lewis in press 2003), and fishers in the southern Sierra Nevada are approximately 260 mi (420 km) from those in northern California (Zielinski *et al.* 1995). Quantitative measures of genetic discontinuity also indicate there may be a marked separation of the West Coast population from other populations of the taxon. Genetic studies indicate the historical continuity in fisher distribution that once provided for genetic interchange among populations no longer exists in the western United States (Aubry and Lewis in press 2003). Genetic analyses also indicate that native populations of the fisher in California and the reintroduced population in the southern Cascade Mountains of Oregon have become isolated from the main body of the species, probably due to extirpation of the fisher in Washington and northern Oregon (Drew *et al.* 2003). The West Coast population also may be markedly separated from other populations as a result of ecological factors, as they use forest types that differ in species composition, tree size, and habitat structure as compared to those used by fishers in the northeastern United States, eastern Canada, and the Great Lakes region (Buskirk and Powell 1994; Powell and Zielinski 1994). However, the extent to which such ecological factors may result in a marked separation of the West Coast population from populations in the Rocky Mountains or British Columbia is less clear.

Information in the petition and in our files pertaining to the second criterion for discreteness suggests the West Coast population of the fisher may be delimited by the international governmental boundary between the United States and Canada with regard to differences in control of exploitation, management of habitat, conservation status, and regulatory mechanisms that may be significant with respect to section 4(a)(1)(D) of the Act. For example, commercial harvest of the fisher is allowed in British Columbia, but trapping the species has been prohibited for decades in Washington, Oregon, and California (Lewis and Stinson 1998). Also, Canada has no overarching forest practices laws governing management of its national lands. In contrast, in the United States, lands within the National Forest System, including the wildlife habitat occurring there, are considered under the National Forest Management Act of 1976, as amended (16 U.S.C. 1600), and associated planning regulations. Therefore, the petition and other documents in our files present substantial information indicating that the West Coast population of the fisher may meet one or both of the conditions for discreteness under our DPS Policy.

Our DPS policy states that our consideration of a population segment's biological and ecological significance may include, but is not limited to, the following: (1) Persistence of the discrete population segment in an ecological setting unusual or unique for the taxon; (2) evidence that loss of the discrete population segment would result in a significant gap in the range of the taxon; (3) evidence that the population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere as an introduced population outside its historical range; and (4) evidence that the discrete population segment differs markedly from other populations of the species in its genetic characteristics.

Fishers in the West Coast population persist in an ecological setting that may be unusual in comparison to the rest of the taxon, with a different climate, topography, and habitat than are found in the majority of its range. The potential loss of the West Coast population could result in a significant gap in the range of the species by eliminating the southwest portion of its range. Also, the populations in the southern Sierra Nevada and northern California/southern Oregon appear to be the only extant native populations of the fisher remaining in the West Coast States (Truex *et al.* 1998; Aubry *et al.* in press 2003; Drew *et al.* 2003), and based on our review of maps provided by Lewis and Stinson (1998), these are two of only seven or eight remaining areas occupied by fishers in the United States. Loss of the West Coast population could result in the loss of a significant genetic entity, since they have been described as being genetically distinct from fishers in the remainder of North America (Drew *et al.* 2003). Based on our review of the petition and other documents in our files, there is substantial scientific information indicating that the West Coast population of the fisher may have significance to the remainder of the taxon.

Because the petition and other documents present substantial information the West Coast population of the fisher may be both discrete and significant, it may constitute a valid DPS and thus may be a listable entity under the Act.

Conservation Status

Under our DPS policy, if a vertebrate population segment is discrete and significant (*i.e.*, it is a distinct population segment) we will base its evaluation for endangered or threatened status on the Act's definition of those terms and a review of the factors enumerated in section 4(a). Under section 4(a) of the Act, we may list a species, subspecies, or vertebrate DPS on the basis of any of five factors, as follows: ''(A) the present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; (E) other natural or

manmade factors affecting its continued existence.''

The petition presents information and supporting references with regard to threats according to each of the five factors under section 4(a)(1) of the Act, based on numerous publications in scientific journals and documents prepared by federal and State agencies. The petition concludes with a summary statement that the remaining populations of the fisher within its range on the West Coast are at risk due to ''a combination of continued habitat destruction caused by logging and development, poaching, predation, small population size and population isolation'' and also as a result of current regulations that the petitioners consider to be inadequate.

With respect to factor A, information in the petition and other information in our files focuses on late-successional forests as the principal habitat of the West Coast population of the fisher. In some circumstances, areas other than late-successional forests may contain habitat features used by the fisher, and not all late-successional forests are necessarily fisher habitat (*e.g.*, forests at higher elevations). However, late-successional forests appear to be an appropriate index of suitable habitat. The petition and other information in our files indicates that present and expected future timber harvests, various types of development, and recreational pressure may result in the destruction, modification, or curtailment of the fisher's habitat and range. Some of these effects, such as timber harvest and various human developments, may be more likely to occur on private land than on the National Forests and other public lands within the range of the fisher, due to differences in management. An estimated 25 percent of the historical range of the fisher in the Sierra Nevada is on non-federal land, and approximately 60 percent of the private land is managed as industrial forest. In recent years these industrial forest lands have accounted for more than 80 percent of the timber volume harvested in the Sierra Nevada, and recent analyses concluded ''Old forest conditions on private land [in the Sierra Nevada] may decrease'' (USDA Forest Service 2000). In the portion of Washington, Oregon, and northern California covered by the Northwest Forest Plan (NWFP) (concerning management of certain Forest Service and Bureau of Land Management (BLM) lands), approximately 34 percent of the fisher's range is estimated to be on non-federal land, where timber harvest is expected to continue in various portions of late-successional forest (USDA and U.S. Department of the Interior (USDI) 1994). Portions of late-successional forests on the National Forests and BLM lands also are subject to timber harvest under the NWFP (USDA and USDI 1994).

Although the effects of recreational activities on wildlife species, including the fisher, are not well understood, such activities can result in displacement of animals from habitat (*i.e.*, indirectly degrading habitat suitability) or have other negative impacts. According to the Final Environmental Impact Statement (FEIS) for the Sierra Nevada Forest Plan Amendment (SNFPA), the human population in the Sierra Nevada is expected to be nearly 2 million by 2040, more than triple the population in 1990, and recreational activities of various types are expected to increase (USDA Forest Service 2000). The human population increase also is expected to result in increased developments of various types, particularly on private lands, and this also may reduce and fragment fisher habitat.

Habitat fragmentation is a concern because, as noted above, fishers avoid crossing open areas. Lack of habitat connectivity may result in significant delay or failure to access and use patches of suitable habitat. Lack of connectivity also may contribute to population isolation. The analysis of the connectivity of old forests in the Sierra Nevada noted that ''checkerboard'' land ownership patterns in the central Sierra Nevada (where there is considerable intermingling of private land with National Forest System land), coupled with assumptions about reasonably foreseeable timber harvesting on private lands, make the retention of connectivity ''problematic'' in these areas (USDA Forest Service 2000). The FEIS further stated that: ''* * * lack of appropriate habitat elements, including large trees and snags, the lack of connectivity among patches of remaining habitat, the fragmenting effect of major highways, and human disturbance associated with the presence of smaller roads'' may account for the lack of increase or expansion of the fisher population in the southern portion of the Sierra Nevada.

The petition cites the risk of crown fires to fisher habitat as one of the natural or anthropogenic factors affecting the continued existence of the West Coast fisher population. Changes in the structure of forests—due to past timber harvest practices, fire suppression, and other activities—have resulted in increased fuel loadings in many forested areas, which in turn have increased the risk of crown or ''stand-replacing'' fires. The petitioners also assert, however, that the late-successional, mixed conifer forests where the fisher generally is found are at lower risk of crown fires than other seral-stages and forest types, and that fuels reduction activities could pose risks to the fisher. In particular, they cite the potential for such activities to reduce the large trees and snags used by the fisher for resting and denning.

The analyses for the SNFPA considered the likelihood and potential effects of fires of various intensities in the Sierra Nevada, as well as the potential effects of prescribed fire or mechanical fuels reduction treatments. The FEIS stated there is considerable uncertainty regarding fire effects on large trees, as well as uncertainty regarding the effects of prescribed fire or various mechanical fuels reduction treatments on canopy closure and other components of fisher habitat in the Sierra Nevada (USDA Forest Service 2000). Regarding the remainder of the West Coast range of the fisher (*i.e.*, Washington, Oregon, and northern California), the petition and our files for this 90-day finding contain almost no specific information regarding the risk to the fisher and its habitat posed by potential crown fires, or the potential threats or benefits to fisher habitat that may be associated with various fuels reduction treatments.

With regard to factor B, overutilization for commercial purposes, the trapping of fishers has been prohibited for decades in California, Oregon, and Washington. However, fishers sometimes are incidentally caught in traps legally set for other furbearers (Luque 1983 as cited in Lewis and Stinson 1998; Douglas and Strickland 1987; Lewis and Zielinski 1996), which can result in crippling injury or mortality (Cole and Proulx 1994; Strickland and Douglas 1984 as cited in Lewis and Zielinski 1996). Information is limited regarding the extent to which incidental trapping or poaching may be affecting the fisher, but even low rates of additive mortality from trapping have been predicted to affect fisher population stability (Powell 1979; Lewis and Stinson 1998), and may slow or negate population responses to habitat improvement (Powell and Zielinski 1994).

With regard to factor C, the available information indicates that disease is not a significant threat, while the threat posed by predation is not clear. Healthy adult fishers are not usually subject to predation (Powell and Zielinski 1994), but predation risk may be greater in areas with relatively less canopy cover and forest structure (Buck *et al.* 1994). Truex *et al.* (1998) stated that predation

and being struck by vehicles were important causes of mortality of fishers in northern California and the southern Sierra Nevada. The threat posed by predation may be exacerbated by small population size (*see* discussion of factor E, below).

Regarding factor D, the petitioners present information to support their assertion that the West Coast population of the fisher is threatened by the inadequacy of existing regulatory mechanisms. Because the petition predates the SNFPA, which was adopted in January of 2001, information for the Sierra Nevada presented in the petition was based on a draft Environmental Impact Statement for the SNFPA. According to the FEIS (USDA Forest Service 2000), the SNFPA would generally improve upon previous management for fishers on the involved National Forest lands, although it represents some risk to fisher habitat. The FEIS provided separate predictions of outcomes for the fisher environment and for fisher populations on National Forests in the Sierra Nevada after 50 years under a range of management alternatives. For the alternative adopted by the SNFPA, the predicted outcome for the environment of the fisher on the National Forests was as follows: ''Suitable environments are either broadly distributed or of high abundance across the range of the species; however, there are temporary gaps where suitable environments are absent or only present in low abundance. Disjunct areas of suitable habitat are typically large enough and close enough to permit dispersal and interaction among subpopulations across the species' range.'' The predicted population outcome was slightly worse: ''Suitable environments are frequently distributed as patches or they exist at low abundance, or both. Gaps, where suitable environments are either absent or present in low abundance, are large enough that some subpopulations are isolated, limiting opportunity for species interactions. In most of the species' range, subpopulations have the opportunity to interact as a metapopulation; however, some subpopulations are so disjunct or of such low density that they are essentially isolated from other populations'' (USDA Forest Service 2000). The Forest Service is proposing changes to the SNFPA and recently issued a draft supplemental EIS for public review and comment (68 FR 35406); thus, the potential effects of the SNFPA will have to be reevaluated based on any changes that are adopted as a result of the final supplemental EIS.

For the National Forests and BLM lands in Washington, Oregon, and northern California covered by the Northwest Forest Plan, the report of the Forest Ecosystem Management Assessment Team (FEMAT) projected a 63 percent future likelihood for achieving an outcome in which habitat for the fisher is of sufficient quality, distribution, and abundance to allow the species population to stabilize, well distributed across Federal lands in the NWFP area (FEMAT 1993). The analysis for the NWFP acknowledged that population sizes of the fisher in the Pacific Northwest are quite low in portions of its range, ''causing some uncertainty that populations will recover even if habitat conditions are sufficient to support well-distributed, stable populations'' (USDA and USDI 1994). Some aspects of the NWFP (*e.g.*, the Aquatic Conservation Strategy and the ''survey and manage guidelines'') are presently undergoing changes, which may result in changes in Forest Service and BLM management of habitat used by the fisher.

As described above (*see* discussion of factor A), a substantial portion of the range of the fisher in Washington, Oregon, and California is on private land. Timber harvest on such lands is carried out in accordance with State regulations. Although these State regulations address various aspects of timber harvest on private lands, they do not contain specific provisions to protect fishers or fisher habitat. The State regulations do, however, address retention of large trees, canopy closure, and riparian areas. The extent to which the State regulations on timber harvest affect fragmentation of fisher habitat is unclear.

Under section 10 of the Act, a non-Federal entity with a habitat conservation plan (HCP) that meets certain requirements may receive authorization from us to ''take'' federally listed species. Several HCPs in California, Oregon, and Washington contain conservation strategies that protect habitat for the northern spotted owl (*Strix occidentalis caurina*) or marbled murrelet (*Brachyramphus marmoratus*) and may provide some benefit to fishers or have fisher-specific protection measures. The petitioners assert that protections provided by the Federal listing of the northern spotted owl do not necessarily translate to protections for fishers on Federal lands or on private lands, and that there has been little or no analysis of the adequacy of the HCPs with regard to the fisher. According to Lewis and Stinson (1998), fishers require larger areas and are more sensitive to habitat fragmentation than the owl. Protections provided by the Federal listing of the marbled murrelet may provide habitat for fishers on low-elevation private lands, but the extent to which this occurs has not been determined.

The petition asserts there are few to no specific State regulations to protect the fisher on State lands in California and Oregon. In Oregon, the fisher is designated a protected nongame species and is listed as a ''Sensitive Species—Critical Category.'' In California, the fisher is classified as a furbearing mammal that is protected from commercial harvest and it is a ''Species of Special Concern.'' Our evaluation indicates that these designations in Oregon and California do provide some protection to the fisher in the form of voluntary conservation efforts and fines for illegal trapping. In the case of California, the fisher and its habitat also may receive consideration under the California Environmental Quality Act. The fisher is listed by the State of Washington as endangered, which provides additional protections in the form of more stringent fines for poaching and a process for environmental analysis of projects affecting the species.

The management plans for California's and Oregon's State Forests do not appear to contain specific measures addressing the fisher. The State Forests in California and Oregon consist of small, widely scattered parcels or larger areas of highly fragmented forest habitat, and they generally are not managed to maintain late-successional habitat characteristics. The State lands in Washington are managed by the Washington Department of Natural Resources (WDNR). Because these lands generally occur at lower elevations than National Forest lands in the State, a higher proportion is within the elevational range preferred by the fisher (Aubry and Houston 1992; WDNR 1997). More than half of all WDNR forest lands are under 60 years in age and less than 10 percent are more than 50 years of age, indicating the State's management of these lands does not result in retaining late-successional forests (WDNR 1997) that are typically considered to provide fisher habitat.

The petition mentions tribal lands but only presents information concerning a forest management plan for a relatively small tribal area in northern California where fishers are known to occur. Very little of the available information in our files addresses management of the fisher or its habitat on Native American lands, and further analysis would be needed to determine the adequacy of existing

regulatory mechanisms involving these lands.

With regard to factor E, the petition states that because of small population sizes and isolation, fisher populations on the West Coast may be in danger of extinction from inbreeding depression (*i.e.*, negative genetic effects) and unpredictable variation in demographic or environmental characteristics (demographic and environmental stochasticity). Small populations of wildlife are considered to be at risk of extinction solely from demographic and environmental stochasticity, independent of deterministic factors, such as human-caused habitat loss (Lande and Barrowclough 1987; Lande 1993). According to Heinemeyer and Jones (1994), the greatest long-term risk to the fisher in the western United States is probably population extinction due to isolation of small populations. Aubry and Lewis (in press 2003) consider the inability of extant fisher populations to support one another demographically, including those that are isolated by relatively small distances, or to colonize currently unoccupied areas within their historical range, to be significant conservation concerns. Also, the significance of mortality factors such as incidental trapping or being struck by vehicles may be greater for small populations of fishers (Powell 1979; USDA Forest Service 2000), and the same may be true with regard to mortality due to predation.

Lewis and Stinson (1998) note that although commercial trapping of fishers has been prohibited in Washington for approximately 70 years, the species has not recovered in the State. They suggest that any small population that may still exist in Washington is at risk due to natural variation in demographic factors (*e.g.*, variable reproduction and survival) and environmental effects, as well as potential negative genetic effects that can affect small populations. They consider the remaining fishers in Washington to be unlikely to represent a viable population and conclude that the species is likely to be extirpated from the State without recovery activities. Despite the protections afforded by the NWFP, the low population level of the fisher in the portions of the range covered by the plan in Washington, Oregon and northern California results in ''uncertainty that populations will recover even if habitat conditions are sufficient to support well-distributed, stable populations,'' and the recovery of fisher populations in the NWFP area is likely to be slow due to the species' low reproductive rate and small population size (USDA and USDI 1994). The fisher population in the southern Sierra Nevada is thought to be at substantial risk because of several factors, including isolation, small population size, demographic and environmental stochasticity, and low reproductive capacity, in addition to ongoing habitat loss (Zielinski *et al.* 1995; Lamberson *et al.* in litt. 2000; Drew *et al.* 2003).

Finding

We have reviewed the petition, literature cited in the petition, and information available in Service files. We have found that the petition presents substantial information indicating the West Coast population of the fisher may be a distinct population segment for which listing may be warranted.

The petition also requests us to designate critical habitat for this species. If we determine in our12-month finding that listing the fisher in its West Coast range is warranted, we will address the designation of critical habitat in the subsequent proposed listing rule or as funding allows.

Public Information Solicited

When we make a finding that substantial information exists to indicate that listing a species may be warranted, we are required to promptly commence a review of the status of the species. To ensure that the status review is complete and based on the best available scientific and commercial information, we are soliciting information on the fisher in California, Oregon, and Washington. This includes information regarding historical and current distribution, biology and ecology, ongoing conservation measures for the fisher and its habitat, and threats to the fisher and its habitat. We also request information regarding the adequacy of existing regulatory mechanisms including, but not limited to, State regulations pertaining to timber harvest, as well as the California Environmental Quality Act and any similar regulations that are applicable in Oregon or Washington. In addition to requesting information on the fisher in its West Coast range, we are requesting information on the species rangewide for the purpose of determining if the fisher in its West Coast range constitutes a DPS, or more than one DPS, or constitutes a significant portion of the range of the species. We request any additional information, comments, and suggestions from the public, other concerned governmental agencies, Tribes, the scientific community, industry or environmental entities, or any other interested parties concerning the status of the fisher.

If you wish to comment, you may submit your comments and materials concerning this finding to the Field Supervisor (*see* ADDRESSES section). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Respondents may request that we withhold a respondent's identity, as allowable by law. If you wish us to withhold your name or address, you must state this request prominently at the beginning of your comment. However, we will not consider anonymous comments. To the extent consistent with applicable law, we will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

References Cited

A complete list of all references cited herein is available on request from the Sacramento Fish and Wildlife Office (*see* **ADDRESSES** section).

Author

The primary author of this document is Jesse Wild (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 3, 2003.

Marshall P. Jones, Jr.,

Acting Director, Fish and Wildlife Service.

[FR Doc. 03–17467 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Interim Voluntary Guidelines To Avoid and Minimize Wildlife Impacts from Wind Turbines

AGENCY: Fish and Wildlife Service.

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

SUMMARY: The Fish and Wildlife Service (Service) has developed voluntary interim guidelines for locating and designing wind energy facilities to avoid or minimize the loss of wildlife, particularly birds and bats, and their

habitats. These guidelines are intended to assist Service personnel in providing technical assistance to the wind energy industry to avoid or minimize impacts to wildlife and their habitats through: (1) Proper evaluation of potential wind energy development sites; (2) proper location and design of turbines and associated structures within sites selected for development; and (3) pre- and post-construction research and monitoring to identify and/or assess impacts to wildlife. This guidance is intended for terrestrial applications only; guidelines for wind energy developments in marine environments and the Great Lakes are being studied and will be provided at a future date. While these guidelines are voluntary, we encourage their immediate use by the wind energy industry. We also encourage and solicit comments on this guidance, including suggestions for improvement based on new scientific research. The interim guidelines are based on current science and will be updated as new information becomes available. They will be evaluated over a 2-year period, and then modified as necessary based on their performance in the field and on the latest scientific and technical discoveries developed in coordination with industry, States, academic researchers, and other Federal agencies. Extensive use of the interim guidelines by the wind industry will be vital to this evaluation. The guidelines may be accessed on the Service's Web site at *http://www.fws.gov/r9dhcbfa.* Comments on the interim guidelines are invited during the 2-year interim period.

DATES: Comments on the interim guidelines must be received or postmarked by July 7, 2005.

ADDRESSES: Comments should be sent to Dr. Benjamin N. Tuggle, Chief, Division of Federal Program Activities, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Contact Dr. Benjamin N. Tuggle at (703) 358–2161.

SUPPLEMENTARY INFORMATION: In response to recommendations made in the National Energy Policy report, the Department of the Interior has been re-evaluating its existing renewable energy programs and industry access limitations to Federal lands. These actions are intended to both increase the Department's use of renewable energy and to assist industry in increasing renewable energy production, in an environmentally friendly manner, on Department managed lands. Development of wind energy is a significant component of this initiative.

Wind-generated electrical energy is renewable, produces no emissions, and is considered to be generally environmentally friendly technology. However, wind energy facilities can adversely impact wildlife, especially birds and bats, and their habitats. Commercial wind energy facilities have been constructed in 29 States, with developments planned for several other states as well as coastal and offshore areas. As more facilities with larger turbines are built, the cumulative effects of this rapidly growing industry may initiate or contribute to the decline of some wildlife populations. The potential harm to these populations from an additional source of mortality makes careful evaluation of proposed facilities essential. Considerable avian mortality occurred at older wind energy facilities; therefore, the potential impact of the current rapid expansion of wind energy developments on wildlife is of serious concern to the Fish and Wildlife Service, the wind energy industry, and the public. Due to local differences in wildlife concentration and movement patterns, habitats, area topography, facility design, and weather, each proposed development site is unique and requires detailed, individual evaluation.

Service personnel may become involved in the review of potential wind energy developments on public lands through National Environmental Policy Act review (Sections 1501.6, opportunity as a cooperating agency, and Section 1503.4, duty to comment on federally-licensed activities for agencies with jurisdiction by law, *i.e.*, the Migratory Bird Treaty Act and Bald and Golden Eagle Protection Act); or because of special expertise. The National Wildlife Refuge System Improvement Act requires that any activity on Refuge lands be determined to be compatible with the Refuge system mission and Refuge purpose(s). In addition, the Service is required by the Endangered Species Act to assist other Federal agencies in ensuring that any action they authorize, implement, or fund will not jeopardize the continued existence of any federally endangered or threatened species. Service biologists have also received requests from industry for consultation on wildlife impacts of proposed wind energy developments on private lands.

In January 2002, the Service established a Wind Turbine Siting Working Group to develop a set of comprehensive national guidelines for locating, designing, and operating wind energy facilities in a manner that would avoid or minimize the loss of wildlife and their habitats at these facilities. The purpose of this effort is to ensure that wildlife resources are protected while streamlining the site selection and facility design process, and avoiding unanticipated conflicts after construction.

(Notice: Interim Voluntary Guidelines to Avoid and Minimize Wildlife Impacts from the Wind Turbines)

Dated: June 23, 2003.

Matt Hogan,

Deputy Director, U.S. Fish and Wildlife Service.

[FR Doc. 03–17429 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–030–1020–PG; G 03–0221]

Resource Advisory Council Call for Nominations

AGENCY: Bureau of Land Management (BLM), Vale District, Interior.

ACTION: Notice of Resource Advisory Council call for nominations.

SUMMARY: The purpose of this notice is to solicit public nominations for two vacancies on the Bureau of Land Management (BLM) Southeast Oregon Resource Advisory Council (RAC). There is a timber industry term in Category One that expires in 2004, and a dispersed recreation term in Category Two that expires in 2005. The RAC provides advice and recommendations to the BLM and the USDA Forest Service on land use planning and management of the public lands located in whole or in part within the Vale, Burns and Lakeview Districts of BLM and the Fremont, Deschutes, Ochoco, and Malheur National Forests. Public nominations will be considered for 30 days after the publication date of this notice.

The Federal Land Policy and Management Act (FLPMA) directs the Secretary of the Interior to involve the public in planning and issues related to management of lands administered by BLM.

Section 309 of FLPMA directs the Secretary to select 10 to 15 member citizen-based advisory councils that are established and authorized consistent with the requirements of the Federal Advisory Committee Act (FACA). As required by the FACA, RAC members appointed to the RAC must be balanced and representative of the various interests concerned with the management of the public lands.

These include three categories: Category One—Holders of federal

grazing permits and representatives of energy and mineral development, timber industry, transportation or rights-of-way, off-highway vehicle use, and commercial recreation;

Category Two—Representatives of nationally or regionally recognized environmental and resource conservation organizations, archaeological and historic interests, dispersed recreation, and wild horse and burro groups;

Category Three—Holders of State, county or local elected office, employees of a State agency responsible for management of natural resources, academicians involved in natural sciences, representatives of Indian tribes, and the public-at-large.

Individuals may nominate themselves or others. Nominees for the Southeast Oregon RAC must be residents of Oregon. Forms are available at the Oregon BLM's Web site: *http://www.or.blm.gov/SEOR-RAC/form-nomination.pdf.* Nominees will be evaluated based on their education, training, and experience and their knowledge of the geographical area of the RAC.

Nominees should have demonstrated a commitment to collaborative resource decision making. All nominations must be accompanied by letters of reference from represented interests or organizations, a completed background information nomination form, as well as any other information that speaks to the nominee's qualifications.

Nominations for this RAC should be sent to: Pam Robbins, State Office, BLM, 333 Southwest 1st Avenue, Portland, OR 97203

DATES: All nominations should be received by the Oregon BLM State Office by September 15, 2003.

FOR FURTHER INFORMATION CONTACT: Pam Robbins, P. O. Box 2965, Portland, OR 97208; (503) 808–6306; or *pam_robbins@or.blm.gov.*

Dated: July 3, 2003.

Sandy Guches,

Associate District Manager.

[FR Doc. 03–17431 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1430–BJ]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of filing of plats of surveys.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657.

SUMMARY: The Bureau of Land Management (BLM) has officially filed the plats of survey of the lands described below in the BLM Idaho State Office, Boise, Idaho, effective 9 a.m., on the dates specified.

The plat, constituting the entire survey record of the dependent resurvey of a portion of the subdivisional lines, a portion of the 1878 meanders of the left bank of the Snake River in section 25, and a portion of former Tract 38, and a metes-and-bounds survey of Lot 18, section 25, in T. 4 N., R. 40 E., Boise Meridian, Idaho, was accepted May 28, 2003.

The supplemental plat was prepared to amend lots in section 6, T. 23 N., R. 22 E., Boise Meridian, Idaho, and was accepted June 13, 2003.

The plats representing the dependent resurvey of portions of the east boundary (Boise Meridian), south boundary (First Standard Parallel North), north boundary, and the subdivisional lines, and the subdivision of sections 2, 3, 10, 11, 12, 13, 14, 15, 21, 23, 26, 27, 28, 33, 34, and 35, in T. 6 N., R. 1 W., Boise Meridian, Idaho, were accepted June 26, 2003.

The plat representing the dependent resurvey of portions of the east and north boundaries, subdivisional lines, and of Homestead Entry Survey Nos. 203 and 206, and the subdivision of sections 1, 2, and 3, in T. 14 S., R. 24 E., Boise Meridian, Idaho, was accepted June 27, 2003.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Bureau of Land Management to meet certain administrative needs of the Bureau of Indian Affairs. The lands we surveyed are:

The plat representing the dependent resurvey of a portion of the subdivisional lines and subdivision of section 16, and the further subdivision of section 16, in T. 4 S., R. 34 E., Boise Meridian, Idaho, was accepted June 26, 2003.

This survey was executed at the request of the Bureau of Land Management to meet certain administrative needs of the U.S.D.A. Forest Service. The lands we surveyed are:

The plats, constituting the entire survey record of the dependent resurvey of a portion of the east boundary and a portion of the subdivisional lines, designated to restore the corners in their true original locations, and the subdivision of sections 1, 11, 12, and 13, in T. 19 N., R. 2 E., Boise Meridian, Idaho, was accepted June 30, 2003.

Dated: July 2, 2003.

Harry K. Smith,

Chief Cadastral Surveyor for Idaho.

[FR Doc. 03–17310 Filed 7–9–03; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1021 (Final)]

Malleable Iron Pipe Fittings From China

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of an antidumping investigation.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1021 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from China of malleable iron pipe fittings, provided for in subheading 7307.19.90 of the Harmonized Tariff Schedule (HTS).[1]

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: June 6, 2003.

FOR FURTHER INFORMATION CONTACT: Cynthia Trainor (202–205–3354), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by

[1] For purposes of this investigation, the imported merchandise from China consists of malleable iron pipe fittings, cast, other than grooved fittings, and excludes metal compression couplings (couplings consisting of a coupling body, two gaskets, and two compression nuts; ranging in diameter from ½ inch to 2 inches; and in galvanized finish).

accessing its internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—The final phase of this investigation is being scheduled as a result of an affirmative preliminary determination by the Department of Commerce that imports of malleable iron pipe fittings from China are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on October 30, 2002, by Anvil International, Inc., Portsmouth, NH and Ward Manufacturing, Inc., Blossburg, PA.

Participation in the investigation and public service list.—Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report.—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on October 8, 2003, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing.—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on October 23, 2003, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before October 16, 2003. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 20, 2003, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is October 16, 2003. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is October 30, 2003; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before October 30, 2003. On November 14, 2003, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before November 18, 2003, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002).

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: July 3, 2003.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–17426 Filed 7–9–03; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–03–022]

Sunshine Act Meeting

AGENCY: United States International Trade Commission.

TIME AND DATE: July 18, 2003 at 9:30 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–436 and 731–TA–1042 (Preliminary)(Certain Colored Synthetic Organic Oleoresinous Pigment Dispersions from India)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before July 21, 2003; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before July 28, 2003.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: July 7, 2003.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 03–17571 Filed 7–8–03; 10:48 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Partial Consent Decree Under the Clean Water Act

Under 28 CFR 50.7, notice is hereby given that on June 25, 2003, a proposed Partial Consent Decree in *United States* v. *District of Columbia Water and Sewer Authority (''WASA''), et al.,* Civil Action No. 1:02–02511 (TFH) and in *Anacostia Watershed Society* v. *District of Columbia Water and Sewer Authority, et al.,* Civil Action No. 1:00CV00183 (TFH), was lodged with the United States District Court for the District of Columbia.

The two actions allege violations by the defendants of provisions of the Clean Water Act that pertain to overflows from the combined sewer system in the District of Columbia. Both complaints include a claim that the defendants failed to implement certain interim measures, termed ''Nine Minimum Controls,'' timely and adequately. The proposed partial consent decree resolves that specific claim and requires defendant WASA to perform a number of specific projects, including refurbishment or rehabilitation of its major pump stations and enhanced notice to the public of CSO events.

The partial consent decree also resolves the Plaintiffs' claims for civil penalties through the date of lodging of the decree. Under the decree, WASA will pay a civil penalty of $250,00 to the United States Treasury and construct and operate Supplemental Environmental Projects (''SEPs'') valued at $1.7 million. The SEPs will consist of ''low impact development'' projects, which includes various technologies such as vegetation, rain barrels, tree canopies, and drainage trenches that are designed to detain and store wet weather run-off to promote infiltration to the ground and evaporation. In addition, WASA will pay $300,000 to the Chesapeake Bay Foundation for the construction of ''roof gardens,'' a kind of low impact development consisting of vegetation on rooftops.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *District of Columbia Water and Sewer Authority (''WASA''), et al.,* Civil Action No. 1:02–02511 (TFH), DOJ # 90–5–1–1–07137.

The Partial Consent Decree may be examined at the Office of the United States Attorney, c/o Lydia Griggsby, 555 Fourth Street NW., Washington, DC 20001, and at U.S. EPA Region III, 1650 Arch Street, Philadelphia, PA 19103–2029.

During the public comment period, the Partial Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Partial Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $19.50 payable to the U.S. Treasury. In requesting a copy exclusive of exhibits, please enclose a check in the amount of $15.25 payable to the U.S. Treasury.

Robert Brook,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–17414 Filed 7–9–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental Policy, 28 U.S.C. 50.7, notice is hereby given that on July 1, 2003, a proposed Consent Decree in *United States* v. *David Pascale, et al.*, Civil Action No. 96–3774 (HAA) was lodged with the United States District Court for the District of New Jersey.

In this action the United States sought cost recovery with respect to the Grand Street Mercury Superfund Site, locate in Hoboken, New Jersey (''the Site''), under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') against David P. Pascale, John J. Pascale, now deceased and represented by his estate, the Grand Street Artists (a New Jersey Partnership) and the individual former residents of the converted industrial facility (collectively, the ''Settling Defendants''). Under the terms of the proposed settlement, the Settling Defendants will pay $3,924,844 to reimburse the United States and the State of New Jersey for costs incurred at the Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Davis Pascale*, D.J. Ref. 90–11–3–1769/1.

The Consent Decree may be examined at the Office of the United States Attorney, 970 Broad Street, 7th Floor, Newark, New Jersey, 07102, and at U.S. EPA Region II, 290 Broadway, 17th Floor, New York, New York, 10007–1866. During the public comment period, the Consent Decree, may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov)*, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $5.75 (25 cents per page reproduction cost-not including the individual residents' signature pages) payable to the U.S. Treasury.

Ronald Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 03–17413 Filed 7–9–03; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–39,162 & NAFTA–04822]

ME International, Inc., Duluth, MN; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) granted the Secretary of Labor's motion for a voluntary remand for further investigation in *United Steelworkers of*

America on Behalf of Former Workers of ME International, Inc. v. *Elaine L. Chao, U.S. Secretary of Labor* (Court No. 02–00404).

The Department's initial denial of certification for the petitions (TA–W–39,162 & NAFTA–04822) filed for employees of ME International, Inc., Duluth, Minnesota were issued on October 2, 2001 and published in the **Federal Register** on October 19, 2001 (66 FR 53251 and 53252, respectively). The denial of Trade Adjustment Assistance (TAA) was based on a finding 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. The denial of NAFTA-Transitional Adjustment Assistance (NAFTA-TAA) was based on the finding that criteria (3) and (4) were not met. Imports from Canada or Mexico did not contribute importantly to workers' separations, nor was there a shift in plant production to Canada or Mexico.

On administrative reconsideration, the Department issued a ''Notice of Negative Determination Regarding Application for Reconsideration,'' for cases TA–W–39,162 and NAFTA–04822 on March 25, 2002 for the employees of ME International, Inc., Duluth, Minnesota. The notice was published in the **Federal Register** on April 17, 2002 (67 FR 18926). The Department affirmed its conclusions that imports did not contribute importantly to worker separations at the subject firm.

On remand, the Department contacted the company for additional customers that were not supplied by the company during the previous investigations. The company this time responded by supplying an extensive list of customers.

The U.S. Department of Labor conducted a survey of the customers regarding their purchases of mine wear parts during the relevant period. The survey revealed that customers increased their imports of mine wear parts from Canada and/or Mexico and also increased purchases of total U.S. imports, while decreasing their purchases from the subject firm during the relevant period.

Conclusion

After careful review of the additional facts obtained on remand, I determine that increases in imports of articles (including from Canada and/or Mexico) like or directly competitive with those produced by the subject firm 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 ME International, Inc., Duluth, Minnesota, who became totally or partially separated from employment on or after April 9, 2000, through two years from the issuance of this revised determination, are eligible to apply for worker adjustment assistance under Section 223 of the Trade Act of 1974.'' and

''All workers of ME International, Inc., Duluth, Minnesota, who became totally or partially separated from employment on or after April 30, 2000, through two years from the issuance of this revised determination, are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.''

Signed at Washington, DC this 25th day of June 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17444 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance and NAFTA Transitional Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974, as amended, the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers (TA–W) issued during the period of June 2003.

In order for an affirmative determination to be made and a certification of eligibility to apply for worker adjustment assistance to be issued, each of the group eligibility requirements of Section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated; and

(2) That sales or production, or both, of the firm or sub-division have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production of such firm or subdivision.

Negative Determinations for Worker Adjustment Assistance

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

None

In the following case, the investigation revealed that the criteria for eligibility have not been met for the reasons specified.

The investigation revealed that criterion (a)(2)(A)(I.C.) (Increased imports) and (a)(2)(B)(II.B) (No shift in production to a foreign country) have not been met.

TA–W–51,786; Seaway Pattern Manufacturing, Inc., Toledo, OH
TA–W–51,847; Morgan Lumber, Inc., Bingham, ME
TA–W–51,584; General Electric Power Systems, a wholly-owned subsidiary of General Electric Company, Bangor, ME
TA–W–51,659; Brookline, Inc., Charlotte, NC
TA–W–51,760; Satelite Technology Management, a/k/a STM Wireless, Inc., Irvine, CA
TA–W–51,777; Cambridge Metal and Plastics, Cambridge, MN

The workers firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA–W–51,341; Washington Group International, Inc., Niagara Engineering and Design Group, Niagara Falls, NY
TA–W–50,835; Agilent Technologies, Manufacturing Test Business Unit, Electronic Manufacturing Test Div., Loveland, CO
TA–W–51,954; Facility Pro, Allentown, PA
TA–W–51,548; Cypress Semiconductor Design Center, Colorado Springs, CO
TA–W–51,677; McKittrick and Associates, Inc., Charlotte, NC
TA–W–51,678; D and W International, Inc., Charlotte, NC
TA–W–51,746; Motorola, Inc., Ocotillo Facility, Chandler, AZ
TA–W–51,897; Yellow Book USA, Effingham, IL
TA–W–51,921; Nortel Networks, Inc., Department JC 50, Research Triangle Park, NC
TA–W–52,035; Ingram Micro, Inc., Williamsville, NY

The investigation revealed that criterion (a)(2)(A)(I.A) (no employment declines) have not been met.

TA–W–51,976; State of Alaska Commercial Fisheries Entry

Commission Permit #S04T646970, Naknek, AK

TA–W–52,064; Fishing Vessel (F/V) Tuckahoe, Ward Cove, AK

The investigation revealed that criteria (a)(2)(A)(I.B) (Sales or production, or both, did not decline) and (II.B) (has shifted production to a country not under the free trade agreement with the U.S) have not been met.

TA–W–51,757; Coherent, Inc., Laser Measurement Control Business Unit, Auburn, CA

The investigation revealed that criteria (a)(2)(A)(I.C) (increased imports) and (a)(2)(B)(II.C) (has shifted production to a country not under the free trade agreement with U.S) have not been met.

TA–W–51,802; Lucent Technologies, Research and Development Div., ''SDHLR Team'' Only, Columbus, OH

The investigation revealed that criteria (2) has not been met. The workers firm (or subdivision) is not a supplier or downstream producer to trade-affected companies.

TA–W–51,825; Ultra Precision, Inc., Freeport, PA

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued; the date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of (a)(2)(A) (increased imports) of section 222 have been met.

TA–W–51,514; Crown Pacific, including temporary workers of Express Personnel, Prineville, OR: April 15, 2002.

TA–W–51,826; Schweiger, Div. of K.C.S., Jefferson, WI: May 19, 2002.

TA–W–51,972; Ken-Marc Sales Corp., Maspeth, NY: June 5, 2002.

TA–W–52,004; Golden Casting Corp., Columbus, IN: May 22, 2002.

TA–W–50,764; Permagrain Production, Inc., Karthaus, PA: January 30, 2002.

TA–W–51,283; Premier Industries, Inc., Insulfoam Div., The Dalles, OR: March 21, 2002.

TA–W–51,477; Farley's and Sathers Candy Co., Inc., Pittston, PA: April 9, 2002.

TA–W–51,566; Silver Bay Logging, Inc., Wrangell, AK: April 22, 2002.

TA–W–51,698; C and B, LLC, Tennille, GA: May 7, 2002.

TA–W–51,726; Columbia Falls Aluminum Co., a wholly-owned subsidiary of Glencore, Limited, Columbia Falls, MT: May 8, 2002.

TA–W–51,793; Commerce Engineering and Pattern Co., Walled Lake, MI: May 1, 2002.

TA–W–51,794; Progress Pattern Corp., Livonia, MI: May 1, 2002.

TA–W–51,814; Nexfor Fraser Paper, subsidiary of Nexfor, Inc., Madawanka, ME: May 13, 2002.

TA–W–51,869; Curtis Papers, Inc., Milford, NJ: May 19, 2002.

TA–W–51,909 & A, B & C; Inman Mills, Mountain Shoals Plant, Enoree, SC, Ramey Plant, Enoree, SC, Saybrook Plant, Inman, SC, Corp. Office, Inman, SC: May 18, 2003.

TA–W–51,940; Broyhill Furniture Industries, Inc., Rutherfordton Case Goods Plant, a wholly owned subsidiary of Furniture Brands International, Inc., Rutherfordton, NC: May 27, 2002.

TA–W–51,997; A. Schulman, Inc., Orange, TX: June 2, 2002.

The following certifications have been issued. The requirements of (a)(2)(B) (shift in production) of Section 222 have been met.

TA–W–51,965; Copperweld Corporation, Birmingham Div., Birmingham, AL: May 28, 2002.

TA–W–51,510; Dana Corp., Traction and Technologies Group, Fort Wayne, IN: April 10, 2002.

TA–W–51,843; Mercury Minnesota, Inc., Faribault, MN: May 14, 2002.

TA–W–51,880; Infocus Corp., formerly Infocus Systems, Inc., Wilsonville, OR: May 8, 2002.

TA–W–51,898; MRC Bearings, a div. of SKF USA, Inc., Jamestown/Falconer, NY: May 21, 2002.

TA–W–51,912; Tecumseh Products Co., Grafton Operations, Grafton, WI: May 28, 2002.

TA–W–51,967; Reading Anthracite Co., Pottsville, PA: May 29, 2002.

TA–W–52,001; Risdon-AMS USA, Inc., a wholly-owned subsidiary of Crown Holdings, Laconia, NH: June 10, 2002.

TA–W–52,008; Electronic Product Integration Corp., Norwalk, OH: May 16, 2002.

TA–W–52,061; Fishing Vessel (F/V) Alta E, Point Baker, AK: May 6, 2002.

The following certification has been issued. The requirement of upstream supplier to a trade certified primary firm has been met.

TA–W–52,012; State of Alaska Commercial Fisheries Entry Commission Permit #S04T59899, Bristol Bay, AK: June 6, 2002.

The following certification has been issued. The requirement of downstream finisher to a trade certified primary firm has been met.

TA–W–51,571; Shoals Graphics and Apparel, Inc., Florence, AL: April 14, 2002.

I hereby certify that the aforementioned determinations were issued during the months of June 2003. Copies of these determinations are available for inspection in Room C–5311, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons who write to the above address.

Dated: June 27, 2003.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–17456 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,882]

BASF Corporation, Hannibal, MO; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 28, 2003 in response to a worker petition filed on behalf of workers at BASF Corporation, Hannibal, Missouri, employed as leased workers at Alpharma, Inc., Animal Health Division, Hannibal Manufacturing Plant, Palmyra, Missouri.

The petitioning group of workers is covered by an active certification issued on April 30, 2003 and which remains in effect (TA–W–51,349). Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 17th day of June 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17454 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,733]

Dirigo Dowels and Pins, Inc., New Portland, Maine; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 12,

2003 in response to a petition filed by a company official on behalf of workers at Dirigo Dowels and Pins, Inc., New Portland, Maine.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 16th day of June, 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17452 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,040]

Flynt Fabrics, Inc., Graham, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 16, 2003, in response to a worker petition filed by a company official on behalf of workers at Flynt Fabrics, Inc., Graham, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 17th day of June 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17457 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,923, TA–W–50,923A, and TA–W–50,923B]

Gretag Imaging, Inc. Including Temporary Workers of Agentry, Holyoke, MA, Including Employees of Gretag Imaging, Inc. Operating at Various Locations in the Following States: Minnesota, Florida; 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 April 16, 2003, applicable to workers of Gretag Imaging, Inc., including temporary workers of Agentry, Holyoke, Massachusetts. The notice was published in the **Federal Register** on May 1, 2003 (68 FR 23323).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. New information shows that worker separations occurred involving employees of the Holyoke, Washington facility of Gretag Imaging, Inc. located in Minnesota and Florida. These employees were field service technicians supporting the production of photo processing equipment at the Holyoke, Massachusetts location of the subject firm.

Based on these findings, the Department is amending this certification to include employees of the Holyoke, Massachusetts facility of Gretag Imaging, Inc. located in Minnesota and Florida.

The intent of the Department's certification is to include all workers of Gretag Imaging, Inc. who were adversely affected by increased imports.

The amended notice applicable to TA–W–50,923 is hereby issued as follows:

All workers of Gretag Imaging, Inc., including temporary workers of Agentry, Holyoke, Massachusetts (TA–W–50,923), including employees of Gretag Imaging, Inc., Holyoke, Massachusetts, located in Minnesota (TA–W–50923A) and Florida (TA–W–50,923B), who became totally or partially separated from employment on or after February 1, 2002, through April 16, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC this 24th day of June 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17446 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,095]

Honeywell Control Products, Mars Hill, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 19, 2003 in response to a worker petition filed by a company official on behalf of workers at Honeywell, Control Products, Mars Hill, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC this 26th day of June, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17451 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,095]

M. Wile Company, dba HMX Tailored, Also Known as Intercontinental Branded Apparel, Buffalo, NY; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on May 28, 2003, applicable to workers of M. Wile Company, dba HMX Tailored, located in Buffalo, New York. The notice was published in the **Federal Register** on June 19, 2003 (68 FR 36845).

At the request of the State Agency, the Department reviewed the certification for workers of the subject firm. The workers produce men's tailored clothing including men's suit coats and sport coats and cut fabric for men's pants produced at other company plants.

The review shows that the subject firm also does business under the brand name, Intercontinental Branded Apparel. Workers of Intercontinental Branded Apparel, Ellwood Avenue, Buffalo, New York,were certified eligible to apply for worker adjustment assistance under petition number TA–W–38,253, which expired February 21, 2003.

Therefore, in order to avoid an overlap in worker group coverage, the Department is amending the February 21, 2002 impact date established for TA–W–51,095, to read February 22, 2003.

The amended notice applicable to TA–W–51,095 is hereby issued as follows:

All workers of M. Wile Company, dba HMX Tailored, also known as Intercontinental Branded Apparel, Buffalo, New York, who became totally or partially separated from employment on or after February 22, 2003, through May 28, 2005, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of June 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17448 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,260]

Motorola, Incorporated, Semiconductor Products Sector,Bipolar Manufacturing Center, Mesa, AZ; Notice of Termination of Certification

This notice terminates the Certification Regarding Eligibility to Apply for Worker Adjustment Assistance issued by the Department on April 25, 2003 for all workers of Motorola, Inc., Semiconductor Products Sector, Bipolar Manufacturing Center, Mesa, Arizona. The notice was published in the **Federal Register** on May 9, 2003 (FR 68 25061).

The Department, at the request of the State Agency, reviewed this certification for workers of the aforementioned group.

The certification review revealed that signatories of the petition were not among the certified worker group mentioned above, but were instead part of facilities employees, charged with maintaining plant operations. The facilities or ''Site Services'' employees are eligible for NAFTA Transitional Adjustment Assistance benefits under NAFTA–6506 as amended May 16, 2003 to include these workers.

Since the workers of Bipolar Manufacturing Center are not represented by all of the petitioners, the TA–W–50,260 investigation was conducted erroneously and the certification is thus invalid. The Bipolar Manufacturing Center worker group continues to be eligible to apply for benefits of the NAFTA–6505 Transitional Adjustment Assistance certification issued on September 24, 2002 and in effect until September 24, 2004.

The certification issued under investigation TA–W–50,260 has been terminated.

Signed at Washington, DC this 27th day of June 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17445 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–52,030]

Plassein International, Martin Michigan Operations, Martin, MI; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on June 13, 2003, in response to a petition filed on behalf of workers at Plassein International, Martin Michigan Operations, Martin, Michigan.

The company official who filed the petition requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose and the investigation has been terminated.

Signed in Washington, DC this 27th day of June 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17450 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,754]

RODCO Products, Lewiston, ME; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on May 14, 2003 in response to a petition filed by a company official on behalf of workers at RODCO Products, Lewiston, ME.

The company official has requested that the investigation be terminated.

Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 18th day of June, 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17455 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Division of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 21, 2003.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Division of Trade Adjustment Assistance, at the address shown below, not later than July 21, 2003.

The petitions filed in this case are available for inspection at the Office of the Director, Division of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–5311, 200 Constitution Avenue, NW., Washington, DC 20210.

Signed at Washington, DC, this 23rd day of June, 2003.

Timothy Sullivan,

Director, Division of Trade Adjustment Assistance.

[Petitions Instituted Between 06/16/2003 and 06/20/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
52,037	Swan Finishing Co., Inc. (Comp)	Fall River, MA	06/16/2003	06/13/2003
52,038	Sonoco Products Company (Comp)	Granite Falls, NC	06/16/2003	06/13/2003
52,039	Hereaus Electro-Nite Co. (IBT)	Philadelphia, PA	06/16/2003	06/13/2003
52,040	Flynt Fabrics, Inc. (Comp)	Graham, NC	06/16/2003	05/27/2003
52,041	St. Mary's Trigen Biopower (Wkrs)	St. Mary's GA	06/16/2003	06/10/2003
52,042	Wheatland Tube Co. (Wkrs)	Sharon, PA	06/16/2003	06/10/2003
52,043	Congoleum Corp. (NJ)	Mercerville, NJ	06/16/2003	06/13/2003
52,044	Spectrum Dyed Yarns, Inc. (Comp)	Kings Mountain, NC	06/16/2003	06/12/2003
52,045	Agere Systems (IBEW)	Reading, PA	06/16/2003	06/10/2003
52,046	Sauer-Danfoss (UAW)	Sturtevant, WI	06/16/2003	06/10/2003
52,047	CEMCO (CA)	Willits, CA	06/16/2003	05/28/2003
52,048	Hamilton Sundstrand (Comp)	Long Beach, CA	06/16/2003	06/06/2003
52,049	American Leather, LP (Comp)	Dallas, TX	06/17/2003	06/12/2003
52,050	Merrill Corporation (Wkrs)	St. Paul, MN	06/17/2003	06/10/2003
52,051	Leviton Manufacturing (Comp)	Morgantown, NC	06/17/2003	06/17/2003
52,052	Corning Cable Systems (Wkrs)	Hickory, NC	06/17/2003	06/02/2003
52,053	Whispering Pines Sprotswear (Comp)	Pageland, SC	06/17/2003	04/08/2003
52,054	Coinco (Wkrs)	Mountain View, MO	06/17/2003	06/13/2003
52,055	Advanced Machining (OR)	Newberg, OR	06/17/2003	06/16/2003
52,056	Dynamic Metal Forming, Inc. (IW)	Scottdale, PA	06/17/2003	05/05/2003
52,057	Kasco Corporation (Wkrs)	St. Louis, MO	06/17/2003	06/13/2003
52,058	Smith Enterprises, Inc. (Comp)	Rock Hill, SC	06/17/2003	06/13/2003
52,059	Brown Foundry, Inc. (VT)	Swanton, VT	06/17/2003	06/16/2003
52,060	Amital Spinning Corporation (Comp)	New Bern, NC	06/17/2003	06/17/2003
52,061	Fishing Vessel (F/V) Alta E (Comp)	Point Baker, AK	06/17/2003	06/06/2003
52,062	F/V Juanderer (Comp)	Elfin Cave, AK	06/17/2003	06/12/2003
52.063	F/V Elvagene (Comp)	Grays River, WA	06/17/2003	05/28/2003
52,064	Fishing Vessel (F/V) Tuckahoe (Comp)	Ward Cove, AK	06/17/2003	05/26/2003
52,065	F/V Madame Ching and Village Idiot (Comp)	Fair Banks, AK	06/17/2003	06/12/2003
52,066	SWR Sound Corporation (Wkrs)	Sun Valley, CA	06/18/2003	06/05/2003
52,067	Pall Life Services (Wkrs)	Ann Arbor, MI	06/18/2003	04/15/2003
52,068	Alice Manufacturing Company (Comp)	Easley, SC	06/18/2003	06/10/2003
52,069	MKS Instruments (Comp)	Colorado Spring, CO	06/18/2003	06/17/2003
52,070	Master Gear (Wkrs)	South Beloit, IL	06/18/2003	06/05/2003
52,071	Colson Plastics (AR)	Monette, AR	06/18/2003	06/16/2003
52,072	Colson Caster Corp. (AR)	Jonesboro, AR	06/18/2003	06/16/2003
52,073	Amerigon Incorporated (Comp)	Irwindale, CA	06/18/2003	06/04/2003
52,074	Wellmade Industries, Inc. (Comp)	New York, NY	06/18/2003	06/05/2003
52,075	Prescolite, Inc. (AR)	El Dorado, AR	06/18/2003	06/16/2003
52,076	Sandicast, Inc. (Comp)	San Diego, CA	06/18/2003	06/10/2003
52,077	H and H Sewing (Wkrs)	Blaine, MN	06/18/2003	06/01/2003
52,078	Plastene Supply Co (Wkrs)	Portageville, MO	06/18/2003	04/03/2003
52,079	Photocircuits Corporation (Wkrs)	Glen Cove, NY	06/18/2003	06/09/2003
52,080	MJJ Brilliant, Inc. (Wkrs)	New York, NY	06/18/2003	06/02/2003
52,081	Flex-N-Gate (Wkrs)	Ada, OK	06/18/2003	06/02/2003
52,082	Pratt and Whitney (Wkrs)	W. Palm Beach, FL	06/18/2003	06/09/2003
52,083	Sweet Orr (UNITE)	Madison, GA	06/18/2003	05/29/2003
52,084	Lord Corp. (Comp)	Erie, PA	06/18/2003	05/09/2003
52,085	Motorola, Inc. (Comp)	San Diego, CA	06/18/2003	06/05/2003
52,086	Stream International (Comp)	Farmers Branch, TX	06/19/2003	04/30/2003
52,087	Advantek (MN)	Minnetonka, MN	06/19/2003	06/12/2003
52,088	Avondale Mills, Inc. (Comp)	Alexander City, AL	06/19/2003	06/13/2003
52,089	Dixie Industrial Coatings (Comp)	Chattanooga, TN	06/19/2003	06/09/2003
52,090	Conn-Selmer (UAW)	Elkhart, IN	06/19/2003	06/18/2003
52,091	Precision Dynamics Corp. (Comp)	Belleville, KS	06/19/2003	05/23/2003
52,092	General Mills (Wkrs)	Eden Prairie, MN	06/19/2003	05/28/2003
52,093	Mendocino Forest Products (Wkrs)	Fort Bragg, CA	06/19/2003	06/16/2003
52,094	Anemostat (Wkrs)	Scranton, PA	06/19/2003	06/17/2003
52,095	Honeywell (Comp)	Mars Hill, NC	06/19/2003	06/18/2003
52,096	Archer Daniels Midland (UFCW)	Decatur, IL	06/19/2003	06/18/2003
52,097	Symantec (Wkrs)	Springfield, OR	06/19/2003	06/18/2003
52,098	F/V Secure (Comp)	Bow, WA	06/20/2003	06/19/2003
52,099	Sony Semiconductor (Comp)	San Antonio, TX	06/20/2003	06/18/2003
52,100	Magneti Macelli (Wkrs)	Kingsport, TN	06/20/2003	06/19/2003
52,101	Pearl Baths, Inc. (MN)	Brooklyn Park, MN	06/20/2003	06/19/2003
52,102	Western Textile Products (Comp)	Memphis, TN	06/20/2003	06/12/2003
52,103	MR Dowel, Inc. (Wkrs)	Rumford, ME	06/20/2003	06/18/2003
52,104	Sanmina—SCI (Comp)	Augusta, ME	06/20/2003	06/19/2003
52,105	Johnson Hosiery Mills, Inc. (Wkrs)	Hickory, NC	06/20/2003	06/19/2003
52,106	BMI Holdings, Inc. (Comp)	Paterson, NJ	06/20/2003	06/18/2003

[Petitions Instituted Between 06/16/2003 and 06/20/2003]

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
52,107	Phillips Plastics Corporation (Comp)	Hudson, WI	06/20/2003	06/19/2003
52,108	Custom Screens, Inc. (Comp)	Stoneville, NC	06/20/2003	06/17/2003
52,109	1888 Mills (Wkrs)	Thomaston, GA	06/20/2003	06/11/2003
52,110	Pikeville Apparel Manufacturing, Inc. (Comp)	Pikeville, TN	06/20/2003	06/17/2003

[FR Doc. 03–17441 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,771]

Thompson-Hancok Technologies, Burlington, NC; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on May 15, 2003 in response to a worker petition which was filed by a company official on behalf of workers at Thompson-Hancock Technologies, Burlington, North Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 16th day of June, 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17453 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–50,977]

Wabash Technologies, Inc., Automotive Business Unit, Huntington, IN; Notice of Termination of Negative Determination 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 Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on April 8, 2003, applicable to workers of Wabash Technologies, Inc., Automotive Business Unit, located in Huntington, Indiana. The notice was published in the **Federal Register** on April 24, 2003 (68 FR 20177).

At the request of the State agency, the Department reviewed the decision for workers of the subject firm. The workers produce engine timing sensors and cam sensors. The review shows that on July 23, 2002, all workers of Wabash Technologies, Inc., Automotive Business Unit, Huntington, Indiana, who were separated from employment on or after May 2, 2001, were certified eligible to apply for worker adjustment assistance under petition number TA–W–41,526. The certification does not expire until July 23, 2004. The certification effectively includes workers at the subject firm producing engine timing sensors and cam sensors.

Consequently, the Department is terminating the negative determination issued to workers of Wabash Technologies, Inc., Automotive Business Unit, located in Huntington, Indiana, under TA–W–50,977.

Signed at Washington, DC, this 9th day of June 2003.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17447 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–51,415]

Washington Group IDC, Manassas, VA; Notice of Revised Determination on Reconsideration

On June 9, 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 denied TAA to workers of Washington Group IDC, Manassas, Virginia, because the workers did not produce an article within the meaning of section 222(c)(3) of the Trade Act of 1974.

On reconsideration, the Department conducted an on-site analysis of the functions performed by Washington Group IDC, Manassas, Virginia employees at Micron Technology, Manassas, Virginia. The workers of Micron Technology, Manassas, Virginia (TA–W–51,231) were certified eligible to apply for Trade Adjustment Assistance (TAA) on May 7, 2003.

The on-site investigation revealed that Washington Group IDC workers performed a variety of functions at Micron Technology, Inc. Manassas, Virginia. The review revealed that in addition to facilities management services, a meaningful portion of their work relates to the production of the products (wafers) manufactured at Micron Technology. The workers are not separately identifiable by specific function.

The investigation further revealed that employment and production at the subject facility declined 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 wafers, contributed importantly to the declines in sales or production and to the total or partial separation of workers of Washington Group IDC, Manassas, Virginia working at Micron Technology, Manassas, Virginia. In accordance with the provisions of the Act, I make the following certification:

All workers of Washington Group IDC, Manassas, Virginia working at Micron Technology, Manassas, Virginia who became totally or partially separated from employment on or after March 27, 2002 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed in Washington, DC, this 17th day of June 2003.

Elliott S. Kushner,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17449 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–6506]

Motorola, Incorporated, Semiconductor Products Sector, Bipolar Manufacturing Center, Including Workers of the Facilities Workgroup, Mesa, AZ; Amended Certification Regarding Eligibility To Apply for NAFTA-Transitional Adjustment Assistance

In accordance with Section 250(a), Subchapter D, Chapter 2, Title II, of the Trade Act of 1974, as amended (19 U.S.C. 2273), the Department of Labor issued a Certification of Eligibility to Apply for NAFTA-Transitional Adjustment Assistance on September 24, 2002, applicable to all workers of Motorola, Incorporated, Semiconductor Products Center, BiPolar Manufacturing Center, Mesa, Arizona. The notice was published in the **Federal Register** on October 10, 2002 (67 FR 36160).

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers produced sensor wafers. Information provided by the subject firm shows that although workers employed in the Facilities Workgroup or in ''Site Services'' were not employees of the BiPolar Manufacturing Center, they maintained plant facilities and supported production at the facility.

Based on this information, the Department is amending the certification to include workers of the Facilities Workgroup engaged in employment related to the production of pressure sensor wafers at the subject firm.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by the shift in production of pressure sensor wafers to Canada.

The amended notice applicable to NAFTA–6506 is hereby issued as follows:

All workers of Motorola, Incorporated, Semiconductor Products Center, BiPolar Manufacturing Center, Mesa, Arizona, engaged in the production of sensor pressure wagers, and including workers in the Facilities Workgroup at the site who became totally or partially separated from employment on or after August 26, 2001, through September 24, 2004 are eligible to apply for NAFTA-TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 16th day of May 2003.

Richard Church,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. 03–17443 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

[NAFTA–5163]

Tyco Electronics, Fiber Optics Division, Glen Rock, PA; Notice of Revised Determination on Remand

The United States Court of International Trade (USCIT) remanded to the Department of Labor for further consideration and investigation of the negative determination on reconsideration on remand in *Former Employees of Tyco Electronics, Fiber Optics Division* v. *U.S. Secretary of Labor* (Court No. 02–00152).

The Department's initial denial of NAFTA-Transitional Adjustment Assistance (NAFTA–5163) for the workers of Tyco Electronics, Fiber Optics Division, Glen Rock, Pennsylvania, issued on September 28, 2001 and published in the **Federal Register** on October 19, 2001 (66 FR 53252), was based on the finding that criteria (3) and (4) were not met. The investigation concluded that imports from Canada or Mexico did not contribute importantly to workers' separations, and that the predominant cause of the worker separations was a domestic transfer of production to an affiliated facility in Harrisburg, Pennsylvania.

On January 22, 2002, the Department issued a Notice of Negative Determination Regarding Application for Reconsideration for NAFTA–5163 and published the determination in the **Federal Register** on February 5, 2002 (67 FR 5299).

The petitioners alleged in the request for reconsideration that plant production was shifted to an affiliated plant located in Mexico. Information provided by the company at that time showed that any production shifted from the subject plant to Mexico during the relevant period was negligible. That information suggested that an overwhelming (over 98%) portion of plant production was transferred to Harrisburg, Pennsylvania during the relevant period.

The petitioners appealed to the U.S. Court of International Trade, and on voluntary remand, the Department requested company-wide sales figures of the article(s) produced at the subject plant and a list of the major declining customers of the subject plant. The figures for the Fiber Optics Division showed increases in sales from 1999 to 2000 and decreases in sales from the January through September 2001 period from the corresponding 2000 period.

Because the company reported declining sales at the Fiber Optics Division during the relevant period, the Department conducted a survey of the subject firm's major declining customers regarding their purchases of fiber optic cable assemblies, components, and value-added enclosures during 1999, 2000, January through September 2001, and January through September 2000.

The surveys revealed that none of the major declining customers increased imports of the relevant articles from Canada or Mexico during the relevant period.

On the current, court-ordered remand, the Department requested and obtained new and additional information and clarification from the company regarding plant production shifts to Mexico. Upon careful review of the new data, it has been determined more than a negligible portion of production was shifted to Mexico during the relevant period.

Conclusion

After careful review of the additional facts obtained on the current remand, I conclude that there was a shift of production to Mexico 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 Tyco Electronics, Fiber Optics Division, Glen Rock, Pennsylvania who became totally or partially separated from employment on or after July 27, 2000, through two years from the issuance of this revised determination, are eligible to apply for NAFTA–TAA under Section 250 of the Trade Act of 1974.

Signed at Washington, DC this 25th day of June, 2003.

Elliott S. Kushner,

Director, Division of Trade Adjustment Assistance.

[FR Doc. 03–17442 Filed 7–9–03; 8:45 am]

BILLING CODE 4510–30–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meetings

TIMES AND DATES: 8:30 a.m. to 5 p.m., August 21–22, 2003.

PLACE: Intercontinental Houston, 2222 West Loop South, Houston, Texas.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Reports from the Chairperson and the Executive Director, Committee Meetings and Committee Reports, Executive Session, Unfinished Business, New Business, Announcements, Adjournment

PORTIONS OPEN TO THE PUBLIC: Reports from the Chairperson and the Executive Director, Committee Meetings and Committee Reports, Unfinished Business, New Business, Announcements, Adjournment

PORTIONS CLOSED TO THE PUBLIC: Executive Session.

FOR FURTHER INFORMATION CONTACT: Mark S. Quigley, Director of Communications, National Council on Disability, 1331 F Street NW., Suite 850, Washington, DC 20004; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax), mquigley@ncd.gov (E-mail).

AGENCY MISSION: The National Council on Disability (NCD) is an independent federal agency composed of 15 members appointed by the President and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, including people from culturally diverse backgrounds, regardless of the nature or significance of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing sign language interpreters or other disability accommodations should notify NCD at least one week before this meeting.

LANGUAGE TRANSLATION: In accordance with E.O. 13166, Improving Access to Services for Persons with Limited English Proficiency, those people with disabilities who are limited English proficient and seek translation services for this meeting should notify NCD at least one week before this meeting.

MULTIPLE CHEMICAL SENSITIVITY/ ENVIRONMENTAL ILLNESS: People with multiple chemical sensitivity/ environmental illness must reduce their exposure to volatile chemical substances to attend this meeting. To reduce such exposure, NCD requests that attendees not wear perfumes or scented products at this meeting. Smoking is prohibited in meeting rooms and surrounding areas.

Dated: July 7, 2003.

Ethel D. Briggs,

Executive Director.

[FR Doc. 03–17570 Filed 7–8–03; 10:48 am]

BILLING CODE 6820–MA–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meeting Notice

AGENCY HOLDING MEETING: National Science Foundation, National Science Board.

DATE AND TIME: July 28, 2003: 10:30 a.m.–10:50 a.m., Closed Session. July 28, 2003: 10:50 a.m.–11:30 a.m., Open Session.

PLACE: The National Science Foundation, 4201 Wilson Boulevard—Room 130, Arlington, VA 22230, *www.nsf.gov/nsb.*

CONTACT FOR INFORMATION: Robert Webber (703) 292–7000.

STATUS: Part of this meeting will be closed to the public. Part of this meeting will be open to the public.

MATTERS TO BE CONSIDERED: Teleconference of the NSB Committee on Strategy and Budget.

Closed: 10:30–10:50 a.m.—Update on the development of the FY 2005 budget.

Open: 10:50–11:30—Summary of input from the public and changes to be made to the draft strategic plan.

11:10–11:30—Planning of the August CSB meeting.

Robert Webber,

Policy Analyst, NSBO.

[FR Doc. 03–17586 Filed 7–8–03; 11:20 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* DOE/NRC Form 742, ''Material Balance Report'' and NUREG/BR–0007, ''Instructions for the Preparation and Distribution of Material Status Reports''.

3. *The form number if applicable:* DOE/NRC Form 742.

4. *How often the collection is required:* DOE/NRC Form 742 is submitted annually following a physical inventory of nuclear materials.

5. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear or source material.

6. *An estimate of the number of annual responses:* 200.

7. *The estimated number of annual respondents:* 200 licensees.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,000 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* Each licensee authorized to possess special nuclear material totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, and any licensee authorized to possess 1,000 kilograms of source material is required to submit DOE/NRC Form 742. Reactor licensees required to submit DOE/NRC Form 742, and facilities subject to 10 CFR part 75, are required to submit DOE/NRC Form 742C. The information is used by NRC to fulfill its responsibilities as a participant in US/IAEA Safeguards Agreement and bilateral agreements with Australia and Canada, and to satisfy its domestic safeguards responsibilities.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 11, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date. Bryon Allen, Office of Information and Regulatory Affairs (3150–0004),

NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 2nd day of July, 2003.

For the Nuclear Regulatory Commission.

Beth St. Mary,

Acting NRC Clearance Officer Office of the Chief Information Officer.

[FR Doc. 03–17464 Filed 7–9–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Revision.

2. *The title of the information collection:* DOE/NRC Form 742C, ''Physical Inventory Listing.''

3. *The form number if applicable:* DOE/NRC Form 742C.

4. *How often the collection is required:* DOE/NRC Form 742C is submitted annually following a physical inventory of nuclear materials.

5. *Who will be required or asked to report:* Persons licensed to possess specified quantities of special nuclear or source material.

6. *An estimate of the number of annual responses:* 180.

7. *The estimated number of annual respondents:* 180 licensees.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 1,080 hours.

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* Each licensee authorized to possess special nuclear material totaling more than 350 grams of contained uranium-235, uranium-233, or plutonium, or any combination thereof, and any licensee authorized to possess 1,000 kilograms of source material is required to submit DOE/NRC Form 742. Reactor licensees required to submit DOE/NRC Form 742, and facilities subject to 10 CFR Part 75, are required to submit DOE/NRC Form 742C. The information is used by NRC to fulfill its responsibilities as a participant in US/IAEA Safeguards Agreement and bilateral agreements with Australia and Canada, and to satisfy its domestic safeguards responsibilities.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC Worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by August 11, 2003. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Bryon Allen, Office of Information and Regulatory Affairs (3150–0058), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 2nd day of July, 2003.

For the Nuclear Regulatory Commission.

Beth St. Mary,

Acting NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 03–17465 Filed 7–9–03; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–247 and 50–286, License Nos. DPR–26 and DPR–64]

Entergy Nuclear Operations, Inc.; Receipt of Request for Action Under 10 CFR 2.206

Notice is hereby given that by petition dated April 23, 2003, Richard Blumenthal, Attorney General for the State of Connecticut (petitioner) has requested that the U.S. Nuclear Regulatory Commission (NRC) take action with regard to Indian Point Nuclear Generating Unit Nos. 2 and 3. The petitioner requests that the NRC (1) order the licensee for the Indian Point Nuclear Generating Unit Nos. 2 and 3 (IP2 and 3) to conduct a full review of the facility's vulnerabilities, security measures, and evacuation plans and to suspend operations, revoke the operating license, or adopt other measures resulting in a temporary shutdown of IP2 and 3; (2) require the licensee to provide information documenting the existing security measures which provide the Indian Point facility with protection against terrorist attacks; (3) immediately modify the IP2 and 3 operating licenses to mandate a defense and security system sufficient to protect the entire facility from a land- or water-based terrorist attack; (4) order the revision of the licensee's Emergency Response Plan and the Radiological Emergency Response Plans of the State of New York and the nearby counties to account for possible terrorist attacks; and (5) take prompt action to permanently retire the facility if, after conducting a full review of the facility's vulnerabilities, security measures, and evacuation plans, the NRC cannot sufficiently ensure the security of the IP facility against terrorist threats, or cannot ensure the safety of New York and Connecticut citizens in the event of an accident or terrorist attack.

As the basis for this request, the petitioner states that (1) the IP Radiological Emergency Preparedness Plan (REPP) fails to adequately inform the public in the event of a radiological emergency and relies upon selective release of critical information and irrational and unenforceable secrecy; (2) the IP REPP fails to address voluntary evacuation as required by NRC guidance documents; (3) the IP REPP fails to address family separation in its analysis of evacuation times; (4) the IP REPP fails to meet requirements for protection of foodstuffs and drinking water in 50-mile ingestion exposure pathway emergency planning zone; (5) the evacuation travel time estimates for the IP REPP fail to meet NUREG–0654/FEMA–REP–1; (6) the IP REPP fails to address administering radioprotective drugs to general population; (7) the IP REPP does not adequately address the possibility of a terrorist attack; (8) IP and NRC personnel and resources confront ''dual challenges'' when ensuring security at an operational facility; (9) the spent fuel storage facility is vulnerable to terrorist attack; (10) the security forces at nuclear power plants have repeatedly failed to

repel mock terrorist attackers; and (11) catastrophic effects (illness and fatality data, economic loss data, and environmental consequences) will result from a terrorist attack on IP.

The request is being treated pursuant to Title 10 of the Code of Federal Regulations (10 CFR) Section 2.206 of the Commission's regulations. The request has been referred to the Director of the Office of Nuclear Reactor Regulation. As provided by Section 2.206, appropriate action will be taken on this petition within a reasonable time. The petitioner participated in a teleconference with the Petition Review Board on June 19, 2003, to discuss the petition. The results of that discussion were considered in the board's determination regarding the petitioner's request for immediate action and in establishing the schedule for the review of the petition. By letter dated July 3, 2003, the Director partially granted the petitioner's requests for immediate action requested in items 1, 2, 3, and 4 above at the Indian Point Nuclear Generating Unit Nos. 2 and 3. A copy of the petition is available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available records will be accessible from the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 3rd day of July 2003.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 03–17466 Filed 7–9–03; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

July 10, 2003 Public Hearing; Sunshine Act

OPIC's Sunshine Act notice of its public hearing was published in the **Federal Register** (Volume 68, Number 121, Page 37593) on June 24, 2003. No request were received to provide testimony or submit written statements for the record; therefore, OPIC's public hearing in conjunction with OPIC's July 17, 2003 Board of Directors meeting scheduled for 2 PM on July 10, 2003 has been cancelled.

CONTACT PERSON FOR INFORMATION: Information on the hearing cancellation may be obtained from Connie M. Downs at (202) 336–8438, via facsimile at (202) 218–0136, or via e-mail at *cdown@opic.gov.*

Dated: July 8, 2003.

Connie M. Downs,

OPIC Corporate Secretary.

[FR Doc. 03–17551 Filed 7–8–03; 9:35 am]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[File No. 33–09835]

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration on the New York Stock Exchange, Inc. (Commonwealth of Australia, 9⅝% Bonds)

July 3, 2003.

The Australian Office of Financial Management on behalf of the Federal Government of the Commonwealth of Australia, (''Issuer''), has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to section 12(d) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 12d2–2(d) thereunder,[2] to withdraw its 9⅝% Bonds (''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'').

The Treasurer of the Commonwealth of Australia (''Treasurer'') approved a resolution on February 14, 2003 to withdraw the Issuer's Security from listing on the NYSE under NYSE Rule 500 and Section 8.06 of the NYSE Listed Company Manual (''Company Manual''). In making its decision to withdraw the Security from the Exchange, the Treasurer determined that it was in the Issuer's best interest to delist from the NYSE because the remaining amount of Bonds on issue and the small number of holders are such that the listing provides little or no liquidity benefits.

The Issuer stated in its application that it has complied with the NYSE's rules governing an issuer's voluntary withdrawal of a security from listing and registration. The Issuer's application relates solely to the Security's withdrawal from listing on the NYSE and from registration under section 12(b) of the Act [3] and shall not affect its obligation to be registered under section 12(g) of the Act.[4]

Any interested person may, on or before July 25, 2003, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the NYSE and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Jonathan G. Katz,

Secretary.

[FR Doc. 03–17416 Filed 7–9–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of July 14, 2003: Closed Meetings will be held on Tuesday, July 15, 2003 at 2 p.m., and Thursday, July 17, 2003 at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the Closed Meetings. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B) and (10) and 17 CFR 200.402(a)(3), (5), (7), (9)(ii) and (10), permit consideration of the scheduled matters at the Closed Meetings.

The subject matter of the Closed Meeting scheduled for Tuesday, July 15, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;

[1] 15 U.S.C. 78*l*(d).

[2] 17 CFR 240.12d2–2(d).

[3] 15 U.S.C. 78*l*(b).

[4] 15 U.S.C. 78*l*(g).

[5] 17 CFR 200.30–3(a)(1).

Institution and settlement of injunctive actions; and
Formal orders of investigation.

The subject matter of the Closed Meeting scheduled for Thursday, July 17, 2003 will be:

Institution and settlement of administrative proceedings of an enforcement nature;
Institution and settlement of injunctive actions; and
Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted, or postponed, please contact the Office of the Secretary at (202) 942–7070.

Dated: July 8, 2003.

Jonathan G. Katz,

Secretary.

[FR Doc. 03–17662 Filed 7–8–03; 3:56 pm]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48126; File No. SR–Amex–2003–61]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the American Stock Exchange LLC Relating to a Six-Month Extension of the Exchange's Pilot Program for Automatic Execution of Orders for Exchange Traded Funds

July 2, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4[2] thereunder, notice is hereby given that on June 17, 2003, the American Stock Exchange LLC (''Exchange'' or ''Amex'') 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 Amex. 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

Amex seeks a six-month extension of Amex Rule 128A to continue its pilot program for the automatic order execution feature (''Auto-Ex'') for Exchange Traded Funds (''ETFs'').

The text of the proposed rule change is available at Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On June 19, 2001, the Commission approved the Exchange's proposal, adopted as Amex Rule 128A, to implement an automatic execution system for ETFs on a six-month pilot program basis.[3] On December 20, 2001, June 17, 2002, and December 30, 2002, the pilot was extended for consecutive terms of six months.[4] The Exchange now seeks to extend the pilot for an additional six months.

Since 1986, the Exchange has had an Auto-Ex feature for eligible orders in listed options. The Chicago Board Options Exchange, Philadelphia Stock Exchange, and Pacific Exchange established similar Auto-Ex features at about the same time as Amex, and the newest options exchange, the International Securities Exchange, also features automatic order execution. Auto-Ex, accordingly, has been a standard feature of the options markets for a number of years.

In 1993, Amex commenced trading Standard and Poor's Depositary Receipts' (''SPDRs'''), the first ETF to be listed and traded on Amex. ETFs are individual securities that represent a fractional, undivided interest in a portfolio of securities. Currently, more than 100 ETFs are listed on Amex. Like an option, an ETF is a derivative security, and, according to Amex, its price is a function of the value of the portfolio of securities underlying the ETF. Thus, the Exchange asserts that, as is the case with options, it is not the price discovery market for ETFs, and that the price discovery market is the market or markets where the underlying securities trade.

The Exchange is now proposing to extend its current Auto-Ex technology for an additional six months to ETFs listed under Amex Rules 1002, 1002A, and 1202. Amex represents that this will continue to provide investors that send eligible orders to the Exchange with faster executions than they otherwise would receive. The Exchange believes that many investors desire rapid executions in trading securities that are priced derivatively since the value of the underlying instruments may fluctuate during order processing. Amex, moreover, will continue under the pilot extension to incorporate a price improvement algorithm into Auto-Ex for ETFs, which Amex expects will provide investors with better execution prices on their orders. The price improvement algorithm works in the following manner:

When Amex establishes the National Best Bid or Offer (''NBBO''), Auto-Ex is programmed to execute eligible incoming ETF orders at the Amex Published Quote (''APQ'') plus a programmable number of trading increments with respect to the Amex bid, and less a programmable number of trading increments in the case of the Amex offer.[5] For example, if the APQ were 90.10 to 90.20, and the APQ constituted the NBBO, incoming sell orders might be automatically executed at 90.12 (the Amex bid plus two ticks) and incoming buy orders might be executed at 90.18 (the Amex offer less two ticks).

If Amex does not establish the NBBO, Auto-Ex is programmed to execute eligible incoming ETF orders at or better than the NBBO up to a specified number of trading increments relative to the APQ.[6] Auto-Ex executes an eligible

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 44449 (June 19, 2001), 66 FR 33724 (June 25, 2001) (approval of File No. SR–Amex–2001–29).

[4] *See* Securities Exchange Act Release Nos. 45176, 66 FR 67582 (December 31, 2001); 46085, 67 FR 42836 (June 25, 2002); and 47105, 68 FR 592 (January 6, 2003) (notices of filing and immediate effectiveness of File Nos. SR–Amex–2001–105, SR–Amex–2002–42, and SR–Amex–2002–99, respectively).

[5] The term ''establish,'' as used in Amex Rule 128A, means that the APQ is currently at the NBBO, regardless of whether Amex was the first exchange to be at that price. *See* Securities Exchange Act Release No. 44449 (June 19, 2001), 66 FR 33724 (June 25, 2001).

[6] Amex represents that once an order that is Auto-Ex eligible is sent to the Exchange, the person that initiated the order has no control over its execution. This is the case regardless of whether the order is executed by Auto-Ex or is executed by the specialist because Auto-Ex is unavailable. If the order is routed to the specialist for handling because Auto-Ex is unavailable, the specialist does not know if the order is for the account of a broker-dealer or for the account of a customer. This information is in

Continued

order at an improved price relative to the APQ unless such execution would result in a trade-through with respect to the price of an away market that is a participant in the Intermarket Trading System (''ITS'').[7] If a trade-through would result, the order is routed to the specialist for processing through the Amex electronic order book.

For example, assume that Auto-Ex is programmed to execute an order at the Amex bid plus two ticks. If the Amex bid were 90, and an away ITS market were bidding 90.01, an incoming sell order would be automatically executed on Amex at 90.02. Continuing with this example, if the away market were bidding 90.02, an incoming sell order would be automatically executed on Amex at 90.02 (matching the away market). If the away market were bidding 90.03, the incoming sell order would not be automatically executed. Instead, it would be routed to the specialist for electronic processing through the Amex electronic order book.

The amount of price improvement that the system provides, both when the Amex establishes the NBBO and when it does not, is determined by the Auto-Ex Enhancements Committee (''Committee'') upon the request of a specialist and may differ among ETFs. The Committee consists of the Exchange's four Floor Governors and the Chairmen (or their designees) of the Specialists Association, Options Market Makers Association, and the Floor Brokers Association, respectively. The Exchange believes that the amount of price improvement will vary among securities based upon factors such as the width of the spread, the volatility of the underlying basket of securities underlying the ETF, and liquidity of available hedging vehicles. The amount of price improvement may be adjusted intra-day by the Committee.

As detailed in Amex Rule 128A, Auto-Ex for ETFs with price improvement is unavailable when the spread is at a specified minimum and maximum variation that may be adjusted security to security. The Committee determines, upon the request of a specialist, the minimum and maximum spreads at which Auto-Ex is unavailable. As further provided by Amex Rule 128A, Auto-Ex is also unavailable with respect to incoming sell orders when the Amex bid is for 100 shares, and similarly unavailable with respect to incoming buy orders when the Amex offer is for 100 shares.

Orders that are otherwise Auto-Ex eligible orders are also routed to the specialist, and not automatically executed, in situations where the specialist in conjunction with a Floor Governor or two Floor Officials determine that quotes are not reliable and the Exchange is experiencing communications or systems problems, ''fast markets,'' or delays in the dissemination of quotes. Members and member organizations are notified when the Exchange has determined that quotes are not reliable prior to disengaging Auto-Ex.

Specialists and Registered Options Traders (''ROTs'') that sign onto the system are automatically allocated the contra side of Auto-Ex trades for ETFs. Due to the automatic price improvement feature, the specialist and ROTs that sign onto Auto-Ex for ETFs are deemed to be on parity for purposes of allocating the contra side of ETF Auto-Ex trades. Amex Rule 128A incorporates the following methodology for the allocation of the contra side to Auto-Ex ETF trades:

Number of ROTs signed on to Auto-Ex in a crowd	Appropriate number of trades allocated to the specialist throughout the day (''target ratio percent'')	Approximate number of trades allocated to ROTs signed on to Auto-Ex throughout the day (''target ratio percent'')
1	60	40
2–4	40	60
5–7	30	70
8–15	25	75
16 or more	20	80

At the start of each trading day, the sequence in which trades are allocated to the specialist and ROTs signed onto Auto-Ex is randomly determined. Auto-Ex trades then are automatically allocated in sequence on a rotating basis to the specialist and to the ROTs that have signed onto the system so that the specialist and the crowd achieve their ''target ratios'' over the course of a trading session. If an Auto-Ex eligible order is greater than 100 shares, Auto-Ex divides the trade into lots of 100 shares each. Each lot is considered a separate trade for purposes of determining target ratios and allocating trades within Auto-Ex.

Round lot orders delivered to the post electronically for 2,000 shares or less are eligible for Auto-Ex for ETFs. Orders for an account in which a market maker in ETFs registered as such on another market has an interest are ineligible for Auto-Ex for ETFs. The Exchange represents that, if orders for such market makers were eligible for Auto-Ex with price improvement, Amex specialists and ROTs would be unable to make markets with the proposed liquidity for other investors. (Orders for Amex ROTs are ineligible for Auto-Ex for ETFs pursuant to Commentaries .04 and .05 to Amex Rule 111 and Amex Rule 950(c).)[8]

The specialist may request the Exchange to increase the maximum size of Auto-Ex eligible orders. Under Amex Rule 128A, such requests are reviewed by the Committee, which approves, disapproves, or conditionally approves such requests. Amex Rule 128A directs the Committee to balance the interests of investors, the specialist, ROTs in the crowd, and the Exchange in determining whether to grant a request to increase the size of Auto-Ex eligible orders. The Committee also may consider requests from the specialist or ROTs to reduce the size of Auto-Ex eligible orders, balancing the same interests that it would consider in reviewing a request to increase the size of Auto-Ex eligible orders. The Committee, however, is not permitted to reduce the size of Auto-Ex eligible orders below 2,000 shares.

In addition, under Amex Rule 128A, the Committee may delegate its authority to one or more Floor Governors. Amex Rule 128A provides, however, that the Committee must meet promptly to review a Floor Official's decision in the event that a Floor Governor acts pursuant to its delegated authority.

Amex Rule 128A further provides that, in the event of system problems or unusual market conditions, a Floor Governor is permitted to reduce the size of Auto-Ex eligible orders below 2,000 shares or increase the size of Auto-Ex eligible orders up to 5,000 shares. Any such change is temporary and lasts only until the end of the unusual market condition or the correction of the system problem. Members and member organizations are notified when the size of Auto-Ex eligible orders is adjusted due to system problems or unusual market conditions.

the Exchange's order processing systems and is unavailable to the specialist.

[7] The number of trading increments designated for price improvement when the Amex establishes the NBBO may be different than the number of increments designated for price improvement when Amex does not establish the NBBO. *Id.*

[8] The Commission notes that, pursuant to Amex Rule 128A, Auto-Ex eligible orders for any account in which the same person is directly or indirectly interested may be entered only at intervals of ten seconds or more between the entry of each such order in an ETF. Under Amex Rule 128A, member and member organizations are responsible for establishing procedures to prevent orders for any account in which the same person is directly or indirectly interested from being entered at intervals of less than ten seconds with respect to an ETF. Amex has proposed to eliminate this ten-second ''speed bump'' while allowing it to be reinstated if conditions so warrant. *See* Securities Exchange Act Release No. 48004 (June 9, 2003), 68 FR 35741 (June 16, 2003) (notice of File No. SR–Amex–2003–28).

Amex Rule 128A also provides that the Chairman and Vice Chairman of the Exchange, acting jointly, determine which ETFs are Auto-Ex eligible.

2. Basis

The Exchange believes the proposed rule change is consistent with section 6 of the Act,[9] in general, and with section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest, and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The proposed rule change will allow the Auto-Ex for ETFs pilot program to continue for an additional six months. The Exchange believes that the proposal also facilitates the comparison and settlement of trades since Auto-Ex transactions result in ''locked-in'' trades.

Moreover, Auto-Ex for ETFs automatically provides investors with price improvement on their orders.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex believes that the proposed rule change will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that the proposal, in fact, will enhance competition among markets and market makers and thereby benefit investors by allowing the Exchange to continue to provide Auto-Ex for ETFs with price improvement.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change (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 until 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, and the exchange 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 date of filing of the proposed rule change or such shorter time as designated by the Commission, it has become effective pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

Amex has requested that the Commission waive the usual five-business-day notice period and the usual 30-day pre-operative waiting period. The Commission notes that this proposal simply extends the existing pilot program and does not alter the pilot in any way. As a result, the Commission believes that it is consistent with the protection of investors and the public interest to waive the five-business-day notice period and accelerate the operative date so that the pilot can continue without delay and because the proposal raises no new regulatory issues. Therefore, the Commission designates that the proposal become operative immediately.[13] This pilot extension will expire on December 19, 2003.

At any time within 60 days of the filing of this 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 Amex. All submissions should refer to File No. SR–Amex–2003–61 and should be submitted by July 31,2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–17476 Filed 7–9–03; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78f.

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 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).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48123; File No. SR–NASD–2002–77]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. Relating To Disclosure of Audit Opinions With Going Concern Qualifications

July 2, 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 June 11, 2002, 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. 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 Change

Nasdaq proposes to amend NASD Rule 4350(b) to add a requirement for issuers to announce publicly any audit opinions with going concern

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

qualifications.[3] Below is the text of the proposed rule change. Proposed new language is italicized.

* * * * *

Rule 4350. Qualitative Listing Requirements for Nasdaq National Market and Nasdaq SmallCap Market Issuers Except for Limited Partnerships Traded on the Nasdaq National Market

(a) No change.

(b) Distribution of Annual and Interim Reports.

(1) *(A)* Each issuer shall distribute to shareholders copies of an annual report containing audited financial statements of the company and its subsidiaries. The report shall be distributed to shareholders a reasonable period of time prior to the company's annual meeting of shareholders and shall be filed with Nasdaq at the time it is distributed to shareholders.

(B) An issuer that receives an audit opinion that contains a going concern qualification must make a public announcement through the news media disclosing the receipt of such qualification. Prior to the release of the public announcement, the issuer must provide the text of the public announcement to the StockWatch section of Nasdaq's MarketWatch Department (''Nasdaq StockWatch''). The public announcement shall be provided to Nasdaq StockWatch and released to the media not later than seven calendar days following the filing of such audit opinion in a public filing with the Securities and Exchange Commission.*

(2)–(3) No change

Footnote to Rule 4350(b)(1)(B):

** Notification may be provided to the Nasdaq StockWatch at 1–800–537–3929 or (240) 386–6046 (telephone), (240) 386–6047 (facsimile).*

* * * * *

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

Nasdaq represents that, as a result of recent events, it has focused on ways to improve the corporate governance of listed companies. After considering these issues, Nasdaq identified several rule changes that could be instituted in the short term and identified these changes in an April 11, 2002, letter to then-Commissioner Chairman Harvey Pitt. Nasdaq now proposes to effect some of those changes. Specifically, the proposed rule change will require issuers to disclose in a press release the receipt of an audit opinion with a going concern qualification. Ordinarily, the continuation of an entity as a going concern is assumed in financial reporting in the absence of significant evidence to the contrary. If an auditor concludes that substantial doubt exists about the entity's ability to continue as a going concern for a reasonable period of time, however, the auditor provides this conclusion through an explanatory paragraph in the auditor's report. While the audit opinion is available in the Form 10–K, Nasdaq believes that receipt of a going concern qualification is so material that it should be brought to the attention of investors and potential investors through a press release issued promptly after the filing of the Form 10–K. In the event management has developed plans to address the going concern qualification, it would be free to discuss those plans in the press release.

Nasdaq will make this filing effective upon approval by the Commission.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with section 15A(b)(6) of the Act[4] in that the proposed rules are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

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.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2002–77 and should be submitted by July 31,2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–17473 Filed 7–9–03; 8:45 am]

BILLING CODE 8010–01–P

[3] *See also* Securities Exchange Act Release No. 47516 (March 17, 2003), 68 FR 14451 (March 25, 2003) (NASD 2002–141) for a description of additional proposed revisions to NASD's corporate governance listing standards.

[4] 15 U.S.C. 78o–3(b)(6).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48124; File No. SR–NASD–2002–138]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the National Association of Securities Dealers, Inc. To Require Non-U.S. Issuers To Disclose Any Exemptions They May Receive From Nasdaq's Corporate Governance Listing Standards

July 2, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 9, 2002, 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. 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

Nasdaq proposes to implement changes to its listing standards relating to foreign issuers that are aimed at helping to restore investor confidence by enhancing transparency.[3] Nasdaq proposes that the rule take effect for new listings and filings made on or after January 1, 2004.

The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

Rule 4350. Qualitative Listing Requirements for Nasdaq National Market and Nasdaq Small Cap Market Issuers Except for Limited Partnerships Traded on the Nasdaq National Market

(a) Applicability.

No provisions of this Rule shall be construed to require any foreign issuer to do any act that is contrary to a law, rule or regulation of any public authority exercising jurisdiction over such issuer or that is contrary to generally accepted business practices in the issuer's country of domicile. Nasdaq shall have the ability to provide exemptions from [the applicability of] this Rule as may be necessary or appropriate to carry out this intent, *except to the extent that such exemptions would be contrary to the federal securities laws. An issuer that receives an exemption under this subsection must disclose in its annual report filed with the Commission (e.g., Forms 20–F, 40–F, or 10–K) each requirement from which it is exempted and describe the alternative practice, if any, of the issuer in lieu of these requirements. In addition, foreign issuers making their initial public offering or first U.S. listing on Nasdaq must disclose any such exemptions in their registration statement (e.g., Forms F–1, 20–F, or 40–F).*

IM–4350: Currently, foreign issuers listed on Nasdaq may obtain exemptions from Nasdaq's corporate governance standards if such rules would require the issuer to do anything contrary to the laws, rules, regulations or generally accepted business practices of the home country. Nasdaq believes that the current exemption process should be made more transparent for the benefit of investors.

Accordingly, the proposed rule change requires a foreign issuer to disclose the receipt of a corporate governance exemption from Nasdaq in the issuer's annual report with the Commission, and at the time of the issuer's original listing in the United States, if that listing is on Nasdaq. The disclosure must include a statement of what alternative measures, if any, the issuer has taken in lieu of the particular corporate governance requirement from which it was exempted. Nasdaq believes that such disclosure will not only alert investors that the issuer has been granted an exemption from certain Nasdaq rules, but may also cause foreign issuers to consider carefully their need for an exemption, rather than applying for one as a matter of course.

* * * * *

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

Disclosure of Exemptions to Corporate Governance Standards. Currently, non-U.S. issuers listed on Nasdaq may obtain exemptions from Nasdaq's corporate governance standards if such rules would require the issuer to do anything contrary to the laws, rules, regulations or generally accepted business practices of the issuer's home country. Nasdaq believes that the current exemption process should be made more transparent for the benefit of investors. Accordingly, the proposed rule change requires a foreign issuer to disclose the receipt of a corporate governance exemption from Nasdaq in its annual report for the year the exemption is granted and on an annual basis thereafter. Such disclosure must be made within the issuer's annual filing of its financial statements with the Commission and Nasdaq on Forms 20–F, 40–F, or, in certain cases, Form 10–K. The disclosure must include a statement of what alternative measures, if any, the issuer has taken, pursuant to home country law or practice, in lieu of the particular corporate governance requirement from which it was exempted. Nasdaq believes that such disclosure will not only alert investors that the issuer has been granted an exemption from certain Nasdaq rules, but may also cause non-U.S. issuers to consider carefully their need for an exemption, rather than applying for one as a matter of course. In addition, the proposed rule change clarifies that any exemption from Nasdaq requirements granted by Nasdaq in no way affects the issuer's obligation to comply with applicable law and regulation.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[4] in general, and with section 15A(b)(6) of the Act,[5] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See also* Securities Exchange Act Release No. 47516 (March 17, 2003), 68 FR 14451 (March 25, 2003) (NASD 2002–141) for a description of additional proposed revisions to NASD's corporate governance listing standards.

[4] 15 U.S.C. 78o–3.

[5] 15 U.S.C. 78o–(b)(6).

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, 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

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change 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–2002–138 should be submitted by July 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–17474 Filed 7–9–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48125; File No. SR–NASD–2002–139]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto by the National Association of Securities Dealers, Inc. To Amend NASD Rule 4350 To Require Listed Companies To Adopt a Code of Conduct for All Directors, Officers, and Employees

July 2, 2003.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 10, 2002, 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. On January 15, 2003, Nasdaq submitted Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

Nasdaq proposes to amend Rule 4350 to require listed companies to adopt a code of conduct for all directors, officers and employees.[4] Issuers must comply with the rule as of six months from the date of approval.

The text of the proposed rule change is below. Proposed new language is in italics.

4350. Qualitative Listing Requirements for Nasdaq National Market and Nasdaq Small Cap Market Issuers Except for Limited Partnerships Traded on the Nasdaq National Market

(a)–(l) No change.

(*m*) *Each Issuer shall adopt a code of conduct applicable to all directors, officers and employees, which shall be publicly available. A code of conduct satisfying this rule must comply with the definition of a ''code of ethics'' set out in Section 406(c) of the Sarbanes-Oxley Act of 2002 (''the Sarbanes-Oxley Act'') and any regulations promulgated thereunder by the Commission. In addition, the code must provide for an enforcement mechanism. Any waivers of the code for directors or executive officers must be approved by the Board and must be disclosed in the issuer's public filings, not later than the next periodic report.*

IM–4350–7:

Ethical behavior is required and expected of every corporate director, officer and employee whether or not a formal code of conduct exists. The requirement of a publicly available code of conduct applicable to all directors, officers and employees of an issuer is intended to demonstrate to investors that the board and management of Nasdaq issuers have carefully considered the requirement of ethical dealing and have put in place a system to ensure that they become aware of and take prompt action against any questionable behavior. For company personnel, a code of conduct with enforcement provisions provides assurance that reporting of questionable behavior is protected and encouraged, and fosters an atmosphere of self-awareness and prudent conduct.

Rule 4350(m) requires issuers to adopt a code of conduct complying with the definition of a ''code of ethics'' under Section 406(c) of the Sarbanes-Oxley Act of 2002 (''the Sarbanes-Oxley Act'') and any regulations promulgated thereunder by the Commission. Thus, the code must include such standards as are reasonably necessary to promote the ethical handling of conflicts of interest, full and fair disclosure, and compliance with laws, rules and regulations, as specified by the Sarbanes-Oxley Act. However, the code of conduct required by Rule 4350(m) must apply to all directors, officers, and employees. Issuers can satisfy this obligation by adopting one or more codes of conduct, such that all directors, officers and employees are subject to a code that satisfies the definition of a ''code of ethics.''

As the Sarbanes-Oxley Act recognizes, investors are harmed when the real or perceived private interest of a director, officer or employee is in conflict with

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[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from Mary M. Dunbar, Vice President and Deputy General Counsel, Nasdaq, to Katherine A. England, Assistant Director, Division of Market Regulation, Commission, dated January 15, 2003.

[4] *See also* Securities Exchange Act Release No. 47516 (March 17, 2003), 68 FR 14451 (March 25, 2003) (NASD 2002–141) for a description of additional proposed revisions to NASD's corporate governance listing standards.

the interests of the company, as when the individual receives improper personal benefits as a result of his or her position with the company, or when the individual has other duties, responsibilities or obligations that run counter to his or her duty to the company. Also, the disclosures an issuer makes to the Commission are the essential source of information about the company for regulators and investors—there can be no question about the duty to make them fairly, accurately and timely. Finally, illegal action must be dealt with swiftly and the violators reported to the appropriate authorities.

Each code of conduct must require that any waiver of the code for executive officers or directors may be made only by the board and must be promptly disclosed to shareholders, along with the reasons for the waiver. This disclosure requirement provides investors the comfort that waivers are not granted except where they are truly necessary and warranted, and that they are limited and qualified so as to protect the company to the greatest extent possible. Disclosure should be made in the issuer's regular public filings, not later than the next periodic report. Thus, a domestic issuer must make this disclosure in its next quarterly or annual report, whichever is sooner, and foreign issuers must make it in their next semi-annual report. An issuer may alternatively choose to include this disclosure in an 8–K filed before its next periodic report.

Each code of conduct must also contain an enforcement mechanism that ensures prompt and consistent enforcement of the code, protection for persons reporting questionable behavior, clear and objective standards for compliance, and a fair process by which to determine violations.

* * * * *

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

The proposed rule change requires companies to adopt and make publicly available a code of conduct applicable to directors, officers, and employees, which complies with the definition of a ''code of ethics'' set out in Section 406(c) of the Sarbanes-Oxley Act of 2002 and any regulations promulgated by the Commission thereunder, and provides for an enforcement mechanism. Any waivers of the code for directors or executive officers must be approved by the board and must be promptly made publicly available. By expressly setting out the inherent obligation of ethical conduct in this manner, Nasdaq intends to provide further assurance to investors, regulators and itself that each of its issuers has in place a system to focus attention throughout the company on the obligation of ethical conduct, encourage reporting of potential violations, and deal fairly and promptly with questionable behavior. A code of conduct provides objective standards for compliance, increasing transparency and accountability in this key area.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of section 15A of the Act,[5] in general and with section 15A(b)(6) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, remove impediments to a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

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, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not solicited. Nasdaq received one comment, stating that requiring a code of conduct applicable to all employees would be extremely burdensome for companies with large numbers of hourly employees and that such employees were unlikely to be faced with ethical issues. Nasdaq believes that the rule filing, as amended, addresses this concern by clarifying that companies have the flexibility to design more than one code of conduct, such that there is an appropriate code for various types of employees. Thus, a company could adopt a simpler code for its hourly employees than for its senior management in recognition of the fewer ethical issues typically facing hourly employees.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the amended 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–2002–139 and should be submitted by July 31, 2003.

[5] 5 15 U.S.C. 78*o*–3.

[6] 6 15 U.S.C. 78*o*–3(b)(6).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–17475 Filed 7–9–03; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–48119; File No. SR–PCX–2003–29]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Pacific Exchange, Inc., Relating to Exchange Fees and Charges

July 2, 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 June 30, 2003, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges to eliminate the continued listing fee and to limit the application of the shortfall fee. The text of the proposed rule change is available at the Office of the Secretary of the PCX and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, PCX included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Schedule of Fees and Charges in order to: (i) eliminate the continued listing fee, and (ii) modify the shortfall fee, making it inapplicable to issues allocated in the first full four months of trading by a Lead Market Maker (''LMM''). The Exchange believes that this proposal will foster the Exchange's strategic plan of attracting new sources of capital to the Exchange and encouraging LMMs to expand their level of participation on the Exchange by accepting new allocation of issues.

Elimination of the Continued Listing Fee

The Exchange currently assesses LMMs a continued listing fee for issues that have not generated at least $500 in monthly revenues to the Exchange on a trailing three-month average basis.[3] The continued listing fee is calculated as the incremental difference between the $500 threshold and the amount of revenue generated by the issue. The Exchange recognizes that the continued listing fee may deter an LMM from taking on a newly allocated issue or in maintaining trading activity with respect to a particular issue. As a result, the Exchange has determined that, on balance, the fee no longer supports the Exchange's paramount goal of attracting capital to the Exchange and maintaining a stabilized base of issues. Accordingly, the Exchange believes that it would be advantageous to eliminate the continued listing fee.

Limiting the Application of the Shortfall Fee

In February 2002, the Exchange began to assess a shortfall fee of $0.35 per shortfall contract on top 120 equity option issues if the PCX volume in the issue was less than 10% of the national volume in that issue for that month.[4] In June 2002, the Exchange increased the volume base for the LMM shortfall fee from 10% to 12% for the top 120 equity options nationally.[5] The volume base for the fee is 12% of the monthly industry volume for each qualifying issue, less the PCX monthly volume for the issue.

From time to time, an LMM may divest itself of a significant number of issues or the Exchange may add new products or new issues for trading. The Exchange encourages applications from qualified LMMs to trade newly posted issues, but given that an LMM will be required to maintain a 12% market share or be subject to the shortfall fee, LMMs may be reluctant to take on the risks of trading a significant number of new issues and opt to take on fewer issues until they have developed a trading strategy relative to the new issues.

In order to help foster demand for top 120 issues during a period of continuing consolidation among trading firms, and to prepare for the implementation of PCX Plus,[6] the Exchange proposes to eliminate the application of the shortfall fee for the first four full calendar months that an LMM trades a newly allocated issue. The Exchange believes that this modification to its shortfall fee will encourage LMMs to take on larger numbers of issues by limiting their exposure to these fees until they have had sufficient time to develop appropriate marketing and trading strategies.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b)[7] of the Act, in general, and furthers the objectives of section 6(b)(4)[8] of the Act in particular, in that it provides for the equitable allocation of reasonable fees among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will promote competition by encouraging more LMMs to take on allocations of more issues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 42050 (October 21, 1999), 64 FR 58117 (October 28, 1999) (Notice of Filing and Immediate Effectiveness of SR–PCX 99–32).

[4] *See* Securities Exchange Act Release No. 45351 (January 29, 2002), 67 FR 5631 (February 6, 2002)(Notice of Filing and Immediate Effectiveness of SR–PCX–2001–51).

[5] *See* Securities Exchange Act Release No. 46239 (July 19, 2002), 67 FR 48962 (July 26, 2002) (Notice of Filing and Immediate Effectiveness of SR–PCX–2002–38).

[6] *See* Securities Exchange Act Release No. 47838 (May 13, 2003), 68 FR 27129 (May 19, 2003).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4).

charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A)[9] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of the 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 PCX. All submissions should refer to File No. SR–PCX–2003–29, and should be submitted by July 31, 2003.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

J. Lynn Taylor,

Assistant Secretary.

[FR Doc. 03–17417 Filed 7–9–03; 8:45 am]

BILLING CODE 8010–01–P

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 4397]

Bureau of Educational and Cultural Affairs Request for Grant Proposals (RFGPs) in an Open Competition Seeking Cooperative International Projects To Introduce American and Foreign Participants to Each Other's Social, Economic, and Political Structures

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for cooperative international projects that introduce American and foreign participants to each others' social, economic, and political structures and international interests. U.S.-based 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 that support international projects in the United States and overseas involving current or potential leaders.

Interested applicants should read the complete **Federal Register** announcement before addressing inquiries to the Office of Citizen Exchanges or submitting their proposals. Once the RFGP deadline has passed, the Office of Citizen Exchanges may not discuss this competition in any way with applicants until after the Bureau program and project review process has been completed.

Important Note: This Request for Grant Proposals contains language in certain sections that is new or significantly different from that used in the past. Please pay special attention to the following sections: General Program Guidelines; Ineligibility; Program Data Requirements, and Budget Guidelines and Cost-Sharing Requirements.

FOR FURTHER INFORMATION CONTACT: Interested organizations/institutions may contact the Office of Citizen Exchanges, room 216, SA–44, U.S. Department of State, 301 4th Street, SW., Washington, DC 20547, telephone number 202/619–5348, fax number 202/260–0440 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 the appropriate Bureau Program Officer as listed below on all other inquiries and correspondence.

To Download a Solicitation Package via Internet: The entire Solicitation Package also may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

Announcement Name and Number

All correspondence with the Bureau concerning this RFGP should reference the ''Open Competition for Cooperative International Projects'' and reference number: ECA/PE/C–04–01. Please refer to title and number in all correspondence or telephone calls to the Office of Citizen Exchanges.

Program Information

Overview

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces this Open Competition for proposals for assistance grants for all world regions *except* Western, Central, Southeast Europe and Russia/Eurasia. We welcome proposals that directly respond to the following themes, regions and countries. Given budgetary considerations, projects in countries and for themes other than those listed will *not* be eligible for consideration. The themes listed below are important to the Office of Citizen Exchanges, but no guarantee is made or implied that grants will be made in all categories.

This competition is based on the premise that people-to-people exchanges focused on the enhancement of human capacity and the encouragement and strengthening of democratic initiatives nurture the social, political, and economic development of society.

Proposals for single country, sub-regional and regional projects will be accepted. In some cases, where noted, multi-country proposals will be given priority consideration.

Proposals should be designed to support exchanges that operate on two levels: (1) They should enhance institutional partnerships between U.S. organizations and partner organizations in the region, improving the institutional capacity of the partner organizations, and (2) they should offer practical information and useful materials to enable the partners to share skills and practical experience after the grant period is over.

The Bureau encourages applicants to consider carefully the choice of target countries and issues. In order to prevent duplication of effort, proposals should reflect an understanding of the work of USAID and other development agencies, where appropriate, on the target themes, and focus on countries for which there has been limited investment on the selected issue, or for which exchange activities would complement—not

duplicate—current assistance programs. Applicants are encouraged to contact the Office of Citizen Exchanges to discuss program concepts prior to proposal submission. In addition, applicants may contact the Public Affairs Sections in U.S. Embassies to discuss proposed activities and their relevance to mission priorities.

To the extent possible, exchanges should be *bilateral*, with *roughly equal numbers of participants* from the U.S. and foreign countries. If a bilateral exchange is not proposed, the reasons should be explained in the proposal.

Applicants should carefully review the following recommendations to tailor proposals to address issues of interest in specific geographical areas.

Grants awarded to eligible organizations with less than four years of experience in conducting international development or exchange programs will be limited to $60,000. Applicants must submit a comprehensive budget for their entire proposed program. Grant awards will range from $60,000 to $200,000. Proposals must provide a summary budget as well as breakdowns reflecting both administrative and program budgets.

Proposals which clearly demonstrate a significant cost-sharing—with 50% of the amount requested from ECA as the preferred target—will be judged more competitive. For example, an organization requesting $150,000 would be more competitive if the proposal presented at least $75,000 in allowable cost sharing.

Sub-Saharan Africa (AF)

Contacts for African programs: Curtis Huff, 202/619–5972; e-mail: *chuff@pd.state.gov*, and Carol Herrera, 202/619–5405; e-mail: *cherrera@pd.state.gov*, James Ogul, 202/205–0535; e-mail: *jogul@pd.state.gov.*

1. Strengthen private sector approaches to generating economic growth and increasing productivity in Africa through expanded trade and investment, especially in countries where there are pro-growth economic policies that foster enterprise and entrepreneurship:

Proposals should focus on building an understanding of the impact of globalization on the national economy with emphasis on both the benefits of globalization and the inherent risks involved in participating in the global economy. Project themes may include orderly market compliance, intellectual property rights (IPR) enforcement, regulatory transparency, sector reforms and measures that government and business can take to ease the displacement of workers in the process of economic liberalization. A sub-theme could include a discussion of how the U.S. implements commercial diplomacy including how we negotiate and plan our trade/commercial relations. Proposals should ''jumpstart'' the African Growth and Opportunities Act (AGOA) process by providing medium and small African business entrepreneurs and members of business associations an understanding of AGOA and of the American market place. Projects should enhance African understanding of U.S. business norms and actual practices, of U.S. customs operations, product distribution and retailing, and help them develop business linkages and relationships with manufacturers and business in their respective sectors. Of particular interest would be proposals for projects in AGOA approved countries

2. Increase African capacity to fight terrorism, and to prevent, mitigate and resolve crises, conflict and regional instability:

Proposals should promote constructive dialogue and the reduction of stereotyping, violence, hatred, and incitement among diverse groups. A proposal could address a particular conflict or develop a broadly applicable educational program to promote peaceful resolution of current or recent inter-communal conflicts or tensions. It could work through the media or educational institutions or NGOs or other implementation channels. It should build a valued working relationship between U.S. and African professionals in conflict management and resolution, and develop or result in a program that can continue after grant support is finished. Of particular interest would be a proposal on Moving Beyond Conflict to Recovery with emphasis on the Democratic Republic of the Congo/Great Lakes, Sierra Leone/Guinea/Liberia, Ethiopia/Eritrea, and Angola. Issues should include setting priorities and reconciliation methodologies after a long war, *i.e.* family reunification, land tenure, encouraging a return to the countryside, permanent resettlement in place vs. return to pre-conflict homes, de-mining and major infrastructure repair.

3. Increase democracy, good governance and respect for the rule of law, and help strengthen civil society:

Proposals should focus on working with African governments and NGOs to promote and strengthen civil societies, independent media, human rights, the rule of law and democratic development. Issues to be addressed might include the meaning of civil society, the separation of governmental powers, the role of non-governmental organizations, promoting responsible and balanced journalism and media professionalism, political tolerance, social diversity, rule of law, democratic and team-centered approaches to decision-making. Proposals should include different ethnic and religious groups in order to expand the dialogue for coexistence. Among the themes of interest are: the development of an independent judiciary; the enforcement of commercial laws such as intellectual property rights protection, sanctity of contracts, and competition policy; labor rights; government accountability; and alternative dispute resolution. The objective is to acquaint officials, journalists, NGO leaders, lawyers and other relevant professionals with the concepts and practice of law in the U.S. and the applicability of the U.S. experience throughout Africa.

4. Decrease the spread of HIV/AIDS, malaria and other infectious diseases:

Proposals should outline exchange activities that would foster awareness of risk and promote behavior changes crucial to control and eventual eradication of HIV/AIDS or associated debilitating diseases such as malaria and multiple-drug resistant tuberculosis. Proposals should address a selection of the following topics: education strategies to teach prevention to people who don't believe it can happen to them or believe that infection is inevitable; stigma reduction strategies for people living with HIV/AIDS; engagement of political, religious, cultural and other leaders in public education efforts; grassroots mobilization and advocacy. **Note:** proposals must clearly support the ''U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003'' and promote accomplishment of the goals set forth in the U.S. Emergency Plan for AIDS Relief. Details on U.S. policy to combat HIV/AIDS can be found at *http://www.whitehouse.gov/infocus/hivaids/*

5. Preserve Africa's sustainable resource base:

Proposals should develop exchanges that focus public awareness on the threat posed by environmental deterioration, facilitate efforts to combat the threat by mobilizing governmental and/or non-governmental action, and work at multiple levels to educate and to develop solutions. Of special interest are proposals that would strengthen national park systems, that would clean up major cities, and that would make clean water much more widely available. ECA Bureau funds cannot be used for construction projects, but should be used for projects that increase

an understanding of how to plan and mobilize forces to accomplish these goals. Proposals should build a valued working relationship between Americans and Africans that is likely to continue after grant support is finished.

East Asia and the Pacific (EAP)

The contact for East Asian and Pacific programs: Raymond H. Harvey 202/260–5491; e-mail: *rharvey@pd.state.gov.*

1. Increase regional cooperation to fight terrorism, and to prevent disruption of regional trends toward peace, prosperity, and democracy:

Proposals should outline exchange activities that engage non-governmental organizations and key citizen groups active in raising public awareness of the danger of terrorism and addressing the serious negative impact that terrorism and its practitioners have on countries in the region and on the conditions—financial, economic and political—that increase the vulnerability of the region to terrorism. Emphasis should be placed on the need to secure the active cooperation of other publics and governments in the region, bilaterally and multilaterally within ASEAN, the ASEAN Regional Forum (ARF) and APEC. Proposals for exchange activities in Thailand, Indonesia, the Philippines and Malaysia would be welcome.

2. Continue the development of democracy in the region by focusing on efforts to reinforce educational opportunity, domestic demand for honest government and greater respect for individual human rights:

Proposals should strengthen institutions of government whose efforts have a direct impact on the quality of a country's democracy and increase transparency, accountability, responsiveness and effectiveness of government operations. Especially welcome would be proposals that address efforts to fight corruption in public and private institutions. Projects might focus on strengthening local non-profit organizations that advocate transparency and equal treatment of all before the law. Local government officials or elements of executive branches, legislatures, or judicial systems may also be appropriate program participants. One example might be an exchange for local mayors to exchange views with U.S. counterparts on innovations in city government and citizen participation in municipal affairs, with a return visit by a group of U.S. mayors and city managers and municipal experts to hold local workshops on the same theme. Also welcome would be proposals that engage organizations and individuals actively involved in developing or supporting strategies that promote increased formal and informal educational opportunities. Emphasis should be on providing essential tools and support to educators for classes and leadership activities. Potential topics for activities include, but are not limited to, creating & reconstructing educational opportunities, modernizing teaching methodology & practice, curriculum development, promoting an appreciation through the educational system of the vital role of women & girls in society and the importance of teaching leadership, civic responsibility and peaceful conflict resolution in the primary and secondary school classroom. Proposals for exchange activities in Indonesia and Malaysia would be welcome.

3. Creating awareness and changing behavior to keep ahead of the advancing trends that have internationalized once-local problems such as HIV/AIDS, narcotics trafficking, the epidemic of infectious diseases, especially SARS, malaria and TB:

The office would welcome proposals that promote better understanding of the threat posed by HIV/AIDS and other infectious diseases. Projects should explore the need to develop and reward leadership in these efforts, to improve community health education, and to remove barriers that impede a cooperative multi-sectoral response to these issues. Projects should address some of following topics: prevention and stigma reduction strategies for people living with HIV/AIDS, especially women and youth; engagement of political, religious, cultural and other leaders in public education efforts; grassroots mobilization and advocacy. Proposals for exchange activities in Vietnam and Thailand would be welcome. Note: proposals must clearly support the ''U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003'' and promote accomplishment of the goals set forth in the U.S. Emergency Plan for AIDS Relief. Details on U.S. policy to combat HIV/AIDS can be found at *http://www.whitehouse.gov/infocus/hivaids/.*

4. Promotion of open markets and pro-growth policies to help restore long-term growth prospects by strengthening Asian financial systems, improving corporate governance and restructuring, promoting regulatory reform, and pressing for trade and investment liberalization:

Proposals should focus on promoting greater understanding of the impact of globalization on national economies, with emphasis on both the benefits of globalization and the inherent risks involved in participating in the global economy. Themes could include orderly market compliance (WTO entry and responsibilities), intellectual property rights (IPR) enforcement, regulatory transparency, sector reforms and measures that government and business can take to ease the displacement of workers in the process of economic liberalization. Proposals may also address the public administration of trade regimes, such as training for customs officials, product promotion of both exports and imports, port administration, accountability, tracking systems development, etc. Projects that assist in the design and funding of a social welfare net for those at the bottom of the economic ladder are also solicited. We would welcome proposals for projects in Vietnam and The People's Republic of China.

Near East and North Africa (NEA)

South Asia (SA)

Contacts for NEA and SA programs: Thomas Johnston, 202/619–5325; {*tjohnsto@pd.state.gov*} *or* Susan Krause, 202/619–5332; {*skrause@pd.state.gov*}.

The countries/entities comprising the NEA and SA Areas are listed. Currently there is no U.S. mission in Iran, Iraq, or Libya. Note that project foci suggested below may be appropriate for single country, multi-country or regional proposals.

Countries/Entities of the Near East and North Africa—Algeria; Bahrain; Egypt; Iran; Iraq; Israel; Jordan; Kuwait; Lebanon; Libya; Morocco; Oman; Qatar; Saudi Arabia; Syria; Tunisia; the United Arab Emirates (UAE); the West Bank and Gaza; Yemen.

Countries of South Asia—Afghanistan; Bangladesh; Bhutan; India; the Maldives; Nepal; Pakistan; Sri Lanka.

1. Address factors that contribute to extreme political orientation through programs that increase educational opportunity, accelerate economic reform, and promote the development of civil society in the region:

Proposals should lead to enhanced and broadened educational opportunities for youth, to greater possibilities for professional development leading to economic independence and self respect, or to integrating into elementary and secondary education curricula civic education concepts such as citizen awareness, participation, volunteerism, and community service. Projects that contribute to educational development through train-the-trainer, in-service skills enhancement, and curriculum and methodology orientation for teachers are

welcome. Likewise, there is a need for trained instructors at all levels as well as for curricula and systems that produce technically qualified, mid-level workers. Proposals should focus on development of educational programs and institutions that teach how to be a skilled teacher, how to apply modern technology, how to implement and teach environmentally and scientifically sound water management and agricultural practices, how to design and plan road safety measures, etc. Finally, the development of ethics and civic responsibility through education is an important step in creating a more civil and democratic society. Middle Eastern groups are particularly interested in learning how American school systems have incorporated in their curricula community service, leadership development, volunteerism and environmental campaigns, and other activities that involve students in the larger society.

Note: This competition is NOT designed for youth exchanges. Only adult professionals or grassroots practitioners may be selected to travel internationally for exchange activities under this competition. Individual university students may take part in pilot sessions and in-country educational activities.

2. The expansion of citizen participation and advocacy, the development of good governance, and the strengthening of non-governmental institutions are essential to democratic society:

Proposed exchanges should contribute to transparency and the development of (mechanisms of) public oversight and control to counteract the possibility of corruption and abuse in governmental institutions, should strengthen the role of citizen initiative, participation and advocacy through non-governmental organizations, or should reinforce the concept of the rule of law, the rational administration of the judicial system, and citizens' right to equal justice. A populace experiencing abuses of power and corruption loses confidence in its civil institutions. The American NGO might work with indigenous NGOs, citizens' rights groups, journalists, and government officials to determine how best to expose and combat corruption and promote accountability and transparency. The Bureau welcomes proposals that promote an understanding of the proper role of NGOs in a democratic society. Social and political activism, encouraged, focused, and channeled through non-governmental organizations, is a basic underpinning of democratic society. Strengthening NGO advocacy skills, management, recruitment and mobilization, media relations, and networking will strengthen democratic/civil society trends. A well-trained, independent judiciary is fundamental to a democratic political and social system. Proposals might introduce judges/prosecutors/lawyers to the functioning of the legal system in the U.S.

3. National and regional stability, based on tolerance and cooperation, is an essential underpinning for the region's continued growth and cooperation:

Proposals should focus on issues of conflict resolution and promotion of tolerance and cooperation among diverse ethnic communities. A community that expends its time, its energy, and its material resources on offensive or defensive combat is unable to develop or maintain a civil basis for democratic institutions. Communal and ethnic tolerance is difficult to achieve, and the problem has worsened with the rise of community-based political groups, particularly those centered on religion. There are numerous community groups working to bring about resolution to the challenge posed by ethnic nationalism, and the American experience of absorbing, integrating, and accommodating diverse communities from various parts of the world into a civil, as opposed to an ethnically defined, polity would be useful to these groups. Of particular relevance would be the experience of programs that teach tolerance in either a formal setting or in novel arts/media-based contexts.

4. Economic growth, improved living standards, and participation in the global economy are linked to and dependent on environmental protection, sound natural resources management, and promoting public health:

Proposals should focus on conditions that allow for and promote economic growth and increased participation in the global economy. These conditions include, in addition to a balanced, transparent and predictable system of civil dispute resolution, sound environmental protection and natural resources management and a rational approach to issues of public health. Economic growth, including participation in the broader global economy, is dependent on environmental protection and natural resources management and is directly correlated to the physical well being of the population. Exchange projects might enhance public awareness of the threat posted by environmental deterioration and facilitate efforts at multiple levels to combat the threat or might focus on natural resources management. Central to any discussion of natural resources management in the Middle East is the question of water: water conservation, quality, availability, and distribution. Finally, environmental stewardship and natural resource management are closely linked to issues of public health. Public health may be addressed either from the perspective of prevention or from the perspective of developing resources to respond to what is currently an overwhelming need for public health information and services.

5. An informed public is the basis of democratic institution building. Journalism that contributes to public understanding and sound decision making is an essential building block for civil society:

Proposals should focus on the role and responsibility of a free press in a democratic society and should include journalism training and/or professional skills development. If the fourth estate is to fulfill its role as sine qua non of democratic society, journalists must be well trained, and they must have an appreciation for the importance of objective reporting, the ethics of presenting a true and balanced account, and the skills required for subject specialization, rational media management, and dealing with laws that constrain press freedom.

Western Hemisphere Affairs (WHA)

The Bureau of Western Hemisphere Affairs includes the countries of Canada, Mexico, Central and South America, and the Caribbean.

The contact for Western Hemisphere Affairs programs: Laverne Johnson, 202/619–5337; e-mail: *ljohnson@pd.state.gov.*

1. Increase adherence to democratic practices and their respect for human rights:

Proposals should focus on developing a better understanding of the role of NGOs in influencing political processes, lobbying, and networking with other organizations. Proposals may address any of the following program concepts designed to enhance democracy within WHA countries: Transparency and Anti-corruption, Administration of Justice (also Comparative Legal Systems), Civilian-Military Relations, Civil Society Participation in Government, Leadership for Democracy, and Alternative Dispute Resolution as a Solution to Inter-ethnic conflict. Proposals are also welcome that help support non-governmental organizations to build public awareness of narcotics and human trafficking as violations of human rights that can have a pernicious influence on democratic systems would also be welcomed. (Any such proposals

must demonstrate clear coordination with and support for existing U.S. Government anti-narcotics and anti-human trafficking programs in WHA countries.) Proposals should focus on how a democratic government functions from the community to the national level in addressing these concepts. Participants would be representatives of politically engaged NGOs with a good-government focus. Project activities might focus on how municipal teams, including government officials, educational leaders, NGOs, business leaders, etc., join forces to develop approaches to economic development or solutions to major problems (environment, crime, drug use, etc.) Ideally, participants will be committed activists who will share ideas, successes, and challenges from the U.S. and the foreign country.

2. Accelerating economic growth:

Proposals should focus on the impact of globalization on the national economy with emphasis on both the benefits of globalization and the inherent risks involved in participating in the global economy. Projects, which include orderly market compliance, intellectual property rights (IPR) enforcement, regulatory transparency, sector reforms and measures that government and business can take to ease the displacement of workers in the process of economic liberalization. A sub-theme would include a discussion of how the U.S. implements commercial diplomacy including how we negotiate and plan our trade/commercial relations.

3. Enhance development of good health through focus HIV/AIDS:

Proposals should focus on creative community-based public awareness initiatives that will promote better health care and prevent the spread of HIV/AIDS. Proposals should focus on educating girls and young women on some of the following topics: the need for prevention and stigma reduction strategies for people living with HIV/AIDS, engagement of political, religious, cultural and other leaders in public education efforts; grassroots mobilization and advocacy.

Note: proposals must clearly support the ''U.S. Leadership Against HIV/AIDS, Tuberculosis and Malaria Act of 2003'' and promote accomplishment of the goals set forth in the US Emergency Plan for AIDS Relief. Details on U.S. policy to combat HIV/AIDS can be found at *http://www.whitehouse.gov/infocus/hivaids/*

4. Protection of Indigenous and Minority Cultures in a Shrinking World:

Proposals would address the protection of indigenous cultures by demonstrating ways in which technology can be adapted to local conditions, and how these technologies can be used to protect and preserve and disseminate information about local cultural heritage. Emphasis under this theme is on assisting countries in preserving their cultural heritage through programs designed to reduce the threat of pillage of sites representing irreplaceable cultural heritage, and to create opportunities to develop long-term strategies for preserving cultural property through training and conservation, museum development, and public education. Projects might include supporting the preservation of cultural sites, objects in a site, museum or similar institution, or forms of traditional cultural expression.

General Program Guidelines

Applicants *must* identify local organizations and individuals in the counterpart country with whom they are proposing to collaborate and describe in detail previous cooperative programming and/or contacts. Information about the counterpart organizations' activities and accomplishments is required and *must* be included in the section on Institutional Capacity. All proposals *must* contain letters of support tailored to the project being proposed from all foreign-country partner organizations. Applicants seeking information on possible overseas counterpart organizations may wish to speak with the Bureau Program Officer listed under each world region in this announcement for information on contacting U.S. Embassy personnel to discuss potential local partner institutions.

Exchanges and training programs supported by institutional grants from the Bureau should operate at two levels: they should enhance institutional partnerships, and they should offer practical information and experience to individuals and groups to assist them with their professional responsibilities. Strong proposals usually have the following characteristics:

- A proven track record of working in the proposed issue area;
- an experienced staff with language facility and a commitment by the staff to monitor projects locally to improve accountability;
- a clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant; and
- a follow-on plan providing for individual and institutional cooperative efforts beyond the scope of the Bureau grant.

Proposal narratives should demonstrate an organization's willingness to consult closely with the Public Affairs Section and other officers at the U.S. Embassy. Final grants awards will require that all materials developed specifically for the project and funded with assistance of the ECA grant acknowledge USG funding for the program. *Please note that this will be a formal requirement in all final grant awards.* Proposals should indicate a commitment to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits.

Suggested Program Designs

Bureau-supported exchanges may include internships; study tours; short-term, non-technical experiential learning, extended and intensive workshops and seminars taking place in the United States or overseas. Examples of possible program activities include.

1. A U.S.-based program that includes: orientation to program purposes and to U.S. society; study tour/site visits; professional internships/placements; interaction and dialogue; hands-on training; professional development; and action plan development.

2. Capacity-building/training-of-trainer (TOT) workshops to help participants to identify priorities, create work plans, strengthen professional and volunteer skills, share their experience to committed people within each country, and become active in a practical and valuable way.

3. Seed/small grants to indigenous non-profit organizations to support community-based educational projects that build upon exchange activities and that address issues of local concern. Proposals may include a component for a Seed/Small Grants Competition (often referred to as 'sub-grants' or 'secondary grants'). This requires a detailed plan for recruitment and advertising; description of the proposal review and award mechanism; a plan for how the grantee would monitor and evaluate small grant activity; and a proposed amount for an average grant. The small grants should be directly linked to exchange activities. Small/seed grants may not be used for micro-credit or re-loaning purposes. Small/seed grants may not exceed 10% of the total value of the grant funds sought from ECA.

4. Site visits by U.S. facilitators/experts to monitor projects in the region and to provide additional training and consultations as needed.

5. Content-based Internet training/cyber-training to encourage citizen participation in workshops, fora, chats, and/or discussions via the Internet that will stimulate communication and

information sharing among key opinion leaders on priority topics as a form of cost sharing. Proposals that include Internet utilization must reflect knowledge of the opportunities and obstacles that exist for use of information technologies in the target country or countries, and, if needed, provide hardware, software and servers, preferably as a form of cost sharing. Federal standards are under review and their adoption may impact on the implementation of these programs.

Ineligibility

During the program office's review process, all proposals will judged on their technical eligibility. A proposal deemed technically ineligible will be listed as not competitive. A proposal will be deemed technically ineligible for consideration if:

- It does not fully adhere to the guidelines established in this document and in the Proposal Submission Instructions;
- It is not received by the deadline;
- It is not submitted by a U.S. based Public Private not for profit organization meeting provisions described in Internal Revenue code section 26 U.S.C. 503 c (3);
- The foreign country or geographic location is ineligible.
- The proposal does not include an in-country foreign partner organization(s) and does not contain letters of support from foreign partners, tailored to the proposed project and specific information in the narrative about the partner organization's past activities and accomplishments;
- The proposal includes activities that are ineligible for support, as listed below.

Activities Ineligible for Support

Vocational training (an occupation other than one requiring a baccalaureate or higher academic degree; *i.e.*, clerical work, auto maintenance, etc., and other occupations requiring less than two years of higher education) and *technical training* (special and practical knowledge of a mechanical or a scientific subject which enhances mechanical, narrowly scientific, or semi-skilled capabilities) *are ineligible for support.* In addition, academic scholarship programs are ineligible for support.

The Office does not support proposals limited to *conferences or seminars* (*i.e.*, one to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only insofar as they are a small part of a larger project in duration and scope that is receiving Bureau funding from this competition. The Office will only support workshops, seminars and training sessions that are an integral part of a larger project. No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau of Educational and Cultural Affairs as required. As a minimum, the data must include the following:

- Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.
- Itineraries of international and domestic travel, providing dates of travel and cities in which exchange experiences take place.

Selection of Participants

All grant proposals should clearly describe the type of persons who will participate in the program as well as the process by which participants will be selected. It is recommended that for programs including U.S. internships, grant applicants submit letters tentatively committing host institutions to support the internships. In the selection of foreign participants, the Department and U.S. Embassies retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. When participants are selected, grantee institutions will provide the names of American participants and brief (two pages) biographical data on each American participant to the Office of Citizen Exchanges for information purposes. Priority in two-way exchange proposals will be given to foreign participants who have not previously traveled to the United States. (See section below on requirements for maintenance of and provision to ECA of data on participants and program activities.) Priority in selection of U.S. participants must be given to veterans of the U.S. armed forces.

Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR part 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR part 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62.

Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places great emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should *explicitly state in writing* that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et. seq.,* including the oversight of their 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 Office of Citizen Exchanges of ECA 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.

Evaluation

In general, evaluation should be ongoing and evolving throughout the duration of the project. The evaluation plan will incorporate an assessment of

the program from a variety of perspectives. Specifically, project assessment efforts will focus on: (a) Determining if objectives are being met or have been met, (b) identifying any unmet needs, and (c) assessing if the project has effectively discovered resources, advocates, and financial support for sustainability of future projects. Informal evaluation through discussions and other sources of feedback will be carried out throughout the duration of the project. Formal evaluation will be conducted at the end of each phase, using instruments designed specifically to measure the impact of the activities and should obtain participants' feedback and comments on the program content and administration. A detailed evaluation will be conducted at the conclusion of the project and the report will be submitted to the Department of State Bureau of Educational and Cultural Affairs. When possible, the evaluation should be done by an independent evaluator.

Budget Guidelines and Cost-Sharing Requirements

Grants awarded to eligible organizations with less than four years of experience in conducting international development or exchange programs will be limited to $60,000. Applicants must submit a comprehensive budget for the entire program. Grant awards will range from $125,000 to $200,000. 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.

Since Bureau grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other anticipated sources of financial and in-kind support. Proposals which clearly demonstrate a significant level of cost sharing—with 50% of the amount requested from ECA as the preferred target—will be judged more competitive. Proposals with higher cost-sharing levels are welcome.

Example: A proposal requests $140,000 in grant funds from ECA, for a project with a total budget of $500,000. The preferred allowable cost sharing is $70,000. In this case, the cost sharing far exceeds the minimum, since actual cost sharing is $360,000.

When cost sharing is offered, it is understood and agreed that the applicant must provide the minimum amount of cost sharing as stipulated in this RFGP and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all allowable costs, which are claimed as being your contribution to cost participation, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced proportionately to the contribution.

The following project costs are eligible for consideration for funding:

1. *Travel costs.* International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs.

2. *Per Diem.* For the U.S. program, organizations have the option of using a flat $170/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at *http://www.policyworks.gov/.*

3. *Interpreters.* If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $160/day per diem for each Department of State interpreter, as well as home-program—home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for U.S. Department of State interpreters.

4. *Book and cultural allowance.* Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

5. *Consultants.* Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should be itemized in the budget.

6. *Room rental.* Room rental may not exceed $250 per day.

7. *Materials development.* Proposals may contain costs to purchase, develop, and translate materials for participants.

8. *Equipment.* Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

9. *Working Meal.* The grant budget may provide for only *one* working meal during the program. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one. Interpreters must be included as participants.

10. *Return travel allowance.* A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

11. *Health Insurance.* Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. *Administrative Costs.* Costs necessary for the effective administration of the program may include salaries for grant organization employees, benefits, and other direct or indirect costs per detailed instructions in the Solicitation Package.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

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, October 3, 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 12 copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/–04–01, 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 in text (.txt) format on a PC-formatted disk. The Bureau will provide these files electronically to the Public Affairs Section at the U.S. embassy for its review.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Review Process

Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. The program office, the Public Diplomacy section and other elements at the U.S. Embassy will review all eligible proposals. 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 grants 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 after all required elements have been met (required cost-sharing, letters of support, willingness to work with U.S. embassies, etc).

1. *Program planning to achieve program objectives:* Proposals should clearly demonstrate how the institution plans to achieve the program's objectives. Objectives should be reasonable, feasible, and flexible. The proposal should contain a detailed agenda and relevant work plan that demonstrates substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. *Institutional Capacity/Record/Ability:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals. For technical projects, foreign experts and their local partners will be required to have the necessary education, training and experience for the work to be undertaken, in addition to language skills where applicable. Proposals should demonstrate an institutional record of successful development or exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Many successful applicants will have a multiyear track record of successful work in the selected country or within the region.

3. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Follow-on Activities:* Proposals should identify other types of exchanges or linkages that might be undertaken after completion of the Bureau supported activity.

6. *Monitoring and Project Evaluation Plan:* Proposals should provide a detailed plan for monitoring and evaluating the program. The evaluation plan should identify anticipated outcomes and performance requirements clearly related to program objectives and activities and include procedures for ongoing monitoring and corrective action when necessary. The identification of best practices relating to project administration is also encouraged, as is the discussion of unforeseen difficulties.

7. *Cost-effectiveness/Cost-sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals with 50% cost sharing (of the amount of grant funds requested from ECA) through other private sector support as well as institutional direct funding contributions will be judged more competitive than those proposals providing a lower amount of cost sharing.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

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: July 3, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 03–17481 Filed 7–9–03; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4396]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Fulbright Foreign Student Conflict Resolution Program

SUMMARY: The Office of Academic Exchange Programs of the Bureau of Educational and Cultural Affairs announces an open competition for the Fulbright Foreign Student Conflict Resolution Program. Public and private accredited, post-secondary educational institutions meeting the provisions described in Internal Revenue Code section 26 USC 501(c)(3) may submit proposals to develop and implement a U.S.-based graduate level academic program in conflict resolution for up to 15 participants from the Middle East and North Africa.

Program Information

Overview

The Bureau created the Fulbright Foreign Student Conflict Resolution Program in 2000 to enhance non-governmental efforts to resolve political, social and sectarian conflicts within the Middle East and North Africa, and South Asia.

The program is intended to provide participants with the analytical tools and practical skills necessary to transform diverse problems into viable solutions in order to foster sustainable peacebuilding efforts. The Fulbright Foreign Student Conflict Resolution Program operates through a merit-based, open competition that selects talented individuals early in their professional careers who are engaged in the political, economic, social, and/or educational transformation of conflicts in their communities.

The Bureau's Office of Academic Exchange Programs administers the Fulbright Foreign Student Conflict Resolution Program with the assistance of cooperating agencies. The Office of Academic Exchange Programs is responsible for allocation of funding, policy guidance and administrative oversight. Applicants for the scholarships are recruited, screened, and nominated by Public Affairs Sections of the U.S. Embassy or Fulbright binational commissions. The cooperating agencies are responsible for program administration activities, including providing services in the following broad categories: Program planning and management; J-visa sponsorship and tracking; supervision and support services; special programs management; and reporting and evaluation.

The Bureau is seeking detailed proposals from colleges, universities, and consortia of colleges and universities that have an established reputation in the field of conflict transformation, conflict management, or conflict resolution. The lead institution in a consortium must have an accredited U.S. college or university and is responsible for submitting the grant proposal. Each proposal must document the lead institution's authority to represent all cooperating partners.

The proposed program should offer participants a choice between a non-degree, graduate certificate or master's degree; provide a substantive practical training component; and capstone experience. Participants should be well integrated into the campus community and academic program.

Applicant institutions must demonstrate expertise in conducting graduate programs for foreign students, and must have a minimum of four years experience in conducting international exchange programs. Bureau guidelines stipulate that awards to organizations with less than four years experience in conducting international exchanges are limited to $60,000. As it is expected that the budget for this program will exceed $60,000, organizations that cannot demonstrate at least four years experience will not be eligible under this competition.

The project director or one of the key program staff responsible for the academic program must have an advanced degree related to an area of conflict resolution. Programs must conform with Bureau requirements and guidelines outlined in the Solicitation Package. Bureau programs are subject to the availability of funds.

Guidelines

Pending availability of fiscal year 2004 funding, program activities should take place during period from August 1, 2004 to July 31, 2006. Participants will be recruited from the Middle East and North Africa and will be expected to begin their program in Fall 2004. The projected number of program participants is up to 15. The total Bureau budget for this program should not exceed $500,000.

The duration of an individual scholarship under the Fulbright Foreign Student Conflict Program should not exceed two years. Participants are expected to return to their home country upon completion of this program. Where there are compelling circumstances, at the discretion of the project director and the Bureau's program officer, students may receive a limited extension to complete their degrees. Summer periods may be used for a mix of academic professional and cultural enrichment activities.

Pending the successful administration of this program, and the availability of funds, the Bureau reserves the right to renew this grant in fiscal year 2005 to conduct a similar program for a group of up to 15 program participants from South Asia.

Requirements and Implementation

The proposal should respond to, and describe, the following major requirements:

A. Academic Program

The academic component should provide participants with a choice between a non-degree graduate certificate and master's degree in the field of conflict transformation, conflict management, or conflict resolution. The academic program should give participants a multidimensional view of applied conflict resolution in addition to the theoretical framework of sustainable peacebuilding. Participants should be enrolled full-time and considered in academic residence during the program. Proposals may also include English manage training for selected participants whose existing English skills need to be strengthened or refreshed. The academic program should not exceed 24 months in duration.

B. Practical Training/Internship

The proposal must demonstrate the applicant's ability to facilitate professional development opportunities, access to a strong internship network, and ability to place participants internships that are germane to conflict resolution. The practical training must

compliment a student's academic program, be supervised by a faculty advisor, and supplement the stated program objectives. Participants are expected to engage in at least eight weeks of practical training. To support the mutual understanding goal of the Fulbright Program, the Bureau is particularly interested in opportunities for academic training related to U.S. institutions, society and culture that engage in conflict resolution.

C. Capstone Experience

The academic program should culminate in a capstone experience that encourages participants to integrate knowledge and experience gained while on the program, and its applicability to their home community.

D. Orientation

It is essential that participants be informed of American culture, society and norms, particularly diversity. Participants should be introduced to the general nature, philosophy and goals of U.S. higher education. Students should receive guidance from an academic advisor to assist them in choosing appropriate courses.

E. Housing

Provide appropriate graduate student housing or facilitate housing arrangements for program participants.

F. Student Services

Provide on-going advising and student services, conduct cross cultural counseling, and plan cultural and community enrichment activities for the participants.

G. Grants Benefits and Disbursements

Monitor and distribute approved grant payments (e.g., monthly maintenance allowance in accordance with the Institute for International Education's (IIE) annual ''Monthly Maintenance Rate Report''), reimbursements (*e.g.,* equipment and book allowances), and advances (*e.g.,* professional development allowances). Proposals should address participant stipend levels in the narrative, including what expenses the stipend is intended to cover and the estimated monthly cost of housing provided to the participants. The current stipend level for a traditional Fulbright grant includes: (1) Monthly maintenance as set by IIE; (2) a one-time equipment allowance of $500 per person; (3) book allowance up to $950 per person each year; and (4) a one-time professional development allowance up to $2,500 per person.

H. Tax Assistance to Grantees

Insure compliance with the ''Tax Reform Act of 1986'' and assist program grantees with requirements for filing federal, state, and local tax returns. The applicant will calculate appropriate withholding from student grants and deposit withholding with the U.S. Treasury. End-of-year withholding reports should be provided to the Internal Revenue Service and the grantees; and grantees should be notified of the gross amount reported as taxable income. Applicants should note that specific countries represented in both regions hold tax-exempt treaties with the United States.

I. Professional Development and Cultural Enrichment Activities

Proposals should provide for program participants in their second year to attend the annual conference of the Association for Conflict Resolution. Proposals should plan for adjunct cultural and professional enhancement opportunities within the academic and civic communities that further the program's goals and exposes participants to American culture and society.

J. Alumni Network

The program seeks to develop a cadre of leaders with first-hand experience in the U.S. who are able to enhance non-governmental efforts at peacebuilding in their communities. Proposals should demonstrate how participants will be incorporated into an alumni network that fosters the development and expansion of professional relationships between program participants, and individuals in the U.S. and overseas.

Programs must comply with J–1 visa regulations. Please refer to Solicitation Package for further information.

Budget Guidelines

The total Bureau budget (program and administrative costs) for the program should not exceed $500,000. The Bureau funded administrative costs as defined in the budget details section of the solicitation package should not exceed $50,000. The Bureau encourages applicants to provide maximum levels of cost-sharing and funding from private sources in support of its programs.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Allowable costs for the program include the following:

(1) Tuition and fees.

(2) Housing.

(3) Participant monthly maintenance and allowances.

(4) Administrative costs not to exceed $50,000.

(5) Cultural enrichment and professional development activities.

The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program, and availability of U.S. government funding. Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

The successful applicant will be required to submit interim and final financial reports, as directed by the Bureau, detailing expenditures. The Bureau should be consulted on the reprogramming of any funds.

Announcement Title and Number

All correspondence with the Bureau concerning this RFGP should reference the program title and number ECA/A/E/NEA–SA–04–CRP01.

FOR FURTHER INFORMATION CONTACT: The Office of Academic Exchanges, ECA/A/E/NEA–SA, Room 212, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone (202) 619–6863, fax (202) 205–2466 of Internet address *aarmitag@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 Alice Armitage on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the FRGP 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 Wednesday, September 24, 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 seven copies of the application should be sent to: U.S. Department of State, Bureau of Educational and Cultural Affairs, Ref.: ECA/A/E/NEA–SA–04–CRP01, Program Management, ECA/EX/PM, SA–44, 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 U.S. Embassy for its review, with the goal of reducing the time it takes to get embassy comments for 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) Program 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.

ECA through its cooperating agencies 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 overseas, where appropriate. 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 cooperative agreements resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Overall Quality:* Proposals should exhibit originality and substance, consonant with the highest standards of American education, and furthering the program's objectives. Program elements should be coherently and thoughtfully integrated.

2. *Program Planning and Administration:* Detailed proposal and relevant work plan should demonstrate substantive undertakings and logistical capacity. Proposal and plan should adhere to the program overview and guidelines described above.

3. *Ability to achieve program objectives:* Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the institution will meet the program's objectives and plan.

4. *Multiplier effect/impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages.

5. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

6. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals.

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grant Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Project Evaluation:* Proposals should include a plan to evaluate the activity's success, both as the activities unfold and at the end of the program. A draft survey questionnaire or other technique plus description of a methodology to use to link outcomes to original project objectives is recommended. Successful applicants will be expected to submit intermediate reports after each project component is concluded or quarterly whichever is less frequent.

9. *Cost-effectiveness:* Proposals should maximize cost-sharing through direct institutional contributions, in-kind support, and other private sector support. Overhead and administrative components should be kept as low as possible.

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

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: June 30, 2003.

C. Miller Crouch,

Principal Deputy Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 03–17480 Filed 7–9–03; 8:45 am]

BILLING CODE 4710–05–M

DEPARTMENT OF STATE

[Public Notice 4395]

Bureau of Nonproliferation; Partial Lifting of Administrative Measure Imposed on the Scientific Research and Design Institute of Power Technology, aka NIKIET, To Permit U.S. Government Contractors To Receive Certain Information

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: A determination has been made, pursuant to section 6 of Executive Order 12938, as amended, to lift in part the import sanction that had been imposed on the Scientific Research and Design Institute of Power Technology, aka NIKIET under a January 8, 1999, determination, for the sole purpose of permitting personnel of U.S. government contractors to receive information that may have been produced or provided by NIKIET at a June 24, 2003 seminar concerning the Kursk 5 RBMK reactor.

EFFECTIVE DATE: June 24, 2003.

FOR FURTHER INFORMATION CONTACT: On general issues: Warren Stern, Senior Coordinator for Nuclear Safety, Bureau of Nonproliferation, Department of State, (202–647–6425). On import ban issues: Office of Foreign Assets Control, Department of the Treasury, (202–622–2500).

SUPPLEMENTARY INFORMATION: Pursuant to the authorities vested in the President by the Constitution and the laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 *et seq.*) (''IEEPA''), the National Emergencies Act (50 U.S.C. 1601 *et seq.*), the Arms Export Control Act (22 U.S.C. 2751 *et seq.*), and section 301 of title 3, United States Code, and section 6 of Executive Order 12938, as amended, a determination was made on June 24, 2003 that it is in the foreign policy and national security interests of the United States to lift in part the import sanction imposed January 8, 1999 (64 FR 2935) on the Scientific Research and Design Institute of Power Technology, aka NIKIET for the sole purpose of authorizing U.S. government contractors to receive information that may have been produced or provided by the Scientific Research and Design Institute of Power Technology, aka NIKIET, at a June 24, 2003 seminar concerning the Kursk 5 RBMK reactor.

July 2, 2003.

Andrew K. Semmel,

Acting Assistant Secretary of State for Nonproliferation, Department of State.

[FR Doc. 03–17479 Filed 7–9–03; 8:45 am]

BILLING CODE 4710–27–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34365]

New England Transrail, LLC—Acquisition and Operation Exemption—Lines of Boston and Maine Railroad Company

New England Transrail, LLC, d/b/a the Wilmington and Woburn Terminal Railroad Co. (New England Transrail), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31[1] to acquire and operate, from Boston and Maine Railroad Company (B&M), segments of a line of railroad extending from milepost 13.25 on the Massachusetts Bay Metropolitan Transportation Authority (MBTA) Boston-Concord main line in Woburn, MA (on which B&M retains freight service rights), to a junction with B&M at about milepost 14 on B&M's Wilmington-Woburn-Medford branch, located at a junction south of Eames Street in Wilmington, MA. The line segments are: (1) From milepost 13.25 extending approximately two-tenths of a mile in a northerly direction; (2) from a point at about milepost 14 extending approximately two-tenths of a mile in an easterly direction (including the restoration of a previously removed switch and related track); and (3) from a point near the western end of the track described in (2) above and extending one-tenth of a mile in a southerly direction (including a switch).[2]

[1] Under 49 CFR 1150.32(b), an exemption normally becomes effective 7 days after the notice is filed. By decision served on June 26, 2003, the Board granted New England Transrail's request to delay the effective date of the exemption from June 26, 2003, until July 11, 2003. By letter filed on July 2, 2003, New England Transrail clarified the line description contained in the notice.

[2] New England Transrail states in the verified notice of exemption that it also proposes to construct a half-mile of new track to connect the Wilmington-Woburn-West Medford branch at a point just south of Eames Street to the MBTA main line in Woburn. The class exemption at 49 CFR 1150.31 applies to the acquisition and operation of rail properties, not to the construction of rail line. This notice which invokes that rules, exempts New England Transrail's acquisition and operation of the above-described segments, but does not permit the proposed construction to link the line segments acquired here. New England Transrail must seek construction authority from the Board under 49 U.S.C. 10901 and 49 CFR 1150.1 *et seq.* or an exemption from that authority under 49 U.S.C. 10502 and 49 CFR 1121.1 *et seq.* in a separate filing before it may undertake the proposed construction. At that time, the Board's Section of Environmental Analysis (SEA) will conduct the appropriate level of environmental review of the proposed new rail line construction and operation. The environmental review will include any other planned actions that would not occur but for the proposed new rail line, which would likely include a proposed truck-rail reload facility. Before filing for construction

New England Transrail certifies that its projected annual revenues will not exceed those that would qualify it as a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34365, must be filed with the Surface Transportation Board, 1925 K Street, NW, Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Paul Jacobi, Jacobi & Case, P.C., 300 Bic Drive, Milford, CT 06460–3055.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Decided: July 3, 2003.

Vernon A. Williams,

Secretary.

[FR Doc. 03–17381 Filed 7–9–03; 8:45 am]

BILLING CODE 4915–00–P

authority, New England Transrail should contact SEA to initiate a consultation in compliance with the Board's environmental rules at 49 CFR 1105.10(a)(1) and to discuss the proposed rail line construction and SEA's environmental review process in more detail.

DEPARTMENT OF THE TREASURY

Government Securities: Call for Large Position Reports

AGENCY: Office of the Under Secretary for Domestic Finance, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury (''Department'' or ''Treasury'') called for the submission of Large Position Reports by those entities whose reportable positions in the 3–5/8% Treasury Notes of May 2013 equaled or exceeded $2 billion as of close of business July 7, 2003.

DATES: Large Position Reports must be received before noon Eastern time on July 14, 2003.

ADDRESSES: The reports must be submitted to the Federal Reserve Bank of New York, Government Securities Dealer Statistics Unit, 4th Floor, 33 Liberty Street, New York, New York 10045; or faxed to 212–720–5030.

FOR FURTHER INFORMATION CONTACT: Lori Santamorena, Executive Director; Nadir Isfahani, Government Securities Advisor; or Kevin Hawkins, Government Securities Specialist; Bureau of the Public Debt, Department of the Treasury, at 202–691–3632.

SUPPLEMENTARY INFORMATION: Pursuant to the Department's large position rules under the Government Securities Act regulations (17 CFR part 420), the Treasury, in a press release issued on July 8, 2003, and in this **Federal Register** notice, called for Large Position Reports from those entities whose reportable positions in the 3–5/8% Treasury Notes of May 2013, Series B–2013, equaled or exceeded $2 billion as of the close of business Monday, July 7, 2003. This call for Large Position Reports is a test. Entities whose reportable positions in this note equaled or exceeded the $2 billion threshold must report these positions to the Federal Reserve Bank of New York. Entities with positions in this note below $2 billion are not required to file Large Position Reports. Large Position Reports, which must include the required position and administrative information, must be received by the Government Securities Dealer Statistics Unit of the Federal Reserve Bank of New York before noon Eastern time on Monday, July 14, 2003. The Reports may be filed by facsimile at (212) 720–5030 or delivered to the Bank at 33 Liberty Street, 4th floor.

The 3⅝% Treasury Notes of May 2013 have a CUSIP number of 912828 BA 7, a STRIPS principal component CUSIP number of 912820 HX 8, and a maturity date of May 15, 2013.

The press release and a copy of a sample Large Position Report, which appears in Appendix B of the rules at 17 CFR Part 420, are available at the Bureau of the Public Debt's Internet site at the following address: *www.publicdebt.treas.gov.*

Questions about Treasury's large position reporting rules should be directed to Public Debt's Government Securities Regulations Staff at (202) 691–3632. Questions regarding the method of submission of Large Position Reports may be directed to the Government Securities Dealer Statistics Unit of the Federal Reserve Bank of New York at (212) 720–1449.

The collection of large position information has been approved by the Office of Management and Budget pursuant to the Paperwork Reduction Act under OMB Control Number 1535–0089.

Brian C. Roseboro,

Assistant Secretary for Financial Markets.

[FR Doc. 03–17557 Filed 7–8–03; 11:13 am]

BILLING CODE 4810–39–P

Corrections

Federal Register

Vol. 68, No. 132

Thursday, July 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NE–24–AD; Amendment 39–13211; AD 2003–13–11]

RIN 2120–AA64

Airworthiness Directives: Pratt & Whitney PW4074, PW4074D, PW4077, PW4077D, PW4090, and PW4090–3 Turbofan Engines

Correction

In rule document 03–15992 beginning on page 38592 in the issue of Monday, June 30, 2003 make the following correction:

§ 39.13 [Corrected]

On page 38594, in Table 1., in § 39.13, in the first column, in the second entry, in the second line, ''incorporating a scalloped J'' should read ''incorporating a scalloped J flange design during production''.

[FR Doc. C3–15992 Filed 7–9–03; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Thursday,
July 10, 2003

Part II

Department of Transportation

Federal Aviation Administraton

14 CFR Parts 91, 93, et al.

Special Air Traffic Rules in the Vicinity of Los Angeles International Airport and DOD Commercial Air Carrier Evaluators; Final Rules

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91 and 93

[Docket No. FAA–2002–14149; SFAR No. 101]

RIN 2120—AH92

Special Air Traffic Rules in the Vicinity of Los Angeles International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: In this action, the FAA revises and codifies Special Federal Aviation Regulation (SFAR) No. 51–1, Special Flight Rules in the Vicinity of the Los Angeles International Airport. Specifically, this action changes the northern boundary of the Los Angeles Special Flight Rules Area (SFRA), established by SFAR No. 51–1, to align the area with the Los Angeles Class B airspace area revisions adopted in 1997. Also, this action revises the description of the SFRA airspace to clarify the requirement to operate at fixed altitudes. The FAA is taking this action to reduce the potential for climb/descent conflicts, to ensure compatibility with current traffic flows, and to increase overall system efficiency and safety.

DATES: This SFAR is effective December 25, 2003, and shall remain in effect until further notice.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules Division, ATA–400, Office of Air Traffic Airspace Management, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591; telephone (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Availability of Rulemaking Documents

You can get an electronic copy of this document using the Internet by:

(1) Using the docket number of this rulemaking action to search the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*);

(2) Visiting the Office of Rulemaking's Web page at *http://www.faa.gov/avr/arm/index.cfm;* or

(3) Accessing the Government Printing Office's web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this rulemaking.

Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact its local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at, or by e-mailing us at *9–AWA–SBREFA@faa.gov.*

Background/Related Rulemaking

The FAA issued SFAR No. 51–1, in February, 1988 to provide visual flight rule (VFR) pilots with a safe and direct north/south route through the Los Angeles (LAX) Terminal Control Area (TCA). Specifically, SFAR No. 51–1 allows pilots operating under VFR to fly through the Special Flight Rules Area (SFRA) without contacting air traffic control personnel provided specific conditions are met. The conditions include use of certain equipment and lights, operating below a maximum airspeed, and flying at fixed altitudes.

In 1993, the FAA reclassified airspace terminology and replaced the term TCA with Class B Airspace Area (56 FR 65638, December 17, 1991). In 1997, the FAA implemented modifications to the Los Angeles Class B airspace area. However, this action did not re-define the SFAR No. 51–1 airspace area (61 FR 66902, December 19, 1996).

On December 31, 2002, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to codify SFAR No. 51–1, Special Flight Rules in the Vicinity of the Los Angeles International Airport. The proposed action would change the northern boundary of the Los Angeles SFRA, established by SFAR No. 51–1, and align the area with the Los Angeles Class B airspace area revisions adopted in 1997. The proposed action also revises the description of the SFRA airspace to make the requirement to operate at fixed altitudes clearer. The FAA proposed this action to reduce the potential for climb/descent conflicts, to ensure compatibility with current traffic flows, and to increase overall system efficiency and safety.

Interested parties were invited to participate in this rulemaking effort by submitting written communication on the proposal. The comment period for this action closed on February 14, 2003. The FAA received nine comments that are discussed below.

Discussion of Comments

One commenter responding to the NPRM requested that the FAA clarify the changes proposed. The commenter also questioned whether the northern boundary of the airspace was being moved further from LAX. Finally, the commenter stated that the constant altitude requirement is already understood and did not need any further clarification.

As discussed in the NPRM, one purpose of this rulemaking action is to re-align the northern boundary of the SFAR No. 51–1 area to coincide with the Los Angeles Class B airspace area revision that was implemented in 1997. As a result of the 1997 Class B airspace rulemaking action, the northern boundary of the Class B airspace area was moved south, closer to LAX. However, no similar action was taken to redefine the SFAR 51–1 area. This rulemaking action corrects that discrepancy and moves the SFAR area boundary south closer to LAX, realigning with the northern boundary of the Class B airspace area. This boundary move provides additional Class E airspace for VFR aircraft operations north of the SFAR area. Regarding the constant altitude requirement, the FAA biennial study of the LAX Class B operations concluded that the regulatory language description of the SFAR should be revised. The study revealed the SFAR language could be misunderstood by pilots to imply that they could climb or descend while in the area because it used the words ''inclusive'' and ''between'' when describing the boundaries. Removing the words ''inclusive'' and ''between'' does not change the current operating procedures within the LAX SFAR area.

The FAA received five comments from individuals concerning the single VOR radial that pilots must fly and a perceived lateral width reduction of the airspace. The commenters would like the guidance provided in the Los Angeles Terminal Area chart included

in the regulation. This guidance allows pilots to fly in the airspace between the 405 Freeway and the shoreline.

The FAA disagrees. This action amends the northern boundary of the SFAR 51–1 area to coincide with the current Class B airspace area boundary; clarifies the requirement for pilots to operate at fixed altitudes within the area; and codifies the current procedures in SFAR 51–1 as a Special Air Traffic Rule in part 93. This action does not change the procedures or operating requirements, such as the requirement to operate on the Santa Monica 132° radial, as currently described in SFAR 51–1, or the guidance provided by the Terminal Area Chart. Additionally, the visual ground reference points remain unchanged and there is no lateral width reduction of the route.

Another commenter recommended the current LAX SFRA be converted to a VFR corridor identical to the San Diego VFR corridor. The commenter preferred a VFR corridor because a squawk (discreet altitude encoding transponder code) change to 1201 would not be necessary; aircraft would not be required to navigate on the same radial (instead could spread out within the corridor); and this corridor would standardize procedures since San Diego and LAX share the same ATC facility, So Cal approach.

The FAA disagrees. The SFAR requires pilots to adhere to specific flight requirements that would not be required in a VFR corridor. We cannot over emphasize that the flight procedures for the SFAR 51–1 are necessary to achieve a greater degree of safety given the high concentration of aircraft operations near LAX.

Comments received from the LAX Community Noise Roundtable, as well as the Aircraft Owners and Pilots Association, strongly support the FAA's efforts detailed in the NPRM.

Analysis of the Final Rule

This action adds a new Subpart G of title 14 of the Code of Federal Regulations (14 CFR part 93) to codify current special flight rules for certain aircraft operating under visual flight rules in that airspace of the Los Angeles Class B airspace area designated as the Los Angeles Special Flight Rules Area. This rule also removes SFAR No. 51–1 from 14 CFR part 91.

The new 14 CFR part 93 subpart G will contain the revised boundary of the Los Angeles SFRA, aligning the boundary with the 1997 Class B airspace revisions. The action will also designate fixed altitudes for aircraft operating in the SFRA to reduce the potential for climb/descent conflicts.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there are no current or new information collection requirements associated with this rule.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has determined that there are no ICAO Standards and Recommended Practices that correspond to these regulations.

Economic Evaluation

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. The FAA is not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify the costs. Our assessment of this rulemaking indicates that its economic impact is minimal. Because the costs and benefits of this action do not make it a ''significant regulatory action'' as defined in the Order, the FAA has not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking under the DOT Regulatory Policies and Procedures. The FAA does not need to do a full evaluation where the economic impact of a rule is minimal. This rule codifies current flight restrictions for aircraft operating under VFR in the vicinity of Los Angeles International Airport, California. This action also revises the boundary of the LAX SFRA to align with Los Angeles Class B airspace area revisions adopted in 1997. It also revises the description of airspace area to clarify the fixed altitudes for aircraft operating in the SFRA and reduces the potential climb/descent conflicts.

The FAA determined that this rule does not result in incremental costs to persons operating under VFR in the LAX Class B airspace area. This assessment is based on the fact that this rule revises and codifies existing special flight rules. These rules are already applicable to flight operations in the LAX Area. The rule aligns the LAX SFRA boundaries with the LAX Class B airspace area and insures that climb/descent conflicts are eliminated in the SFRA. Therefore, the FAA determined this rule would be cost-beneficial.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) directs the FAA to fit regulatory requirements to the scale of the business, organizations, and governmental jurisdictions subject to the regulation. The FAA is required to determine whether a proposed or final action will have a ''significant economic impact on a substantial number of small entities'' as they are defined in the Act. If the FAA finds that the action will have a significant impact, we must do a ''regulatory flexibility analysis.''

In view of the no cost impact of this rule, we have determined that this rule will not have a significant economic impact. Therefore, the FAA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from establishing any standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. In accordance with the above statute, the FAA has assessed the potential effect of this rule and has determined that it would have only a domestic impact and therefore create no obstacles to the foreign commerce of the United States.

Unfunded Mandates Assessment

The Unfunded Mandates Reform Act of 1995 (the Act) is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of the Act requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This final rule does not contain such a mandate. The requirements of Title II of the Act, therefore, do not apply.

Executive Order 3132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. The FAA has determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government, and therefore does not have federalism implications.

Plain Language

In response to the June 1, 1998 Presidential Memorandum regarding the use of plain language, we re-examined the writing style currently used in the development of regulations. The memorandum requires federal agencies to communicate clearly with the public. The FAA is interested in your comments on whether the style of this document is clear, and in any other suggestions you might have to improve the clarity of FAA communications that affect you. You can get more information about the Presidential memorandum and the plain language initiative at http:www.plainlanguage.gov.

Environmental Analysis

FAA Order 1050.1 defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1, this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the rule,m has been assessed in accordance with the Energy Policy and Conservation Act (EPCA) Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 91

Afghanistan, Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Canada, Cuba, Ethiopia, Freight, Mexico, Noise control, Political candidates, Reporting and recordkeeping requirements, Yugoslavia.

14 CFR Part 93

Air traffic control, Airports, Alaska, Navigation (air), Reporting and recordkeeping requirements.

The Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR parts 91 and 93:

PART 91—GENERAL OPERATING AND FLIGHT RULES

■ 1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

■ 2. Remove Special Federal Aviation Regulation No. 51–1 [SFAR]

SFAR No. 51–1—[Removed]

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

■ 3. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

■ 4. Add subpart G to part 93 to read as follows:

Subpart G—Special Flight Rules in the Vicinity of Los Angeles International Airport

Sec.
93.91 Applicability.
93.93 Description of area.
93.95 General operating procedures.
93.97 Operations in the SFRA.

§ 93.91 Applicability.

This subpart prescribes special air traffic rules for aircraft conducting VFR operations in the Los Angeles, California Special Flight Rules Area.

§ 93.93 Description of area.

The Los Angeles Special Flight Rules Area is designated as that part of Area A of the Los Angeles Class B airspace area at 3,500 feet above mean sea level (MSL) and at 4,500 feet MSL, beginning at Ballona Creek/Pacific Ocean (lat. 33°57′42″ N, long. 118°27′23″ W), then eastbound along Manchester Blvd. to the intersection of Manchester/405 Freeway (lat. 33°57′42″ N, long. 118°22′10″ W), then southbound along the 405 Freeway to the intersection of the 405 Freeway/lmperial Highway (lat. 33°55′51″ N, long. 118° 22′06″ W), then westbound along Imperial Highway to the intersection of Imperial Highway/ Pacific Ocean (lat. 33°55′51″ N, long. 118°26′05″ W), then northbound along the shoreline to the point of beginning.

§ 93.95 General operating procedures.

Unless otherwise authorized by the Administrator, no person may operate an aircraft in the airspace described in § 93.93 unless the operation is conducted in accordance with the following procedures:

(a) The flight must be conducted under VFR and only when operation may be conducted in compliance with § 91.155(a) of this chapter.

(b) The aircraft must be equipped as specified in § 91.215(b) of this chapter replying on code 1201 prior to entering and while operating in this area.

(c) The pilot shall have a current Los Angeles Terminal Area Chart in the aircraft.

(d) The pilot shall operate on the Santa Monica very high frequency omni-directional radio range (VOR) 132° radial.

(e) Aircraft navigating in a southeasterly direction shall be in level flight at 3,500 feet MSL.

(f) Aircraft navigating in a northwesterly direction shall be in level flight at 4,500 feet MSL.

(g) Indicated airspeed shall not exceed 140 knots.

(h) Anti-collision lights and aircraft position/navigation lights shall be on. Use of landing lights is recommended.

(i) Turbojet aircraft are prohibited from VFR operations in this area.

§ 93.97 Operations in the SFRA.

Notwithstanding the provisions of § 91.131(a) of this chapter, an air traffic control authorization is not required in the Los Angeles Special Flight Rules Area for operations in compliance with § 93.95. All other provisions of § 91.131 of this chapter apply to operations in the Los Angeles Special Flight Rules Area.

Issued in Washington, DC, on July 3, 2003.

Marion C. Blakely,

Administrator.

[FR Doc. 03–17460 Filed 7–9–03; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 119, 121 and 135

[Docket No. FAA–2003–15571; Amdt Nos. 119–8, 121–286, and 135–83]

RIN 2120–AI00

DOD Commercial Air Carrier Evaluators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: This final rule clarifies existing regulations as they apply to Department of Defense (DOD) commercial air carrier evaluators. These amendments are necessary to clarify DOD's congressionally mandated cockpit evaluation mission and authority for the aviation security community and for industry. DOD's Air Mobility Command (AMC) will create and issue a new credential to permit DOD commercial air carrier evaluators uninterrupted access to the cockpit for evaluations. These amendments explicitly clarify existing DOD legal authority and responsibilities.

DATES: This final rule is effective July 10, 2003. You may send your comments to reach us on or before August 11, 2003.

ADDRESSES: Address your comments to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number at the beginning of your comments, and you should submit two copies of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet at *http://dms.dot.gov.* You may review the public docket containing comments to these proposed regulations in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office is on the plaza level of the Nassif Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Lt Col. Tom Barrale, USAF, Department of Defense Air Mobility Command Liaison Officer to FAA Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7088.

SUPPLEMENTARY INFORMATION

Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. We also invite comments relating to the economic, environmental, energy, federalism, or security impacts that might result from this rule. The most helpful comments reference a specific portion of the rule, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

All comments received will be filed in the docket. The FAA will develop a report that summarizes each substantive public contact with the FAA personnel concerning this rulemaking. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

We will consider all comments we receive on or before the closing date for comments. We may change this rule based on the comments we receive. If you want the FAA to acknowledge receipt of your comments, include with your comments a pre-addressed, stamped postcard that identifies the docket number. We will stamp the date on the postcard and mail it to you.

Availability of Final Rule

You can get an electronic copy using the Internet by taking the following steps:

(1) Go to the search function of the Department of Transportation's electronic Docket Management System (DMS) Web page (*http://dms.dot.gov/search*).

(2) On the search page type in the last four digits of the Docket number shown at the beginning of this notice. Click on ''search.''

(3) On the next page, which contains the Docket summary information for the Docket you selected, click on the final rule.

You can also get an electronic copy using the Internet through the Office of Rulemaking's Web page at *http://www.faa.gov/avr/armhome.htm* or the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

You can also get a copy by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the amendment number or docket number of this final rule.

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. Therefore, any small entity that has a question regarding this document may contact their local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT.** You can find out more about SBREFA on the Internet at our site, *http://www.gov/avr/arm/sbrefa.htm.* For more information on SBREFA, e-mail us *9–AWA–SBREFA@faa.gov.*

Background

The DOD contracts for passenger and air cargo movements from air carriers certificated by the FAA. Pursuant to Public Law 99–661 (November 14, 1986), the DOD is required to conduct capability evaluations of these carriers to ensure each is able to satisfy the unique requirements of military contracts and adhere to the DOD Commercial Air Carrier Quality and Safety Requirements as codified in Title 32 of the Code of Federal Regulations (CFR), part 861. Generally, DOD surveillance requirements include an initial on-site capability survey with a recurring on-site survey every 2 years thereafter, a performance evaluation every 6 months, periodic ramp inspections, and operational evaluations conducted periodically on aircraft (Pub. L. 99–661, November 14, 1986). These operational evaluations apply only to carriers that are under contract with DOD or carriers desiring to enter contracts with DOD. Specific guidance can be found in DOD Directive 4500.53. In general, these cockpit observations are subjective in nature and serve to validate that the actions of the aircrews are in line with the procedures and policies of the company. The four major categories observed in flight are airmanship, crew coordination, safety awareness, and judgment. In the event discrepancies in compliance with the Federal Aviation Regulations are noted, such discrepancies will be brought to the attention of the FAA and the Air Carrier. Follow-up actions will be dependent upon the severity of the discrepancy as determined by the Air Mobility Command, Survey and Analysis Office (AMC/DOB).

Cockpit observations are one means by which evaluators assess the effectiveness of programs during the on-site capability surveys and performance evaluations. DOD commercial air carrier evaluators require uninterrupted access to the flight deck to perform their congressionally mandated duties. The existing language in 14 CFR parts 121 and 135 does not explicitly include DOD commercial air carrier evaluators among those persons authorized access

to the flight deck. DOD commercial air carrier evaluators have relied upon the authority contained in 14 CFR 121.547(a)(4) to evaluate part 121 air carriers. Section 121.547 states in relevant part: ''(a) No person may admit any person to the flight deck of an aircraft unless the person being admitted is . . . (4) Any person who has the permission of the pilot in command and is specifically authorized by the certificate holder management and by the administrator.'' There is no analogous section in part 135.

For many years, DOD commercial air carrier evaluators have relied on the FAA, the air carrier, and the pilot in command authorizing their access to conduct the air carrier evaluation mission. The current process is both cumbersome, including the issuance of FAA Form 8430–6, and unnecessary. It requires the DOD Survey and Analysis Office to obtain and maintain specific approval from each and every air carrier their evaluators are to assess. DOD's ten commercial air carrier evaluators are responsible for conducting cockpit evaluations on over 140 different carriers contracted with the Department of Defense.

The absence of explicit authority in the regulation listing ''DOD commercial air carrier evaluator'' and the lack of a well-known DOD evaluator credential is significantly hindering the congressionally mandated DOD air carrier evaluation mission'especially in the wake of 9/11. While DOD and FAA Flight Standards Service personnel understand the role of the DOD commercial air carrier evaluator, it is often misunderstood by those in aviation security and the crewmembers on those flights being evaluated by DOD.

The DOD will continue to ensure the proper coordination with the air carrier in advance of these evaluations through a simplified process. These amendments will make clear the authority of DOD commercial air carrier evaluators to conduct cockpit evaluations by explicitly including them in the regulation text. These changes, accompanied by the creation of an S&A Form 110B evaluator credential should alleviate the problems DOD commercial air carrier evaluators are facing in the field with minimum impact.

The FAA believes the efficiency of the DOD cockpit observation program will be greatly enhanced by amending the relevant sections of 14 CFR 119, 121, and 135 to specifically include DOD commercial air carrier evaluators. Further, the creation of the S&A Form 110B credential will allow DOD commercial air carrier evaluators to gain cockpit access without having to follow the FAA Form 8430–6 process, and without having to obtain and maintain the specific permissions for every cockpit evaluation. The DOD will require its commercial air carrier evaluators to carry with them an S&A Form 110B credential, their military orders, and a current military ID while conducting an evaluation. The S&A Form 110B credential will be analogous to the 110A credential held by FAA inspectors in terms of gaining cockpit access. However, a DOD commercial air carrier evaluator may not use his S&A Form 110B credential on any air carrier that is not under contract with the Department of Defense. A DOD commercial air carrier evaluator may use the credential on specific flights that may not be contracted so long as the air carrier itself maintains a contract with the DOD. The only exceptions to the existing contract criteria are when an air carrier is going through an initial survey or applying for a contract or both—in these instances the credential is valid without a contract.

Paperwork Reduction Act

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the FAA has reviewed and determined that these amendments do not constitute a new or additional information collection activity.

International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. The FAA has reviewed the corresponding ICAO Standards and Recommended Practices and has identified no differences with these proposed regulations.

Justification for No Notice and Immediate Adoption

This action is being taken without providing the opportunity for prior notice and public comment. The FAA finds that prior notice and public comment are impracticable and contrary to the public interest, pursuant to section 553 of the Administrative Procedure Act (APA). Section 553(b)(B) of the APA permits an agency to forego notice and comment rulemaking when ''the agency for good cause finds * * * that notice and public procedures thereon are impracticable, unnecessary or contrary to the public interest.'' The use of notice and comment prior to issuance of this rule would delay the potential safety benefit of this rulemaking. FAA asks for comment with publication of this rule, and will consider all comments received during the comment period. If changes to the rule are necessary to address aviation safety more effectively, or in a less burdensome but equally effective manner, FAA will make such changes. The FAA finds the need to facilitate the use of a new credential for DOD commercial air carrier evaluators is good cause for making this final rule effective immediately.

Executive Order 12866 and DOT Regulatory Policies and Procedures

Executive Order 12866, Regulatory Planning and Review, directs the FAA to assess both the costs and benefits of a regulatory change. We are not allowed to propose or adopt a regulation unless we make a reasoned determination that the benefits of the intended regulation justify its costs. Our assessment of this proposal indicates that its economic impact is minimal. Since its costs and benefits do not make it a ''significant regulatory action'' as defined in the Order, we have not prepared a ''regulatory impact analysis.'' Similarly, we have not prepared a ''regulatory evaluation,'' which is the written cost/benefit analysis ordinarily required for all rulemaking proposals under the DOT Regulatory and Policies and Procedures. We do not need to do the latter analysis where the economic impact of a proposal is minimal.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small

entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This action imposes no costs on any small entities subject to this rule; however, it may provide some unquantifiable benefits to some of them. Consequently, the FAA certifies that the rule will not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In accordance with the above statute and policy, the FAA has assessed the potential effect of this final rule to be minimal and therefore has determined that this rule will not result in an impact on international trade by companies doing business in or with the United States.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (UMRA), enacted as Pub. L. 104–4 on March 22, 1995, is intended, among other things, to curb the practice of imposing unfunded Federal mandates on State, local, and tribal governments. Title II of UMRA requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in a $100 million or more expenditure (adjusted annually for inflation) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.''

This SFAR does not contain such a mandate. Therefore, the requirements of Title II of UMRA do not apply.

Executive Order 13132, Federalism

The FAA has analyzed this final rule under the principles and criteria of Executive Order 13132, Federalism. We determined that this action will not have a substantial direct effect on the States, or the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, we determined that this final rule does not have federalism implications.

Environmental Analysis

FAA Order 1050.1D defines FAA actions that may be categorically excluded from preparation of a National Environmental Policy Act (NEPA) environmental impact statement. In accordance with FAA Order 1050.1D, appendix 4, paragraph 4(j), this rulemaking action qualifies for a categorical exclusion.

Energy Impact

The energy impact of the notice has been assessed in accordance with the Energy Policy and Conservation Act (EPCA Pub. L. 94–163, as amended (42 U.S.C. 6362) and FAA Order 1053.1. It has been determined that the final rule is not a major regulatory action under the provisions of the EPCA.

List of Subjects

14 CFR Part 119

Administrative practice and procedure, Air carriers, Aircraft, Aviation safety, Charter flights, Reporting and recordkeeping requirements.

14 CFR Part 121

Air carriers, Aircraft, Airmen, Alcohol abuse, Aviation safety, Charter flights, Drug abuse, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Alcohol abuse, Aviation safety, Drug abuse, Drug testing, Reporting and recordkeeping requirements.

The Amendments

■ In consideration of the foregoing the Federal Aviation Administration amends Chapter I of Title 14 Code of Federal Regulations as follows:

PART 119—CERTIFICATION: AIR CARRIERS AND COMMERCIAL OPERATORS

■ 1. The authority citation for part 119 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1153, 40101, 40102, 40103, 40113, 44105, 44106, 44111, 44701–44717, 44722, 44901, 44903, 44904, 44906, 44912, 44914, 44936, 44938, 46103, 46105.

■ 2. Amend § 119.3 by adding a new definition in alphabetical order to read as follows:

§ 119.3 Definitions.

* * * * *

DOD commercial air carrier evaluator means a qualified Air Mobility Command, Survey and Analysis Office (AMC/DOB) cockpit evaluator performing the duties specified in Public Law 99–661 when the evaluator is flying on an air carrier that is contracted or pursuing a contract with the U.S. Department of Defense (DOD).

* * * * *

PART 121—OPERATING REQUIREMENTS: DOMESTIC, FLAG, AND SUPPLEMENTAL OPERATIONS

■ 3. The authority citation for part 121 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 40119, 41706, 44101, 44701–44702, 44705, 44709–44711, 44713, 44716–44717, 44722, 46105.

■ 4. Amend § 121.547 by revising paragraphs (a)(2) and (c)(1) to read as follows:

§ 121.547 Admission to flight deck.

(a) * * *

(2) An FAA air carrier inspector, a DOD commercial air carrier evaluator, or an authorized representative of the National Transportation Safety Board, who is performing official duties;

* * * * *

(c) * * *

(1) An FAA air carrier inspector, a DOD commercial air carrier evaluator, or authorized representative of the Administrator or National Transportation Safety Board who is checking or observing flight operations;

* * * * *

■ 5. Add a new § 121.548a to read as follows:

§ 121.548a DOD Commercial Air Carrier Evaluator's Credential.

Whenever, in performing the duties of conducting an evaluation, a DOD commercial air carrier evaluator presents S&A Form 110B, ''DOD Commercial Air Carrier Evaluator's Credential,'' to the pilot in command of an airplane operated by the certificate holder, the evaluator must be given free and uninterrupted access to the pilot's compartment of that airplane.

■ 6. Amend § 121.583 by revising paragraph (a)(3) to read as follows:

§ 121.583 Carriage of persons without compliance with the passenger-carrying requirements of this part.

(a) * * *

(3) An FAA air carrier inspector, a DOD commercial air carrier evaluator, or an authorized representative of the

National Transportation Safety Board, who is performing official duties.

* * * * *

PART 135—OPERATING REQUIREMENTS: COMMUTER AND ON DEMAND OPERATIONS AND RULES GOVERNING PERSONS ON BOARD SUCH AIRCRAFT

■ 7. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 106(g), 41706, 44113, 44701–44702, 44705, 44709, 44711–44713, 44715–44717, 44722.

■ 8. Add a new § 135.76 to read as follows:

§ 135.76 DOD Commercial Air Carrier Evaluator's Credentials: Admission to pilots compartment: Forward observer's seat.

(a) Whenever, in performing the duties of conducting an evaluation, a DOD commercial air carrier evaluator presents S&A Form 110B, ''DOD Commercial Air Carrier Evaluator's Credential,'' to the pilot in command of an aircraft operated by the certificate holder, the evaluator must be given free and uninterrupted access to the pilot's compartment of that aircraft. However, this paragraph does not limit the emergency authority of the pilot in command to exclude any person from the pilot compartment in the interest of safety.

(b) A forward observer's seat on the flight deck or forward passenger seat with headset or speaker must be provided for use by the evaluator while conducting en route evaluations. The suitability of the location of the seat and the headset or speaker for use in conducting en route evaluations is determined by the FAA.

■ 9. Amend § 135.85 by adding a new paragraph (h) to read as follows:

§ 135.85 Carriage of persons without compliance with the passenger-carrying provisions of this part.

* * * * *

(h) A DOD commercial air carrier evaluator conducting an en route evaluation.

Issued in Washington, DC, on July 3, 2003.

Marion C. Blakey,

Administrator.

[FR Doc. 03–17459 Filed 7–9–03; 8:45 am]

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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. 658/P.L. 108–44

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