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Federal Register
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Thursday, March 25, 2004

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–120–AD; Amendment 39–13534; AD 2004–06–08]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–401 and –402 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–401 and –402 airplanes, that requires modifying the wiring of the rudder trim switch, inspecting all wiring on the back of the aileron/rudder trim control panel for chafing, and replacing any chafed wiring with new wiring. This action is necessary to prevent a short circuit on the aileron/rudder trim control panel that could cause a runaway condition of the rudder trim actuator, which could result in reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 29, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Douglas Wagner, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York 11590; telephone (516) 228–7306; fax (516) 794–5531.

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 DHC–8–401 and –402 airplanes was published in the **Federal Register** on November 17, 2003 (68 FR 64825). That action proposed to require modifying the wiring of the rudder trim switch, inspecting all wiring on the back of the aileron/rudder trim control panel for chafing, and replacing any chafed wiring with new wiring.

Comments

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

Request To Give Credit for Previous Revisions of Service Information

While the commenter states that it has no objection to the proposed AD, it requests that the proposed AD be revised to give credit for actions accomplished previously per the original issue of Bombardier Alert Service Bulletin A84–27–13, dated January 2, 2002; or per Revision ''A'' of that service bulletin, dated January 9, 2002. (Paragraph (a) of the proposed AD refers to Bombardier Alert Service Bulletin A84–27–13, Revision ''B,'' dated January 12, 2002, as the appropriate source of service information for the actions required by that paragraph.) The commenter states that the original issue and Revision ''A'' of the service bulletin accomplish the same intent as Revision ''B.'' The commenter notes that this change to the proposed AD would prevent operators from having to request approval of an alternative means of compliance with the proposed AD.

We partially concur with the commenter's request. We note that paragraph (b) of this AD states that actions accomplished before the effective date of this AD per Bombardier Alert Service Bulletin A84–27–13, Revision ''A,'' are acceptable for compliance with paragraph (a) of this AD. However, with respect to the commenter's request that we also give credit for use of the original issue of the service bulletin, we note that the Accomplishment Instructions of the original issue of the service bulletin omit several steps, including steps pertaining to rework of wiring of spare trim panels and marking the new part number on modified trim panels. We find that these missing instructions could allow improper modification of the affected panels and improper rework of the wiring. Thus, we find that it is not appropriate to give credit for actions accomplished per the original issue of the service bulletin. We have made no change to the final rule.

Conclusion

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.

Cost Impact

The FAA estimates that 12 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of this AD on U.S. operators is estimated to be $780, 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.

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:

2004–06–08 Bombardier, Inc. (Formerly de Havilland, Inc.): Amendment 39–13534. Docket 2002–NM–120–AD.

Applicability: Model DHC–8–401 and –402 airplanes; certificated in any category; serial numbers 4005, 4006, 4008 through 4016 inclusive, and 4018 through 4058 inclusive.

Compliance: Required as indicated, unless accomplished previously.

To prevent a short circuit on the aileron/rudder trim control panel that could cause a runaway condition of the rudder trim actuator, which could result in reduced controllability of the airplane, accomplish the following:

Modification, Inspection, and Corrective Action

(a) Within 90 days after the effective date of this AD, do the actions in paragraphs (a)(1) and (a)(2) of this AD, per the Accomplishment Instructions of Bombardier Alert Service Bulletin A84–27–13, Revision ''B,'' dated January 12, 2002.

(1) Modify the wiring of the rudder trim switch.

(2) Before further flight after accomplishing the modification required by paragraph (a)(1) of this AD: Perform a one-time general visual inspection of all wiring on the back of the aileron/rudder trim control panel for chafing. Before further flight, replace any chafed wiring with new wiring.

Note 1: 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.''

Previously Accomplished Actions

(b) Modifications and inspections accomplished before the effective date of this AD per Bombardier Alert Service Bulletin A84–27–13, Revision ''A,'' dated January 9, 2002, are acceptable for compliance with the corresponding actions required by paragraph (a) of this AD.

Parts Installation

(c) As of the effective date of this AD, no person may install aileron/rudder trim control panel having part number 82410608–005 on any airplane, unless the control panel has been modified and inspected per the requirements of this AD.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, New York 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 Bombardier Alert Service Bulletin A84–27–13, Revision ''B,'' dated January 12, 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 Bombardier, Inc., Bombardier Regional Aircraft Division, 123 Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Westbury, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Canadian airworthiness directive CF–2002–15, dated February 20, 2002.

Effective Date

(f) This amendment becomes effective on April 29, 2004.

Issued in Renton, Washington, on March 12, 2004.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6501 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–133–AD; Amendment 39–13532; AD 2004–06–06]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–8–70 and –70F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8–70 and –70F series airplanes, that requires repetitive inspections for cracking of the lower cargo doorjamb corners, and corrective action if necessary. For certain airplanes, this AD provides for optional terminating action for certain repetitive inspections. For certain other airplanes, this AD requires modification of the lower cargo doorjamb corners. This action is necessary to detect and correct cracking in the lower cargo doorjamb corners, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane. This action is intended to address the identified unsafe condition.

DATES: Effective April 29, 2004.

The incorporation by reference of a certain publication listed in the regulations is approved by the Director of the Federal Register as of April 29, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service

Management, Dept. C1–L5A (D800–0024). This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or 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: Jon Mowery, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5322; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–8–70 and –70F series airplanes was published in the **Federal Register** on November 17, 2003 (68 FR 64827). That action proposed to require repetitive inspections for cracking of the lower cargo doorjamb corners, and corrective action if necessary. For certain airplanes, that action proposed to provide for optional terminating action for certain repetitive inspections. For certain other airplanes, that action proposed to require modification of the lower cargo doorjamb corners.

Comments

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

Conclusion

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

Cost Impact

There are approximately 264 airplanes of the affected design in the worldwide fleet. The FAA estimates that 244 airplanes of U.S. registry will be affected by this AD.

The pre-modification inspections, if required, will take approximately 24 work hours per airplane at an average labor rate of $65 per work hour. Based on these figures, the cost impact of these actions required by this AD on U.S. operators is estimated to be $1,560 per airplane, per inspection cycle.

The modification, if accomplished, will take approximately 520 work hours per airplane, at an average labor rate of $65 per work hour. The parts will cost approximately $25,000. Based on these figures, the cost impact of this action on U.S. operators is estimated to be $58,800 per airplane.

The post-modification inspections will take approximately 40 work hours per airplane, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of these actions on U.S. operators is estimated to be $634,400, or $2,600 per airplane, per inspection cycle.

The cost impact figures discussed above are 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:

2004–06–06 McDonnell Douglas: Amendment 39–13532. Docket 2001–NM–133–AD.

Applicability: Model DC–8–70 and –70F series airplanes, certificated in any category, as listed in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the lower cargo doorjamb corners, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

Note 1: This AD is related to AD 93–01–15, amendment 39–8469, and will affect Principal Structural Elements (PSEs) 53.08.042 and 53.08.043 of the DC–8 Supplemental Inspection Document (SID), Report L26–011, Volume II, Revision 7, dated April 1993.

Group 1 Airplanes: Inspections and Optional Terminating Action

(a) For airplanes identified as Group 1 in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001:

(1) Within 2,000 landings or 3 years after the effective date of this AD, whichever occurs first, perform applicable inspections for cracking of the lower cargo doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin.

(i) If no crack is detected during any inspection required by this paragraph: Repeat the inspections within the intervals specified in paragraph 1.E. of the service bulletin.

(ii) If any crack is detected during any inspection required by this paragraph: Repair before further flight in accordance with the Accomplishment Instructions of the service bulletin.

(2) Modification of the lower cargo doorjamb corners in accordance with the Accomplishment Instructions of the service bulletin terminates the repetitive inspection requirement of paragraph (a)(1)(i) of this AD.

(3) For airplanes repaired or modified in accordance with paragraph (a)(1)(ii) or (a)(2) of this AD: Within 17,000 landings after the repair or modification, perform an eddy current inspection for cracks of the doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin (Drawing SN08530001). Repeat the inspection at intervals not to exceed 4,400 landings.

Group 2 Airplanes: Modification

(b) For airplanes identified as Group 2 in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001:

(1) Within 2,000 landings or 3 years after the effective date of this AD, whichever occurs first, modify the lower cargo doorjamb corners in accordance with the Accomplishment Instructions of the service bulletin.

(2) Within 17,000 landings after the modification required by paragraph (b)(1) of this AD, perform applicable inspections for cracking of the doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin. Repeat the inspections at intervals not to exceed 4,400 landings.

Group 3 and Group 4 Airplanes: Inspections

(c) For airplanes identified as Group 3 and Group 4 in McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 2001: Within 17,000 landings following accomplishment of the modification specified in the service bulletin, perform applicable inspections for cracking of the lower cargo doorjamb corners, in accordance with the Accomplishment Instructions of the service bulletin. Repeat the inspections at intervals not to exceed 4,400 landings.

All Airplanes: Repair Following Post-Modification Inspections

(d) If any cracking is detected during any inspection required by paragraph (a)(3), (b)(2), or (c) of this AD: Repair before further flight in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA; or per data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative (DER) who has been authorized by the Manager, Los Angeles ACO, to make such findings. For a repair method to be approved, the approval must specifically refer to this AD.

Credit for Prior Accomplishment

(e) Inspections done before the effective date of this AD in accordance with McDonnell Douglas Service Bulletin DC8–53–078, dated February 6, 1996, are acceptable for compliance with the applicable inspections required by this AD.

(f) Inspections and repairs specified in this AD of areas of PSEs 53.08.042 and 53.08.043 are acceptable for compliance with the applicable requirements of paragraphs (a), (b), and (c) of AD 93–01–15. The remaining areas of the affected PSEs must be inspected and repaired as applicable, in accordance with AD 93–01–15.

Report

(g) At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Submit a report of the findings (both positive and negative) of each inspection required by this AD to the Manager, Los Angeles ACO. Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) has approved the information collection requirements contained in this AD and has assigned OMB Control Number 2120–0056.

(1) For an inspection done after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) For an inspection done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

Alternative Methods of Compliance

(h)(1) In accordance with 14 CFR 39.19, the Manager, Los Angeles ACO, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

(2) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD, if it is approved by a Boeing DER who has been authorized by the Manager, Los Angeles ACO, to make such findings.

Incorporation by Reference

(i) Unless otherwise specified in this AD, the actions shall be done in accordance with McDonnell Douglas Service Bulletin DC8–53–078, Revision 01, dated January 25, 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 Boeing Commercial Airplanes, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Data and Service Management, Dept. C1–L5A (D800–0024). Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or 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

(j) This amendment becomes effective on April 29, 2004.

Issued in Renton, Washington, on March 12, 2004.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6500 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2003–16645; Directorate Docket No. 2003–NM–113–AD; Amendment 39–13533; AD 2004–06–07]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–120 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–120 series airplanes, that requires a one-time inspection for signs of overheating of wiring splices of the pitot/static 1, 2, and auxiliary sensors; the angle-of-attack sensors; the side slip sensors; and the current sensors. This action also requires follow-on actions. This action is necessary to prevent overheating of cockpit wiring, which could result in loss of operation of the affected systems, or smoke or fire in the cockpit. This action is intended to address the identified unsafe condition.

DATES: Effective April 29, 2004.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of April 29, 2004.

ADDRESSES: The service information referenced in this AD may be obtained from Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. 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: Todd Thompson, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1175; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: 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 EMBRAER Model EMB–120 series airplanes was published in the **Federal Register** on December 11, 2003 (68 FR 69055). That action proposed to require a one-time inspection for signs of overheating of wiring splices of the pitot/static 1, 2, and auxiliary sensors; the angle-of-attack sensors; the side slip sensors; and the current sensors. That action also proposed to require follow-on actions.

Comments

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

Conclusion

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

Cost Impact

The FAA estimates that 250 airplanes of U.S. registry will be affected by this AD, that it will take approximately 4 work hours per airplane to accomplish the required inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $65,000, or $260 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.

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:

2004–06–07 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Docket FAA–2003–16645. Amendment 39–13533. Directorate Docket No. 2003–NM–113–AD.

Applicability: Model EMB–120 series airplanes, certificated in any category; serial numbers 120004, and 120006 through 120352 inclusive.

Compliance: Required as indicated, unless accomplished previously.

To prevent overheating of cockpit wiring, which could result in loss of operation of the affected systems, or smoke or fire in the cockpit, accomplish the following:

Airplanes Not Inspected/Modified Previously: One-Time Detailed Inspection

(a) For airplanes on which neither Part I nor Part II of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, dated January 31, 2000, was accomplished prior to the effective date of this AD: Within 400 flight hours after the effective date of this AD, do a one-time detailed inspection for signs of overheating of wiring splices of the pitot/static 1, 2, and auxiliary sensors; the angle-of-attack sensors; the side slip sensors; and the current sensors, per Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, Change 01, dated November 28, 2000. Signs of overheating include discoloration on the electrical wires, terminations, or splices.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Airplanes Inspected or Modified Previously: Follow-On Actions

(b) For airplanes on which Part I of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, dated January 31, 2000, but not Part II of the Accomplishment Instructions of that service bulletin, was accomplished prior to the effective date of this AD: Within 400 flight hours after the effective date of this AD, do a one-time detailed inspection for signs of overheating of wiring splices of the pitot/static 1, 2, and auxiliary sensors; the angle-of-attack sensors; and the side slip sensor located at the circuit breaker panel; per Part III of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, Change 01, dated November 28, 2000.

(c) For airplanes on which Part II of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, dated January 31, 2000, was accomplished prior to the effective date of this AD: Within 400 flight hours after the effective date of this AD, install new identifications by doing all actions in paragraphs 2.4.2. of Part III of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, Change 01, dated November 28, 2000.

Follow-On Actions

(d) For all airplanes subject to paragraph (a) or (b) of this AD: At the applicable compliance time specified in paragraph (d)(1) or (d)(2) of this AD, replace wires and relays with new wires and relays; and eliminate or relocate splices in the wiring of the pitot/static 1, 2, and auxiliary sensors; the angle-of-attack sensors; the side slip sensors; and the current sensors; as applicable; by doing all actions in paragraphs 2.3.1 through 2.3.23 of Part II of the Accomplishment Instructions of EMBRAER Service Bulletin 120–30–0030, Change 01, dated November 28, 2000.

(1) If no sign of overheating is found during any inspection per paragraph (a) or (b) of this AD: Do the actions in paragraph (d) of this AD within 2,000 flight hours after the inspection.

(2) If any sign of overheating is found during any inspection per paragraph (a) or (b) of this AD: Do the actions in paragraph (d) of this AD before further flight after the inspection.

Alternative Methods of Compliance

(e) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

Incorporation by Reference

(f) The actions shall be done in accordance with EMBRAER Service Bulletin 120–30–0030, Change 01, dated November 28, 2000. 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 Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 2: The subject of this AD is addressed in Brazilian airworthiness directive 2001–06–02, dated June 26, 2001.

Effective Date

(g) This amendment becomes effective on April 29, 2004.

Issued in Renton, Washington, on March 12, 2004.

Ali Bahrami,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6499 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2004–NE–11–AD; Amendment 39–13517; AD 2004–05–22]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce Deutschland (RRD) (Formerly Rolls-Royce, plc) TAY 611–8, TAY 620–15, TAY 650–15, and TAY 651–54 Series Turbofan Engines; Correction

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document makes a correction to Airworthiness Directive (AD) 2004–05–22. That AD applies to certain RRD TAY 611–8, TAY 620–15, TAY 650–15, and TAY 651–54 series turbofan engines with ice-impact panels installed in the low pressure (LP) compressor case. We published AD 2004–05–22 in the **Federal Register** on March 10, 2004, (69 FR 11305). The AD number in the Amendatory Language is incorrect. This document corrects that AD number. In all other respects, the original document remains the same.

EFFECTIVE DATE: Effective March 25, 2004.

FOR FURTHER INFORMATION CONTACT: Jason Yang, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7747; fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A final rule AD, FR Doc, 04–5263 that applies to certain RRD TAY 611–8, TAY 620–15, TAY 650–15, and TAY 651–54 series turbofan engines with ice-impact panels installed in the LP compressor case, was published in the **Federal Register** on March 10, 2004, (69 FR 11305). The following correction is needed:

§ 39.13 [Corrected]

■ On page 11307, in the second column, in the Amendatory Language, in the third paragraph, in the first line, ''200X–05–22'' is corrected to read ''2004–05–22''.

Issued in Burlington, MA, on March 18, 2004.

Mark C. Fulmer,

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

[FR Doc. 04–6577 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 95–NM–111–AD; Amendment 39–13544; AD 2004–06–18]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737–300 and –400 series airplanes, that currently requires either repetitive leak checks on the forward lavatory service system and repair, as necessary, or draining of the system and placarding the lavatory inoperative. This amendment also requires periodic changing of the seals of certain lavatory drain systems; replacing ''donut valves'' with other FAA-approved valves; revising certain leak test intervals; and revising the pressurization and fluid level requirements for testing. The actions specified by this AD are intended to prevent damage to engines, airframes, and property on the ground that is associated with the problems of ''blue ice'' that forms from leaking lavatory drain systems on transport category airplanes and subsequently dislodges from the airplane fuselage.

DATES: Effective April 29, 2004.

ADDRESSES: Information pertaining to this amendment may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Don Eiford, Aerospace Engineer, Cabin Safety and Environmental Systems Branch, ANM–150S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 917–6465; fax (425) 917–6590.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–11–03, amendment 39–6223 (54 FR 21933, May 22, 1989), which is applicable to certain Boeing Model 737–300 and –400 series airplanes, was published as a supplemental notice of proposed rulemaking (NPRM) in the **Federal Register** on November 26, 1997 (62 FR 62708). That action proposed to continue to require either repetitive leak checks on the forward lavatory service system and repair, as necessary, or draining of the system and placarding the lavatory inoperative. In addition, that action proposed to add a requirement to perform leak checks of other lavatory drain systems; require the installation of a cap or vacuum break on the flush/fill line; and require either a periodic replacement of the seal for the cap and tank anti-siphon valve or periodic maintenance of the vacuum break in the flush/fill line. Further, that action proposed to require a periodic changing of the seals of certain lavatory drain systems; and replacing ''donut valves'' with other FAA-approved valves.

Comments Received

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

Comments That Resulted in a Change To the Final Rule

Requests To Extend Leak Test Interval

One commenter requests that paragraph (a)(4) of the supplemental NPRM be revised to extend the leak test intervals of certain service panel drain valves (also known as and referred to in the supplemental NPRM as waste drain valves) from 1,000 flight hours to 2,000 flight hours. The commenter also requests that Table 1 of paragraph (a) of the supplemental NPRM be updated to reflect the appropriate valves approved for the 1,000-flight hour interval. In addition, the commenter requests that paragraph (a)(5) of the supplemental NPRM be revised to extend the leak test intervals from 600 flight hours to 1,000 flight hours. The commenter advises that more than 7,000 Shaw valves have accumulated in excess of 50 million flight hours during the past 10 years. The commenter states that it is aware of less than five blue ice events that could have been attributed to a Shaw Aero service panel valve and suggests that this is ample evidence to support the extensions of the leak test intervals. The commenter further states that service experience clearly indicates that the main problems regarding blue ice occur

after a period of two years of residue build-up on the sealing surfaces of the valve design. Therefore, the commenter concludes that the performance of the Shaw valves in real life maintenance environments will, if approved for an interval of 2,000 flight hours for the leak test, continue to operate with no blue ice events.

Another commenter requests that the improved Shaw valves specified in Table 1 of paragraph (a) of the supplemental NPRM be approved for the 2,000 flight hour interval that is specified in paragraph (b) of the supplemental NPRM. The commenter states that the improved valves specified in Table 1 of paragraph (a) of the supplemental NPRM, coupled with the incorporation of the maintenance program specified in paragraph (b) of the supplemental NPRM, justify increasing the leak test intervals.

The FAA agrees that the interval for the leak test of the waste drain valves specified in Table 1 of paragraph (a) of the supplemental NPRM should be extended. Since the issuance of the supplemental NPRM, requests for alternative methods of compliance (AMOCs) have been approved to extend the leak test interval to 4,000 flight hours for certain valves. We have determined that, if those valves are maintained properly, the valves are capable of leak-free operation. To simplify and clarify the requirements of this AD, we have consolidated the leak test intervals for certain valves specified in the supplemental NPRM for –4,500, –2,000, and –1,000 flight hour intervals into one group with a leak test interval of 4,500 flight hours. Therefore, we have revised this final rule to specify that the valves listed in Table 1 of this AD are approved for a leak test interval of 4,500 flight hours. For certain other valves, we have consolidated the leak test interval to 1,000 flight hours. Consequently, after the removal of ''donut'' type valves as required by this AD, there will be only two leak test intervals specified in the AD. To accommodate this change in the final rule, we have consolidated the requirements of paragraphs (a)(2), (a)(3), and (a)(4) of the supplemental NPRM into paragraph (a)(2) of this AD. We consider that the requirement of this AD to repair any leaking valves before further flight to be an additional safety factor in this determination.

Request To Add a Panel Ball Valve With a 48-Month Seal Replacement Interval

Two commenters request that the interval for the leak test for Kaiser Electroprecision panel ball valve, part number (P/N) 2651–357, be extended to 2,000 flight hours. Both commenters request that the seal replacement interval be every 48 months. The commenters explain that ample testing with airlines has been accomplished to justify the 2,000 flight hour interval.

We agree with the commenters' request. Since the issuance of the supplemental NPRM, additional flight data has been submitted to the FAA justifying an extension of the leak check interval. Additionally, the valve manufacturer has recommended that the seal change interval be revised to every 48 months. We have revised paragraphs (a) and (d) of the final rule to reflect these changes.

Requests Regarding Use of Certain Leak Test Tools

Three commenters request that use of a vacuum leak test tool be approved for performing the requirements of paragraph (b)(3)(ii)(A) of the supplemental NPRM, just as it is specified in paragraph (a)(8)(ii)(A) of the supplemental NPRM. The commenters note that use of a vacuum leak test tool does not require the airplane to be pressurized, and is, therefore, valid for performing the requirements of both paragraphs.

We agree with the commenters' request. We have redesignated paragraph (b) of the supplemental NPRM to paragraph (d) of the final rule and revised it from, ''Pressurize the airplane to 3 PSID * * *'' to ''Apply 3 PSID across the valve in the same direction as occurs in flight.''

Another commenter requests the FAA to specify that it is unnecessary to completely cover the upstream end of the valve being tested with fluid when a vacuum leak test tool is used to test the inner seal of the service panel valves. The commenter notes that leakage will be detected by a loss of applied vacuum, not by fluid leaking past the inner seal.

We agree and have added new paragraphs (b) and (c) of this AD that specify procedures to perform vacuum leak tests.

Requests To Provide an Additional Option for Paragraph (d) of the Supplemental NPRM

Several commenters request that installation of an FAA-approved liquid level sensor and motorized shut-off valve (also known as and specified as an automatic shut-off valve in the supplemental NPRM) be accepted as another option for compliance with the requirements of paragraph (d) of the supplemental NPRM. That paragraph specifies installation of an FAA-approved lever/lock cap, vacuum break, or flush/fill ball valve for all lavatories. Additionally, the commenters request that this system also be provided in paragraphs (a)(8) and (b)(3) of the supplemental NPRM. One commenter points out that the automatic shut-off valve system is similar to other systems currently installed in another airplane model, and it has proven effective in preventing ''blue ice'' incidents.

We agree with the commenters' request and have revised those paragraphs of the final rule to add the automatic shut-off valve as an additional method of compliance. Also, we have redesignated paragraph (d) of the supplemental NPRM as paragraph (f) of the final rule, and paragraphs (a)(8) and (b)(3) of the supplemental NPRM as paragraphs (a)(5)(iv) and (d)(3)(iv) of the final rule.

Request To Specify Terminating Action

One commenter requests that the actions required by the supplemental NPRM and incorporation of an FAA-approved maintenance program be considered as terminating action for the requirements of the supplemental NPRM. The commenter states that the proposed actions, such as donut valve removal, seal replacement, and rinse system upgrade, will reduce the incidence of ''blue ice'' significantly, and in conjunction with the FAA-approved maintenance program, justify providing accomplishment of those actions as terminating action.

We agree with the commenter's request. A review of reports indicates that, since the issuance of several blue ice ADs, the number of reported events of blue ice has decreased markedly. We consider the decrease as an indication that the existing blue ice ADs are effective. Therefore, we have revised paragraph (d) of the final rule to allow terminating action by incorporation of the requirements of paragraphs (d), (f), and (g) of the AD into the operator's FAA-approved maintenance program.

Request To Extend Intervals for Seal Replacement

One commenter requests that paragraphs (a)(1) and (b)(1) of the supplemental NPRM be revised to provide that, for waste drain systems that incorporate more than one type of valve, the seal replacement interval of all affected valves in the system would be that of the valve with the longest seal replacement interval. For example, if an in-line drain valve were installed with a service panel valve, replacement of the service panel valve seal would coincide with replacement of the in-line drain valve seal. The commenter suggests that it be specified that the secondary valve would not be a means of continuing

operations if the seal of the valve with the longest replacement interval were malfunctioning.

We partially agree with the commenter. We have revised paragraphs (a)(1) and (d)(1) of the AD to permit extension of the interval for replacement of the seals. However, we do not consider it necessary to specify that the secondary valve would not be a means of continuing operations if the seal of the valve with the longest replacement interval is malfunctioning, since the final rule requires any worn or damaged seal or any seal leakage to be repaired before further flight.

Request To Revise Paragraph (b) To Clarify Leak Test Interval

One commenter requests that certain language used in paragraph (a) of the supplemental NPRM be added to paragraph (b) of the supplemental NPRM. The language states, ''If the waste drain system incorporates more than one type of valve, only one of the waste drain system leak test procedures (the one that applies to the equipment with the longest leak test interval) must be conducted at each service panel location.''

We agree that clarification is needed and have revised the final rule accordingly. Paragraph (b) of the supplemental NPRM also has been redesignated as paragraph (d) of the final rule.

Request To Add Appropriate Leak Tests for Auxiliary Waste Tanks

One commenter states that the flush/fill line valve tests specified in paragraphs (a) and (b) of the supplemental NPRM cannot be accomplished as specified for airplanes that have auxiliary waste tanks installed. The commenter explains that auxiliary waste tanks cannot be half-filled because the bowl is installed only on the primary waste tank. Additionally, the primary waste tank cannot be tested by this procedure without filling the auxiliary tank, because the standpipe installation in the primary tank precludes filling the bowl half-full. Therefore, the commenter requests that an appropriate leak test be specified for those airplanes with auxiliary waste tanks installed. The commenter did not suggest any specific leak test.

We agree with the commenter's request. Since using a vacuum test does not require filling the tanks with fluid, we have determined that such use of a vacuum test in accordance with applicable airplane and component maintenance manuals will provide an acceptable method to comply with the leak test requirements for airplanes with auxiliary waste tanks installed. We have clarified paragraphs (a)(5) and (d)(3) of the final rule to specify that vacuum test equipment (rigs) may be used for those airplanes for the flush/fill line leak tests.

Request To Allow Certain Leak Test Extensions

One commenter states that, although paragraph (c) of the supplemental NPRM provides for revision of the leak test intervals required by paragraph (b) of the supplemental NPRM, no similar provision is made for operators who comply with the requirements of paragraph (a) of the supplemental NPRM. The commenter explains that it is implementing a maintenance program that complies with the requirements of paragraph (a) of the supplemental NPRM for certain airplanes in its fleet, and that it complies with the requirements of paragraph (b) of the supplemental NPRM for certain other airplanes in its fleet. The commenter requests that paragraph (c) of the supplemental NPRM be revised to permit extension of the leak test intervals for airplanes that are in compliance with either paragraph (a) or (b) of the supplemental NPRM.

We agree. The provision to extend the leak test intervals provided in paragraph (c) of the supplemental NPRM has been revised accordingly. Paragraph (c) of the supplemental NPRM has also been redesignated as paragraph (e) in the final rule.

Request To Clarify Use of ''Dump Valve''

One commenter requests that the FAA revise the term ''dump valve'' as used in the supplemental NPRM to read ''toilet tank dump valve.'' We agree with the commenter's request and have changed the final rule accordingly.

Request To Specify ''FAA-Approved Vacuum Breaks''

One commenter requests that, rather than requiring the use of two particular vacuum breaks as specified in paragraph (a) of the supplemental NPRM, the FAA require the use of any FAA-approved vacuum breaks. We agree with the commenter's request and have changed the final rule accordingly.

Request To Revise a Part Number for the Vacuum Breaker Check Valve

One operator requests that reference to the P/N series for the Shaw vacuum breaker check valves by changed from ''301–0009–01'' to ''309–0009.'' We agree with the commenter's request and have corrected the references to those P/Ns in the final ru;e accordingly.

Comments Received That Did Not Result in a Change to the Final Rule

Request To Approve Terminating Action

One commenter requests that a certain in-line drain valve be approved as a terminating action for the requirements of paragraph (b) of the supplemental NPRM. The commenter states that it is not aware of any reports of leakage on the particular valve.

We do not agree with the commenter's request. Since in-line drain valves may be damaged, fouled, and worn, we have determined that it is not appropriate to approve those valves as a terminating action for the requirements of paragraph (b) of the supplemental NPRM (redesignated as paragraph (d) in the final rule). However, we have also provided for terminating action by allowing incorporation of the requirements of paragraphs (d), (f), and (g) of the final rule into the operator's FAA-approved maintenance program.

Request To Revise Replacement Intervals

One commenter states that the FAA should not extend replacement intervals for certain valve seals based on the success of certain other in-line ball valve seals. The commenter specifies that the two different types of valves are not similar, and therefore, extending the replacement intervals should not be approved on that basis.

We do not agree that certain valve seals should not have the replacement interval extended. We did not approve the extension of the replacement interval of the seals based on similarity with another type of valve. We based that approval on the manufacturer's recommended seal change interval and on the successful operating experience with an extended interval for the seal change. No change is necessary to the final rule in this regard.

Request To Require Both a Vacuum Break Check Valve and a Lever Lock Cap

Two commenters request that the FAA require both a vacuum break check valve and a lever lock cap on the lavatory fill/rinse line. One commenter states that a large portion of blue ice leakage propagates from the lavatory fill/rinse line and check valve designs are inherently vulnerable to this waste system environment. Also, a single vacuum breaker check valve provides no positive mechanical means of closure as required for all other critical leak path valves with the waste system.

We do not agree with the commenter's request. As we explained in the ''Comments Received'' section of the

supplemental NPRM, we acknowledge that redundant systems generally provide a higher level of safety; however, in this case, the vacuum breaker provides redundancy to the check valve function. In the case of a check valve alone, the lever lock cap provides redundancy to the check valve. There are insufficient data to show which combination is more reliable. No change is necessary to the final rule in this regard.

Request To Revise Replacement Intervals of Certain Seals

Two commenters request that the seal replacement intervals specified in paragraphs (a)(1)(ii) and (b)(1)(ii) of the supplemental NPRM be revised from ''Thereafter, repeat the replacement of the seals at intervals not to exceed 18 months or 6,000 flight hours, whichever occurs later'' to read ''Thereafter, repeat the replacement of the seals at intervals not to exceed 18 months.'' One commenter did not provide any justification for the requested change. The other commenter states that the seal in a ball-type or half-ball type valve (especially when used at the service panel) is subjected to significantly greater dynamic action than the seal in a flapper-type valve. The distance that the ball or half-ball drags across the seal subjects the seal to considerably more wear than that experienced by an o-ring seal in a flapper-type valve as it moves from a sealed to an unsealed position. Also, the plastic seals used in the ball or half-ball type valves are much less forgiving and less compressible than elastomer-type seals used in flapper-type valves and thus are more susceptible to being damaged by foreign objects and allowing leakage. The potential for ice, hardened debris, and black tar buildup on the ball at the service panel makes the seals much more susceptible to damage as the ball is dragged across the seals. The commenter concludes that the location of the service panel valve relative to the in-line valve makes damage more susceptible to the seals or mating surfaces as a result of service and maintenance processes.

We do not agree with the commenters' request. The proposed replacement intervals for those seals specified in the supplemental NPRM were based on the manufacturer's recommended seal change interval and on successful operational experience with a longer seal change interval. We consider that, if leakage does occur before the specified replacement interval, the requirement to repair any leaks or placard the lavatory inoperative before further flight will ensure that the valve does not continue to leak. No change is necessary to the final rule in this regard.

Request To Require the Same Proof for Approval

One commenter requests that other valve suppliers be required to complete the same or similar number of flight test hours as the PneuDraulics valve before extended leak test intervals are granted, and that credit for similarity be disallowed. The commenter states that the 25,000 flight hours and use of similarity to approve extended leak check intervals for valves as proposed in Notes 9 and 11 of the supplemental NPRM are inadequate. The commenter states that the FAA required it to complete 13 million flight hours over a 3-year period before an extension to 4,000 flight hours was considered. The commenter asserts that other applicants for extended leak test intervals should be required to have a similar service history, and that service history should be based upon in-flight experience with the exact design in the exact location of use. The commenter states that the FAA cannot act as a judge of equality in the marketplace, and that it must maintain its role of acting in the best interest of airline passenger safety. The commenter recommends that the FAA judge engineering data equally and fairly, and that all requests for approval of an extended leak test extension be determined by the same set of criteria.

We do not agree that ''credit'' for similarity should be disallowed. We have allowed use of similarity for partial credit in lieu of service experience, but a considerable amount of successful service history was required before an extended interval was approved. In granting such approvals, we primarily consider service history obtained by operators using a program to gather data similar to that outlined in paragraph (b) of the supplemental NPRM. For instance in the case of a certain valve, operators reported approximately 936,000 flight hours and one leak. In another case, operators reported approximately 848,000 flight hours and 2 leaks. In a third case, operators reported approximately 480,000 flight hours and no leaks, plus similarity to another valve manufactured by the same company. These data indicate that any of these valves can be effective in service. The requirement to repair any leak or placard the lavatory inoperative before further flight is intended to motivate operators to select and maintain the most reliable valves in order to avoid leaking. No change is necessary to the final rule in this regard.

Request To Reduce Time of the Leak Test

One commenter requests that the duration of the five-minute leak test be reduced to one minute for the leak tests that are performed with a vacuum leak check tool. The commenter states that any leak path will be readily detected within one minute when a three pounds per square inch differential pressure is generated. If the pressure gauge remains stationary, the inner seal is leak-tight.

We do not agree with the commenter's request. The commenter did not provide any data to substantiate that a one-minute leak test is as sensitive to low leakage rates as a five-minute leak test. No change is necessary to the final rule in this regard. However, under the provisions of paragraph (h) of the final rule, the FAA may approve requests for alternative method of compliance (AMOC) if data are submitted to substantiate that such an AMOC would provide an acceptable level of safety.

Request To Revise the Economic Impact Section

One commenter requests that the FAA add information to the Economic Impact section to advise operators that the leak check tool (the hand-held vacuum pump) provides a more economic method of performing the leak test. The commenter states that without the leak check tool, the engine or auxiliary power unit (APU) must be started and the leak test will take four work hours for each lavatory drain valve. The commenter points out that, with the leak check tool, there is no need to power up the airplane and the leak test takes only five or 10 minutes to perform for each lavatory drain.

We do agree that it is necessary to add the additional information concerning the costs of performing a leak test with the leak check tool. As explained in the Economic Impact section of the supplemental NPRM and in this final rule, the costs discussed are estimates based on the fact that certain airplanes may be required to be leak tested as many as 15 times each year, while certain other valve configurations may be required to be leak tested as few as three times each year. Additionally, some airplanes that have various combinations of drain valves installed would require approximately two leak tests of one drain valve and three leak tests of the other drain valve each year. Because of the varied costs that may be incurred by different operators, we have provided estimated costs of the leak tests that range from between $1,170 and $5,850 per airplane per year. No

change is necessary to the final rule in this regard.

Request To Limit Leak Test Extensions Specified in Paragraph (b)

The commenter states that, in the recent past, the FAA provided rationale for not granting an across-the-board leak check extension for a manufacturer when the FAA stated that, ''it recognizes that varying aspects of each airlines operational environment and the human factors associated with maintenance procedures means that equal results for all airlines would not necessarily result.'' Therefore, the commenter states that the FAA encouraged operators who had proven and effective maintenance programs to individually obtain approval for increased leak check intervals. The commenter agrees with that approach and requests that any extensions of the leak test intervals specified in paragraph (b) of the supplemental NPRM be granted only on an airline-by-airline basis, rather than across-the-board leak check extensions for certain service panel valves.

We do not agree with the commenter's request. Since the time that we granted extension of leak test intervals on an operator-by-operator basis, sufficient data has been submitted to justify the conclusion that certain service panel valves, if properly maintained, can perform satisfactorily under different operating conditions and maintenance programs. Further, to ensure that leakage does not become a problem in conditions that may not be foreseen, the requirement to repair any leak or to placard the lavatory inoperative before further flight should ensure the operational safety of the fleet. No change to the final rule is necessary in this regard.

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 with the changes previously described. The FAA has 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 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.

Change to Labor Rate Increase

After the supplemental NPRM was issued, we reviewed the figures we use to calculate the labor rate to do the required actions. To account for various inflationary costs in the airline industry, we find it appropriate to increase the labor rate used in these calculations from $60 per work hour to $65 per work hour. The economic impact information, below, has been revised to reflect this increase in the specified hourly labor rate.

Cost Impact

There are approximately 2,410 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 1,031 airplanes of U.S. registry and 110 U.S. operators will be affected by this AD.

The required waste drain system leak test and outer cap inspection will take approximately 6 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact on U.S. operators of these requirements of this AD is estimated to be $402,090, or $390 per airplane, per test/inspection.

Certain airplanes (*i.e.*, those that have ''donut'' type drain valves installed) may be required to be leak tested as many as 15 times each year. Certain other airplanes having other valve configurations will be required to be leak tested as few as 3 times each year. Some airplanes that have various combinations of drain valves installed will require approximately 2 leak tests of 1 drain valve and 3 leak tests of the other drain valve each year. Based on these figures, the annual (recurring) cost impact of the required repetitive leak tests on U.S. operators is estimated to be between $1,170 and $5,850, per airplane per year.

With regard to replacement of ''donut'' type drain valves, the cost of a new valve is approximately $1,200. However, the number of leak tests for an airplane that is flown an average of 3,000 flight hours a year is thereby reduced from 15 tests to 3 tests. The cost reduction because of the number of tests required is approximately equal to the cost of the replacement valve. Therefore, no additional cost is incurred because of this change.

We estimate that it will take approximately 1 work hour per airplane lavatory drain to accomplish a visual inspection of the service panel drain valve cap/door seal and seal mating surfaces, at an average labor cost of $65 per work hour. As with leak tests, certain airplanes will be required to be visually inspected as many as 15 times or as few as 3 times each year. Based on these figures, the annual (recurring) cost impact of the required repetitive visual inspections on U.S. operators is estimated to be between $195 and $975 per airplane, per year.

The required installation of the flush/fill line cap will take approximately 1 work hour per cap to accomplish, at an average labor rate of $65 per work hour. The cost of required parts will be $275 per cap. There is an average of 2.5 caps per airplane. Based on these figures, the cost impact on U.S. operators of these requirements of this AD is estimated to be $875,500, or $850 per airplane.

The addition of the seal change requirement to paragraph (a) of this AD will require approximately 2 work hours to accomplish, at an average labor cost of $65 per hour. The cost of required parts will be $200 per each seal change. Based on these figures, the cost impact on U.S. operators of these requirements of this AD is estimated to be $340,230, or approximately $330 per airplane per year.

The number of required work hours, as indicated above, is presented as if the accomplishment of the actions required in this AD were to be conducted as ''stand alone'' actions. However, in actual practice, these actions could be accomplished coincidentally or in combination with normally scheduled airplane inspections and other maintenance program tasks. Therefore, the actual number of necessary ''additional'' work hours will be minimal in many instances. Additionally, any costs associated with special airplane scheduling should be minimal.

In addition to the costs discussed above, for those operators who elect to comply with paragraph (d) of this AD, we estimate that it will take approximately 40 work hours per operator to incorporate the lavatory drain system leak test procedures into the maintenance programs, at an average labor cost of $65 per work hour. Based on these figures, the cost impact of the maintenance revision requirement of this AD action on the 110 U.S. operators is estimated to be $286,000, or $2,600 per operator.

The cost impact figures discussed above are 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.

We recognize that the obligation to maintain aircraft in an airworthy condition is vital, but sometimes expensive. Because ADs require specific actions to address specific unsafe conditions, they appear to impose costs that would not otherwise be borne by operators. However, because of the general obligation of operators to maintain aircraft in an airworthy condition, this appearance is deceptive. Attributing those costs solely to the issuance of this AD is unrealistic because, in the interest of maintaining safe aircraft, prudent operators would accomplish the required actions even if they were not required to do so by the AD.

A full cost-benefit analysis has not been accomplished for this AD. As a matter of law, in order to be airworthy, an aircraft must conform to its type design and be in a condition for safe operation. The type design is approved only after the FAA makes a determination that it complies with all applicable airworthiness requirements. In adopting and maintaining those requirements, the FAA has already made the determination that they establish a level of safety that is cost-beneficial. When the FAA, as in this AD, makes a finding of an unsafe condition, this means that the original cost-beneficial level of safety is no longer being achieved and that the required actions are necessary to restore that level of safety. Because this level of safety has already been determined to be cost-beneficial, a full cost-benefit analysis for this AD would be redundant and unnecessary.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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, 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 39–6223 (54 FR 21933, May 22, 1989), and by adding a new airworthiness directive (AD), amendment 39–13544, to read as follows:

2004–06–18 Boeing: Amendment 39–13544. Docket 95–NM–111–AD. Supersedes AD 89–11–03, Amendment 39–6223.

Applicability: All Model 737–100, –200, –300, –400 and –500 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (h) 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 engine damage, airframe damage, and/or hazard to persons or property on the ground as a result of ''blue ice'' that has formed from leakage of the lavatory drain system or flush/fill systems and dislodged from the airplane, accomplish the following:

Replacing Valve Seals and Performing Leak Tests

(a) Except as provided by paragraph (d) of this AD, accomplish the applicable requirements of paragraphs (a)(1) through (a)(6) of this AD at the time specified in each paragraph. If the waste drain system incorporates more than one type of valve, only one of the waste drain system leak test procedures (the one that applies to the equipment with the longest leak test interval) must be conducted at each service panel location. Except as provided in paragraphs (b) and (c) of this AD, the waste drain system valve leak tests specified in this AD shall be performed in accordance with the following requirements: fluid shall completely cover the upstream end of the valve being tested; the direction of the 3 pounds per square inch differential pressure (PSID) shall be applied across the valve in the same direction as occurs in flight; the other waste drain system valves shall be open; and the minimum time to maintain the differential pressure shall be 5 minutes.

(1) Replace the valve seals in accordance with the applicable schedule specified in paragraph (a)(1)(i), (a)(1)(ii), or (a)(1)(iii) of this AD. If an in-line drain valve as specified in paragraph (a)(1)(i) of this AD is installed in the same lavatory drain line as the valves specified per paragraph (a)(1)(ii) or (a)(1)(iii) of this AD, seal replacement for the valves specified in paragraph (a)(1)(ii) or (a)(1)(iii) of this AD may be performed at the seal replacement interval for the in-line drain valve.

Note 2: The seals and o-rings in the service panel drain valve that are to be replaced in accordance with paragraph (a)(1) or (d)(1) of this AD are the seals and o-rings that seal against the valve door, lid, cap, or ball, which is opened to allow flow through the service panel drain valve or in-line drain valve. The seals and o-rings in the lavatory flush/fill line valve or cap that are to be replaced in accordance with paragraph (a)(5) or (d)(3) of this AD are the seals and o-rings that seal against a surface and prevent backflow from the lavatory waste tank through the flush/fill line.

(i) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision part number (P/N) series 2651–278 or service panel ball valve, Kaiser Electroprecision P/N series 2651–357: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 48 months after the last documented seal change, whichever occurs later. Thereafter, repeat the replacement of the seals at intervals not to exceed 48 months.

(ii) For each lavatory drain system that has a Pneudraulics P/N series 9527 valve: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 18 months of the last documented seal change, whichever occurs later. Thereafter, repeat the replacement of the seals at intervals not to exceed 18 months or 6,000 flight hours, whichever occurs later.

(iii) For each lavatory drain system that has any other type of drain valve: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 18 months

after the last documented seal change, whichever occurs later. Thereafter, repeat the replacement of the seals at intervals not to exceed 18 months.

(2) For each lavatory drain system that has an in-line drain valve installed having Kaiser Electroprecision P/N series 2651–278, or service panel drain valve installed having Kaiser Electroprecision P/N series 2651–357, or Pneudraulics P/N series 9527, or Shaw Aero valve having a P/N or serial number (S/N) as listed in Table 1 of this AD: Within 4,500 flight hours after the effective date of this AD, or within 4,500 hours after the last documented leak test, whichever occurs later, accomplish the procedures specified in paragraphs (a)(2)(i) and (a)(2)(ii) of this AD. Thereafter, repeat the procedures at intervals not to exceed 18 months or 4,500 flight hours, whichever occurs later.

(i) Conduct a leak test of the toilet tank dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel) and the in-line drain valve (Kaiser Electroprecision P/N series 2651–278) or service panel drain valve (Kaiser Electroprecision P/N series 2651–357, or Pneudraulics P/N series 9527, or Shaw Aero valve having a P/N or serial number (S/N) as listed in Table 1 of this AD). The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and, after a period of 5 minutes, testing for leakage. Take precautions to avoid overfilling the tank and spilling fluid into the airplane. Except as provided by paragraphs (b) and (c) of this AD, the in-line drain valve or service panel drain valve leak test must be performed with a minimum of 3 PSID applied across the valve in the same direction as occurs in flight.

(ii) If a service panel valve or cap is installed, perform a general visual inspection of the service panel drain valve outer cap/door seal and the inner seal (if the valve has an inner door with a second positive seal), and the seal mating surfaces for wear or damage that may allow leakage.

Note 3: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made 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.''

TABLE 1.—SHAW AERO VALVES APPROVED FOR 4,500 FLIGHT HOUR LEAK TEST INTERVAL

Shaw waste drain valve part number	Serial numbers of part number valve approved for 4,500 flight hour leak test interval
331 Series	All.
10101000B–A–1	0207–0212, 0219, 0226 and higher.
10101000B–A–1	0001–0206, 0213–0218, and 0220–0225 that are marked ''SBB38–1–58,'' and that incorporate the improvements outlined in Shaw Service Bulletin 10101000B–38–1, dated October 7, 1994.
10101000BA2	0130 and higher.
10101000BA2	0001–0129 that are marked ''SBB38–1–58,'' and that incorporate the improvements outlined in Shaw Service Bulletin 10101000B–38–1, dated October 7, 1994.
10101000C–A–1	0277 and higher.
10101000C–A–1	0001–0276 that are marked ''SBC38–2–58,'' and that incorporate the improvements outlined in Shaw Service Bulletin 10101000C–38–2, dated October 7, 1994.
10101000CN OR 10101000C–N	3649 and higher.
10101000CN OR 10101000C–N	0001–3648 that is marked ''SBC38–2–58,'' and that incorporate the improvements outlined in Shaw Service Bulletin 10101000C–38–2, dated October 7, 1994.

(3) For each lavatory drain system with a lavatory drain system valve that incorporates either ''donut'' plug, Kaiser Electroprecision P/N 4259–20 or 4259–31; Kaiser Roylyn/Kaiser Electroprecision cap/flange P/N 2651–194C, 2651–197C, 2651–216, 2651–219, 2651–235, 2651–256, 2651–258, 2651–259, 2651–260, 2651–275, 2651–282, 2651–286; or other FAA-approved equivalent parts; accomplish the requirements at the specified times of paragraphs (a)(3)(i), (a)(3)(ii), and (a)(3)(iii) of this AD. For the purposes of paragraph (a)(3) of this AD, ''equivalent part'' means either a ''donut'' plug that mates with the cap/flange having part numbers listed in this paragraph, or a cap/flange that mates with the ''donut'' plug having part numbers listed in this paragraph, such that the cap/flange and ''donut'' plug are used together as an assembled valve.

(i) Within 200 flight hours after the effective date of this AD, and thereafter at intervals not to exceed 200 flight hours, conduct leak tests of the toilet tank dump valve and the service panel drain valve. The leak test of the toilet tank dump valve must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid on the airplane. Except as provided by paragraphs (b) and (c) of this AD, the service panel drain valve leak test must be performed with a minimum 3 PSID applied across the valve in the same direction as occurs in flight.

(ii) Perform a general visual inspection of the outer door/cap and seal mating surface for wear or damage that may cause leakage. This inspection shall be accomplished in conjunction with the leak tests of paragraph (a)(3)(i) of this AD.

(iii) Within 5,000 flight hours after the effective date of this AD, replace the donut valve (part numbers per paragraph (a)(3) of this AD) with another type of FAA-approved valve. Following installation of the replacement valve, perform the appropriate leak tests and seal replacements at the intervals specified for that replacement valve, as applicable.

(4) For each lavatory drain system not addressed in paragraph (a)(2) or (a)(3) of this AD: Within 1,000 flight hours or 6 months after the effective date of this AD, whichever occurs later, accomplish the actions specified in paragraphs (a)(4)(i) and (a)(4)(ii) of this AD. Thereafter, repeat those actions at intervals not to exceed 1,000 flight hours or 6 months, whichever occurs later.

(i) Conduct a leak test of the toilet tank dump valve and the service panel drain valve. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and, after a period of 5 minutes, testing for leakage. Take precautions to avoid overfilling the tank and spilling fluid on the airplane. Except as provided by paragraphs (b) and (c) of this AD, the service panel drain valve leak test must be performed with a minimum of 3 PSID applied across the valve inner door/closure device.

(ii) Perform a general visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(5) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, perform the requirements of paragraph (a)(5)(i), (a)(5)(ii), (a)(5)(iii), or (a)(5)(iv) of this AD, as applicable. Thereafter, repeat the requirements at intervals not to exceed 5,000 flight hours, or 48 months after the last documented seal change, whichever occurs later. For airplanes that contain auxiliary waste tanks, the leak tests may be performed per one of the leak test procedures in

paragraph (b) or (c) of this AD, or by using the leak test procedures without filling the toilet tank bowl half-full of fluid per the applicable airplane or component maintenance manual.

Note 4: The seals/o-rings in the service panel drain valve that are to be replaced in accordance with paragraph (a)(1) or (d)(1) of this AD are the seals/o-rings that seal against the valve door/lid/cap/ball, which is opened to allow flow through the service panel drain valve or in-line drain valve. The seals/o-rings in the lavatory flush/fill line valve or cap that are to be replaced per paragraph (a)(5) or (d)(3) of this AD are the seals/o-rings that seal against a surface and prevent backflow from the lavatory waste tank through the flush/fill line.

(i) If a lever lock cap is installed on the flush/fill line of the subject lavatory, replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap with new seals. Perform a leak test of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve in the same direction as occurs in flight, in accordance with paragraph (a)(5)(ii)(A) of this AD, as applicable.

Note 5: The leak test procedure described in Boeing 737 Maintenance Manual, 38–32–00/501, may be referred to as guidance for this test if the toilet tank is filled to the level specified in paragraph (a)(5)(ii)(A) of this AD.

(ii) If a vacuum breaker check valve, Monogram P/N series 3765–190, or Shaw Aero Devises P/N series 301–000, or other FAA-approved vacuum break check valve is installed on the subject lavatory, replace the seals/o-rings in the valve. Perform a leak test of the vacuum breaker check valve and verify proper operation of the vent line vacuum breaker in accordance with paragraphs (a)(5)(ii)(A) and (a)(5)(ii)(B) of this AD.

(A) Leak test the toilet tank anti-siphon valve or the vacuum breaker check valve by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl.) Apply 3 PSID across the valve in the same direction as occurs in flight. The vent line vacuum breaker on vacuum breaker check valves must be pinched closed or plugged for this leak test. If there is a cap/valve at the flush/fill line port, the cap/valve must be removed/open during the test. Check for leakage at the flush/fill line port for a period of 5 minutes.

(B) Verify proper operation of the vent line vacuum breaker by filling the tank and testing at the fill line port for back drainage after disconnecting the fluid source from the flush/fill line port. If back drainage does not occur, replace the vent line vacuum breaker or repair the vacuum breaker check valve in accordance with the component maintenance manual to obtain proper back drainage. As an alternative to the above test technique, verify proper operation of the vent line vacuum breaker in accordance with the procedures of the applicable component maintenance manual.

(iii) If a flush/fill ball valve, Kaiser Electroprecision P/N series 0062–0009 is installed on the flush/fill line of the subject lavatory, replace the seals in the flush/fill ball valve and the toilet tank anti-siphon valve with new seals. Perform a leak test of the toilet tank anti-siphon valve with a minimum of 3 PSID across the valve in the same direction as occurs in flight, in accordance with paragraph (a)(5)(ii)(A) of this AD.

(iv) If an FAA-approved shut-off valve that uses a mechanical or electrical devise to prevent overfilling of the toilet tank is installed, replace the seals/o-rings in the shut-off valve. Perform the leak test of the shut-off valve per the applicable airplane or component maintenance manual, or per the procedures specified in paragraph (b) or (c) of this AD.

(6) As a result of the leak tests and inspections required by paragraph (a) of this AD, or if evidence of leakage is found at any other time, accomplish the requirements of paragraph (a)(6)(i), (a)(6)(ii), or (a)(6)(iii), as applicable.

(i) If a leak is discovered, prior to further flight, repair the leak. Prior to further flight after repair, perform the appropriate leak test, as applicable. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them of any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

Note 6: For purposes of this AD, ''leakage'' is defined as any visible leakage, if observed during a leak test. At any other time (than during a leak test), ''leakage'' is defined as the presence of ice in the service panel, or horizontal fluid residue streaks/ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(ii) If any worn or damaged seal is found, or if any damaged seal mating surface is found, prior to further flight, repair or replace it with a new seal, in accordance with the valve manufacturer's maintenance manual.

(iii) In lieu of performing the requirements of paragraph (a)(6)(i) or (a)(6)(ii) of this AD: Before further fight, drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

One Alternative to Accomplishing Test Procedures

(b) As an alternative to the test procedures for service panel drain valves and in-line drain valves specified in paragraph (a) or (d) of this AD, and flush/fill line valves as specified in paragraph (a)(5) or (d)(3) of this AD, a vacuum leak test may be done in accordance with ''Shaw Aero Devices Document ILS–193C (Operation Instructions for the Waste Drain Valve Inner Flapper and Lavatory Rinse/Fill Valve Leak Test Tool), Revision C, dated July 1999. The tests shall be conducted with a minimum of 3 PSI differential pressures across the valve seal being tested in the same direction as occurs in flight. The duration of the test shall be 5 minutes. The test may be conducted with fluid completely covering the seal to be tested and checked for fluid leakage, or by subjecting the seal to a vacuum without fluid present, and checking for loss of vacuum. Any movement of the vacuum gauge needle indicates loss of vacuum and constitutes failure of the test. Failure of the test also occurs if fluid is behind the valve being tested and any leakage of fluid past the valve occurs during the test. Operators should note that the test rig may not work for all valve types. Confirm compatibility of the test rig to the valve by verifying compatibility with the manufacturer(s) of the test rig and valve. Other leak test tools may be used for this test if approved per paragraph (h) of this AD.

Another Alternative to Accomplishing Test Procedures

(c) As an alternative to the test procedures for service panel drain valves and in-line drain valves specified in paragraph (a) or (d) of this AD, and flush/fill line valves as specified in paragraph (a)(6) or (d)(3) of this AD, a vacuum test may be done in accordance with ''Operating Instructions for Lavatory Waste Drain Valve and Flush/Fill Valve Leak Test Tool,'' AAXICO Industries, Ltd., Document AI 18, Issue 4, dated January 2002. The test shall be conducted with a minimum of 3 PSI differential pressures across the valve seal being tested in the same direction as occurs in flight. The duration of the tests shall be 5 minutes. The test may be conducted with fluid completely covering the seal to be tested and checked for fluid leakage, or by subjecting the seal to a vacuum without fluid present, and checking for loss of vacuum. Any movement of the vacuum gauge needle indicates loss of vacuum and constitutes failure of the test. Failure of the test also occurs if fluid is behind the valve being tested and any leakage of fluid past the valve occurs during the test. Operators should note that the test rig might not work for all valve types. Confirm compatibility of the test rig to the valve by verifying compatibility with the manufacturer(s) of the test rig and valve. Other leak test tools may be used for this test if approved per paragraph (h) of this AD.

Revising the FAA-Approved Maintenance Program

(d) As an alternative to the requirements of paragraph (a) of this AD, operators may revise the FAA-approved maintenance program to include the requirements specified in paragraphs (d), (f), and (g) of this AD, which constitutes terminating action for the AD. However, until the FAA-approved maintenance program is revised, operators must accomplish the requirements of paragraph (a) of this AD. If the waste drain system incorporates more than one type of valve, only one of the waste drain system leak test procedures (the one that applies to the equipment with the longest leak test interval) must be conducted at each service panel location. The waste drain system valve leak tests specified in paragraphs (a) and (d) of this AD shall be performed in accordance with the following requirements: Fluid shall completely cover the upstream end of the valve being tested unless a vacuum test is being performed in accordance with paragraph (b) or (c) of this AD; the direction of the 3 PSID shall be applied across the valve in the same direction as occurs in flight; the other waste drain system valves

shall be open; and the minimum time to maintain the differential pressure shall be 5 minutes. A differential pressure greater than 3 psi may be used if specified by procedures referenced in paragraph (b) or (c) of this AD.

(1) Replace the valve seals in accordance with the applicable schedule specified in paragraph (d)(1)(i), (d)(1)(ii), or (d)(1)(iii) of this AD. If an in-line drain valve as specified in paragraph (d)(1)(i) of this AD is installed in the same lavatory drain line as the valves specified in paragraph (d)(1)(ii) or paragraph (d)(1)(iii) of this AD, seal replacement for the valves specified in paragraphs (d)(1)(ii) and (d)(1)(iii) of this AD may be performed at the seal replacement interval for the in-line drain valve. (See Note 2 of this AD.)

(i) For each lavatory drain system that has an in-line drain valve installed, Kaiser Electroprecision P/N series 2651–278 or service panel ball valve installed, Kaiser Electroprecision P/N series 2651–357: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 48 months of the last documented seal change, whichever occurs later. Thereafter, repeat the replacement of the seals at intervals not to exceed 48 months.

(ii) For each lavatory drain system that has a Pneudraulics P/N series 9527 valve: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 18 months of the last documented seal change, whichever occurs later. Thereafter, repeat the replacement of the seals at intervals not to exceed 18 months or 6,000 flight hours, whichever occurs later.

(iii) For each lavatory drain system that has any other type of drain valve: Replace the seals within 5,000 flight hours after the effective date of this AD, or within 18 months of the last documented seal change, whichever occurs later. Thereafter, repeat the replacement of the seals at intervals not to exceed 18 months.

(2) Conduct periodic leak tests of the lavatory drain systems in accordance with the applicable schedule specified in paragraph (d)(2)(i), (d)(2)(ii), or (d)(2)(iii) of this AD. Only one of the waste drain system leak test procedures (the one that applies to the equipment with the longest leak test interval) must be conducted at each service panel location.

(i) For each lavatory drain system that has an in-line drain valve installed having Kaiser Electroprecision P/N series 2651–278; service panel drain valve installed having Kaiser Electroprecision P/N series 2651–357; Pneudraulics part number series 9527; or Shaw Aero P/N/S/N as listed in Table 1 of this AD: Within 5,000 flight hours after the effective date of this AD, or within 5,000 hours of the last documented leak test, whichever occurs later, accomplish the procedures specified in paragraphs (d)(2)(i)(A) and (d)(2)(i)(B) of this AD. Thereafter repeat the procedures at intervals not to exceed 18 months or 5,000 flight hours, whichever occurs later.

(A) Conduct a leak test of the toilet tank dump valve (in-tank valve that is spring loaded closed and operable by a T-handle at the service panel) and the in-line drain valve (Kaiser Electroprecision P/N series 2651–278) or the service panel drain valve (Kaiser Electroprecision P/N series 2651–357, Pneudraulics part number series 9527, or Shaw Aero Part Number/Serial Number as listed in Table 1 of this AD). The leak test of the toilet tank dump valve must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and testing for leakage after a period of 5 minutes. Take precautions to avoid overfilling the tank and spilling fluid on the airplane. Except as provided by paragraphs (b) and (c) of this AD, the in-line drain valve or service panel drain valve leak test must be performed with a minimum of 3 PSID applied across the valve in the same direction as occurs in flight.

(B) If a service panel valve or cap is installed, perform a general visual inspection of the service panel drain valve outer cap/door seal and the inner seal (if the valve has an inner door with a second positive seal), and the seal mating surfaces, for wear or damage that may allow leakage.

(ii) For each lavatory drain system with a lavatory drain system valve that incorporates either ''donut'' plugs Kaiser Electroprecision P/N 4259–20 or 4259–31; Kaiser Roylyn/Kaiser Electroprecision cap/flange part number 2651–194C, 2651–197C, 2651–216, 2651–219, 2651–235, 2651–256, 2651–258, 2651–259, 2651–260, 2651–275, 2651–282, 2651–286; or other FAA-approved equivalent part; accomplish the requirements at the times specified in paragraphs (d)(2)(ii)(A), (d)(2)(ii)(B), and (d)(2)(ii)(C) of this AD. For the purposes of this paragraph, (d)(2)(ii), ''FAA-approved equivalent part'' means either a ''donut'' plug that mates with the cap/flange having P/Ns listed in this paragraph, or a cap/flange that mates with the ''donut'' plug having P/Ns listed in this paragraph, such that the cap/flange and ''donut'' plug are used together as an assembled valve.

(A) Within 200 flight hours after the effective date of this AD, or within 200 flight hours after the last documented leak test, whichever occurs later, conduct leak tests of the toilet tank dump valve and the service panel drain valve. Thereafter, repeat the tests at intervals not to exceed 200 flight hours. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and, after a period of 5 minutes, testing for leakage. Take precautions to avoid overfilling the tank and spilling fluid on the airplane. Except as provided in paragraphs (b) and (c) of this AD, the service panel drain valve leak test must be performed with a minimum of 3 PSI differential applied across the valve in the same direction as occurs in flight.

(B) Perform a visual inspection of the outer door/cap and seal mating surface for wear or damage that may cause leakage. Perform this inspection in conjunction with the leak tests specified in paragraph (d)(2)(ii)(A).

(C) Within 5,000 flight hours after the effective date of this AD, replace the donut valve with another type of FAA-approved valve. Following replacement of the valve, perform the subsequent leak tests and seal replacements at the intervals specified for the new valve.

(iii) For each lavatory drain system that incorporates any other type of approved valves: Within 1,000 flight hours after the effective date of this AD, or within 1,000 flight hours of the last documented leak test, whichever occurs later, accomplish the requirements of paragraphs (d)(2)(iii)(A) and (d)(2)(iii)(B) of this AD. Thereafter, repeat the requirements at intervals not to exceed 1,000 flight hours.

(A) Conduct leak tests of the toilet tank dump valve and the service panel drain valve. The toilet tank dump valve leak test must be performed by filling the toilet tank with a minimum of 10 gallons of water/rinsing fluid and, after a period of 5 minutes, testing for leakage. Take precautions to avoid overfilling the tank and spilling fluid on the airplane. The service panel drain valve leak test must be performed with a minimum of 3 PSID applied across the valve in the same direction as occurs in flight. If the service panel drain valve has an inner door with a second positive seal, only the inner door must be tested.

(B) Perform a general visual inspection of the outer cap/door and seal mating surface for wear or damage that may cause leakage.

(3) For flush/fill lines: Within 5,000 flight hours after the effective date of this AD, perform the requirements of paragraph (d)(3)(i), (d)(3)(ii), (d)(3)(iii), or (d)(3)(iv), as applicable. Thereafter, repeat the requirements at intervals not to exceed 5,000 flight hours, or 48 months after the last documented seal change, whichever occurs later. For airplanes that contain auxiliary waste tanks, the leak tests may be performed per one of the leak test procedures in paragraph (b) or (c) of this AD, or by performing the leak test procedures without filling the toilet tank bowl half-full of fluid per the applicable airplane or component maintenance manual.

(i) If a lever lock cap is installed on the flush/fill line of the subject lavatory, replace the seals on the toilet tank anti-siphon (check) valve and the flush/fill line cap. Perform a leak test of the toilet tank anti-siphon (check) valve with a minimum of 3 PSID across the valve in the same direction as occurs in flight, as specified in paragraph (d)(3)(ii)(A) of this AD.

(ii) If a vacuum breaker check valve having Monogram P/N series 3765–190; Shaw Aero Devices P/N series 301–0009–01; or other FAA-approved vacuum breaker check valve is installed on the subject lavatory; replace the seals/o-rings in the valve. Prior to further flight, leak test the vacuum breaker check valve, and test for proper operation of the vent line vacuum breaker as specified in paragraphs (d)(3)(ii)(A) and (d)(3)(ii)(B) of this AD.

(A) Leak test the toilet tank anti-siphon valve or the vacuum breaker check valve by filling the toilet tank with water/rinsing fluid to a level such that the bowl is approximately half full (at least 2 inches above the flapper in the bowl). Except as provided in paragraphs (b) and (c) of this AD, apply 3 PSID across the valve in the same direction as occurs in flight. The vent line vacuum breaker on vacuum breaker check valves must be pinched closed or plugged for this leak test. If there is a cap/valve at the flush/fill line port, the cap/valve must be removed/opened during the test. Test for leakage at the flush/fill line port for a period of 5 minutes.

Note 7: The leak test procedure in the appropriate section of Boeing 737 Maintenance Manual 38–32–00 may be used as guidance for this test if the toilet tank is filled approximately half full (at least 2 inches above the flapper in the bowl).

(B) Verify proper operation of the vent line vacuum breaker by filling the tank and testing at the fill line port for back drainage after disconnecting the fluid source from the flush/fill line port. If back drainage does not occur, replace the vent line vacuum breaker or repair the vacuum breaker check valve in accordance with the component maintenance manual as required to obtain proper back drainage.

(iii) If a flush/fill ball valve, Kaiser Electroprecision P/N series 0062–009 is installed on the flush/fill line of the subject lavatory, replace the seals in the flush/fill ball valve and the toilet tank anti-siphon valve. Perform a leak test of the toilet tank anti-siphon valve in accordance with paragraph (d)(3)(ii)(A) of this AD.

(iv) If an FAA-approved shut-off valve that uses a mechanical or electrical device to prevent overfilling the toilet tank is installed, replace the seals/o-rings in the shut-off valve. Perform a leak test of the shut-off valve per the applicable airplane or component maintenance manual, or per the procedures specified in paragraph (b) or (c) of this AD.

(4) Provide procedures for accomplishing visual inspections to detect leakage, to be conducted by maintenance personnel at intervals not to exceed 4 calendar days or 45 flight hours, which ever occurs later.

(5) Provide procedures for reporting leakage. These procedures shall provide that any ''horizontal blue streak'' findings must be reported to maintenance and that, prior to further flight, the leaking system shall either be repaired, or be drained and placarded inoperative.

(6) Provide training programs for maintenance and servicing personnel that include information on ''blue ice awareness'' and the hazards of ''blue ice.''

(7) If a leak is discovered during a leak test required by paragraph (d) of this AD; or if evidence of leakage is found at any other time; or if repair/replacement of a valve (or valve parts) is required as a result of a visual inspection required in accordance with this AD; prior to further flight, accomplish the requirements of paragraph (d)(7)(i), (d)(7)(ii), or (d)(7)(iii) of this AD, as applicable.

Note 8: For purposes of this AD, ''leakage'' is defined as any visible leakage, if observed during a leak test. At any other time (than during a leak test), ''leakage'' is defined as the presence of ice in the service panel, or horizontal fluid residue streaks/ice trails originating at the service panel. The fluid residue is usually, but not necessarily, blue in color.

(i) Repair the leak and, prior to further flight after repair, perform a leak test. Additionally, prior to returning the airplane to service, clean the surfaces adjacent to where the leakage occurred to clear them of any horizontal fluid residue streaks; such cleaning must be to the extent that any future appearance of a horizontal fluid residue streak will be taken to mean that the system is leaking again.

(ii) Repair or replace the valve or valve parts.

(iii) In lieu of either paragraph (d)(7)(i) or (d)(7)(ii), drain the affected lavatory system and placard the lavatory inoperative until repairs can be accomplished.

Requesting Extension of Leak Test Intervals

(e) Requests for extensions of the leak test intervals required by paragraph (a) or (d) of this AD must be approved by the Manager, Seattle Aircraft Certification (ACO), FAA. Requests for such revisions must be submitted to the Manager of the Seattle ACO through the FAA Principal Maintenance Inspector (PMI), and must include the following information:

(1) The operator's name;

(2) A statement verifying that all known cases/indications of leakage or failed leak tests are included in the submitted material;

(3) The type of valve (make, model, manufacturer, vendor part number, and serial number);

(4) The period of time covered by the data;

(5) The current FAA leak test interval;

(6) Whether or not seals have been replaced between the seal replacement intervals required by this AD;

(7) Whether or not a service panel drain valve is installed downstream of an in-line drain valve, Kaiser Electroprecision P/N series 2651–278: Data on a service panel valve installed downstream of an in-line drain valve will not be considered as an indicator of the reliability of the service panel drain valve because the in-line valve prevents potential leakage from reaching the service panel drain valve.

(8) Whether or not leakage has been detected between leak test intervals required by this AD, and the reason for leakage (*i.e.*, worn seals, foreign materials on sealing surface, scratched or damaged sealing surface on valve, etc.); and

(9) Whether or not any cleaning, repairs, or seal changes were performed on the valve prior to conducting the leak test. (If such activities have been accomplished prior to conducting the periodic leak test, that leak test shall be recorded as a ''failure'' for purposes of the data required for this request submission. The exception to this is the normally-scheduled seal change in accordance with paragraph (a)(1) and (d)(1) of this AD. Performing this scheduled seal change prior to a leak test will not cause that leak test to be recorded as a failure. Debris removal of major blockages done as part of normal maintenance for previous flights is also allowable and will not cause a leak test to be recorded as a failure. Minor debris removal that is not commonly removed during the normal ground maintenance test should not be removed prior to the leak test).

Note 9: Requests for approval of revised leak test intervals may be submitted in any format, provided the data give the same level of assurance specified in paragraph (e) of this AD. Results of an Environmental Quality Analysis (EQA) examination and leak test on a randomly selected high-flight-hour valve, with seals that have not been replaced during a period of use at least as long as the desired interval, may be considered a valuable supplement to the service history data, reducing the amount of service data that would otherwise be required.

Note 10: For the purposes of expediting resolution of requests for revisions to the leak test intervals, the FAA suggests that the requester summarize the raw data; group the data gathered from different airplanes (of the same model) and drain systems with the same kind of valve; and provide a recommendation from pertinent industry group(s) and/or the manufacturer specifying an appropriate revised leak test interval.

Note 11: In cases where changes are made to a valve design approved for an extended leak test interval such that a new valve dash number or P/N is established for the valve, the FAA may not require extensive service history data to approve the new valve to the same leak test interval as the previous valve design. The FAA will consider similarity of design, the nature of the design changes, the nature and amount of testing, and like factors to determine the appropriate data requirements and leak test interval for a new or revised valve based upon an existing design.

Certain Installations

(f) For all airplanes: Unless already accomplished, within 5,000 flight hours after the effective date of this AD, perform the actions specified in paragraph (f)(1), (f)(2), (f)(3), or (f)(4) of this AD:

(1) Install an FAA-approved lever/lock cap on the flush/fill lines for all lavatories; or

(2) Install a vacuum break check valve having Monogram P/N series 3765–190, Shaw Aero Devises P/N series 301–0009, or other FAA-approved vacuum break check valve in the flush/fill lines for all lavatories; or

(3) Install a flush/fill ball valve Kaiser Electroprecision P/N series 0062–0009 on the flush/fill lines for all lavatories; or

(4) Install an FAA-approved shut-off valve that uses a mechanical or electrical device on the flush/fill lines for all lavatories to prevent overfilling the toilet tank.

For Airplanes Acquired After the Effective Date of This AD

(g) For any affected airplane acquired after the effective date of this AD: Before any operator places into service any airplane subject to the requirements of this AD, a schedule for the accomplishment of the leak tests required by this AD shall be established in accordance with either paragraph (g)(1) or (g)(2) of this AD, as applicable. After each leak test has been performed once, each subsequent leak test must be performed in accordance with the new operator's schedule, in accordance with either paragraph (a) or (d) of this AD as applicable.

(1) For airplanes previously maintained in accordance with this AD, the first leak test to be performed by the new operator must be accomplished in accordance with the previous operator's schedule or with the new operator's schedule, whichever would result in the earlier accomplishment date for that leak test.

(2) For airplanes that have not been previously maintained in accordance with this AD, the first leak test to be performed by

the new operator must be accomplished prior to further flight, or in accordance with a schedule approved by the FAA PMI, but within a period not to exceed 200 flight hours.

Alternative Method of Compliance

(h) Alternative method(s) of compliance with this AD:

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

(2) All previously issued alternative methods of compliance approved for AD 89–11–03 (54 FR 21933, May 22, 1989) are hereby terminated as of the effective date of this AD and are no longer in effect.

Note 12: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Note 13: For any valve that is not eligible for the extended leak test intervals of this AD: To be eligible for the extended leak test intervals specified in paragraph (a) or (d) of this AD, the service history data of the valve must be submitted to the Manager, Seattle ACO, with a request for an alternative method of compliance. The request should include an analysis of known failure modes for the valve, if it is an existing design, and known failure modes of similar valves, with an explanation of how design features will preclude these failure modes, results of qualification tests, and approximately 25,000 flight hours or 25,000 flight cycles of service history data which include a winter season, collected in accordance with the requirements of paragraph (e) of this AD, or a similar program. One of the factors that the FAA will consider in approving alternative valve designs is whether the valve meets Boeing Specification S417T105 or 10–62213. However, meeting the Boeing specification is not a prerequisite for approval of alternative valve designs.

Special Flight Permits

(i) 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.

Effective Date of This AD

(j) This amendment becomes effective on April 29, 2004.

Issued in Renton, Washington, on March 19, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6677 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9119]

RIN 1545–BC12

Tax Return Preparers—Electronic Filing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations and removal of temporary regulations.

SUMMARY: This document provides final regulations to facilitate electronic filing of returns prepared by tax return preparers. They provide that preparers may avoid paper copies by retaining and furnishing to taxpayers copies of returns in an electronic or digital format prescribed by the Commissioner.

DATES: *Effective Date:* These regulations are effective March 25, 2004.

Applicability Dates: For dates of applicability, *see* § 1.6107–2(b) and § 1.6695–1(b)(5).

FOR FURTHER INFORMATION CONTACT: Richard Charles Grosenick, (202) 622–7950 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document amends 26 CFR part 1 under sections 6107 and 6695 of the Internal Revenue Code (Code) to facilitate electronic filing and record keeping by tax return preparers. Section 6695 imposes various penalties on tax return preparers, including a penalty for failure to sign the returns they prepare. Originally, the regulations under section 6695 contemplated only manually signed (paper) returns. Although the regulations under section 6695 were amended in 1996 to permit tax return preparers to sign and file returns electronically in the manner prescribed by the Secretary (*see* TD 8689 (61 FR 65319, Dec. 12, 1996)), § 1.6695–1(b) of the regulations continue to refer to manually signed returns and copies. Those references resulted in uncertainty over whether preparers must produce manually signed, paper copies of returns to satisfy their obligations under section 6107 to provide copies of returns to taxpayers and keep copies of returns in their records.

On April 24, 2003, temporary regulations (TD 9053) relating to the signing of returns and retention of copies by tax return preparers were published in the **Federal Register** (68 FR 20069). A notice of proposed rulemaking (REG–141659–02) cross-referencing the temporary regulations was published in the **Federal Register** for the same day (68 FR 20089).

The temporary regulations eliminated the references to manually signed returns in § 1.6695–1(b). In addition, they provided that the Commissioner may prescribe, in forms, instructions, or other appropriate guidance, the manner in which preparers may satisfy their obligations under section 6107 to furnish returns to taxpayers and to retain copies of returns. These changes and the applicable forms, instructions, and guidance clarified that preparers may maintain electronic (paperless) filing systems. These final regulations adopt the temporary regulations without change.

Summary of Comments

The IRS and the Department of the Treasury received four comments pertaining to the regulations. One commentator had concerns about identity theft. The commentator requested a change to the regulation that would allow taxpayers to decide whether the paid return preparer should keep a copy of the tax return.

One commentator requested that the copy the preparer is required to retain be in a specific electronic format. Another commentator requested that the preparer be permitted to use any electronic format, so long as the preparer's computer can print a copy of the return.

One commentator endorsed upgrading current record-keeping requirements under section 6107(b) to allow electronic storage. The commentator requested that published guidance clarify whether certain forms must continue to be maintained on paper due to signature requirements. With the exception of these forms, the commentator requested that preparers be allowed to choose to maintain taxpayer data on electronic media, with the ability to recreate the tax return.

After consideration of the comments, the temporary regulations under sections 6107 and 6695 are adopted without change by this Treasury decision, and the corresponding temporary regulations are removed. The final regulations give the IRS the authority to prescribe in forms, instructions, or other appropriate guidance acceptable methods of signing. Issues raised in the comments are more appropriately addressed in those other forms of guidance.

Special Analyses

It has been determined that this regulation 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 section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to this regulation and, because the regulation does not impose a collection of information on small entities, that the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Code, this regulation 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 this regulation is Richard Charles Grosenick, Office of Assistant Chief Counsel (Administrative Provisions & Judicial Practice). However, other personnel from the IRS and the Treasury Department participated in its development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendment to the Regulations

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

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 is amended by removing the entry for ''Section 1.6695–1T'' and continues to read, in part, as follows:

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

■ **Par. 2.** Section 1.6107–2 is added to read as follows:

§ 1.6107–2 Form and manner of furnishing copy of return and retaining copy or record.

(a) *In general.* The Commissioner may prescribe the form and manner of satisfying the requirements imposed by section 6107(a) and (b) and § 1.6107–1(a) and (b) in forms, instructions, or other appropriate guidance (*see* § 601.601(d)(2) of this chapter).

(b) *Effective date.* To the extent this section relates to section 6107(a) and § 1.6107–1(a), it applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002. To the extent this section relates to section 6107(b) and § 1.6107–1(b), it applies after December 31, 2002, to returns and claims for refund for which the 3-year period described in section 6107(b) expires after December 31, 2002.

§ 1.6107–2T [Removed].

■ **Par. 3.** Section 1.6107–2T is removed.

■ **Par. 4.** Section 1.6695–1 is amended by revising paragraph (b) to read as follows:

§ 1.6695–1 Other assessable penalties with respect to the preparation of income tax returns for other persons.

* * * * *

(b) *Failure to sign return.* (1) An individual who is an income tax return preparer with respect to a return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code shall sign the return or claim for refund after it is completed and before it is presented to the taxpayer (or nontaxable entity) for signature. If the preparer is unavailable for signature, another preparer shall review the entire preparation of the return or claim for refund, and then shall sign the return or claim for refund. The preparer shall sign the return in the manner prescribed by the Commissioner in forms, instructions, or other appropriate guidance.

(2) If more than one income tax return preparer is involved in the preparation of the return or claim for refund, the individual preparer who has the primary responsibility as between or among the preparers for the overall substantive accuracy of the preparation of such return or claim for refund shall be considered to be the income tax return preparer for purposes of this paragraph (b).

(3) The application of this paragraph (b) is illustrated by the following examples:

Example 1. X law firm employs Y, a lawyer, to prepare for compensation returns and claims for refund of taxes. X is employed by T, a taxpayer, to prepare his Federal tax return. X assigns Y to prepare T's return. Y obtains the information necessary for completing the return from T and makes determinations with respect to the proper application of the tax laws to such information in order to determine T's tax liability. Y then forwards such information to C, a computer tax service which performs the mathematical computations and prints the return by means of computers. C then sends the completed return to Y who reviews the accuracy of the return. Y is the individual preparer who is primarily responsible for the overall accuracy of T's return. Y must sign the return as preparer.

Example 2. X partnership is a national accounting firm which prepares for compensation returns and claims for refund of taxes. A and B, employees of X, are involved in preparing the tax return of T Corporation. After they complete the return, including the gathering of the necessary information, the proper application of the tax laws to such information, and the performance of the necessary mathematical computations, C, a supervisory employee of X, reviews the return. As part of this review, C reviews the information provided and the application of the tax laws to this information. The mathematical computations and carried-forward amounts are proved by D, an employee of X's comparing and proving department. The policies and practices of X require that P, a partner, finally review the return. The scope of P's review includes reviewing the information provided by applying to this information his knowledge of T's affairs, observing that X's policies and practices have been followed, and making the final determination with respect to the proper application of the tax laws to determine T's tax liability. P may or may not exercise these responsibilities, or may exercise them to a greater or lesser extent, depending on the degree of complexity of the return, his confidence in C (or A and B), and other factors. P is the individual preparer who is primarily responsible for the overall accuracy of T's return. P must sign the return as preparer.

Example 3. C corporation maintains an office in Seattle, Washington, for the purpose of preparing for compensation returns and claims for refund of taxes. C makes compensatory arrangements with individuals (but provides no working facilities) in several States to collect information from taxpayers and to make determinations with respect to the proper application of the tax laws to the information in order to determine the tax liabilities of such taxpayers. E, an individual, who has such an arrangement in Los Angeles with C, collects information from T, a taxpayer, and completes a worksheet kit supplied by C which is stamped with E's name and an identification number assigned to E by C. In this process, E classifies this information in appropriate income and deduction categories for the tax determination. The completed worksheet kit signed by E is then mailed to C. D, an employee in C's office, reviews the worksheet kit to make sure it was properly completed. D does not review the information obtained from T for its validity or accuracy. D may, but did not, make the final determination with respect to the proper application of tax laws to the information. The data from the worksheet is entered into a computer and the return form is completed. The return is prepared for submission to T with filing instructions. E is the individual preparer primarily responsible for the overall accuracy of T's return. E must sign the return as preparer.

Example 4. X employs A, B, and C to prepare income tax returns for taxpayers. After A and B have collected the information from the taxpayer and applied the tax laws to the information, the return form is completed by computer service. On the day the returns prepared by A and B are ready for their signatures, A is away from the city for 1 week on another assignment and B is on detail to another office for the day. C may sign the returns prepared by A, provided that C reviews the information obtained by A relative to the taxpayer, and C reviews the preparation of each return prepared by A. C may not sign the returns prepared by B because B is available.

(4) An individual required by this paragraph (b) to sign a return or claim for refund shall be subject to a penalty

of $50 for each failure to sign, with a maximum of $25,000 per person imposed with respect to each calendar year, unless it is shown that the failure is due to reasonable cause and not due to willful neglect. If the preparer asserts reasonable cause for failure to sign, the Internal Revenue Service will require a written statement in substantiation of the preparer's claim of reasonable cause. For purposes of this paragraph (b), reasonable cause is a cause which arises despite ordinary care and prudence exercised by the individual preparer. Thus, no penalty may be imposed under section 6695(b) and this paragraph (b) upon a person who is an income tax return preparer solely by reason of—

(i) Section 301.7701–15(a)(2) and (b) of this chapter on account of having given advice on specific issues of law; or

(ii) Section 301.7701–15(b)(3) of this chapter on account of having prepared the return solely because of having prepared another return which affects amounts reported on the return.

(5) *Effective date.* This paragraph (b) applies to income tax returns and claims for refund presented to a taxpayer for signature after December 31, 2002.

* * * * *

§ 1.6695–1T [Removed].

■ **Par. 5.**

Section 1.6695–1T is removed.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: March 15, 2004.

Gregory Jenner,

Assistant Secretary of the Treasury.

[FR Doc. 04–6621 Filed 3–24–04; 8:45 am]

BILLING CODE 4830–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[DA 04–447]

List of Office of Management and Budget Approved Information Collection Requirements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document revises the Commission's list of Office of Management and Budget (OMB) approved public information collection requirements with their associated OMB expiration dates. This list will provide the public with a current list of public information collection requirements approved by OMB and their associated control numbers and expiration dates as of February 29, 2004.

DATES: Effective March 25, 2004.

FOR FURTHER INFORMATION CONTACT: Judith B. Herman, Office of the Managing Director, (202) 418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This document adopted on March 5, 2004 and released on March 16, 2004 by the Managing Director in DA 04–447 revised 47 CFR 0.408 in its entirety.

1. Section 3507(a)(3) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3507(a)(3), requires agencies to display a current control number assigned by the Director, Office of Management and Budget (''OMB'') for each agency information collection requirement.

2. Section 0.408 of the Commission's rules displays the OMB control numbers assigned to the Commission's public information collection requirements that have been reviewed and approved by OMB.

3. Authority for this action is contained in Section 4(i) of the Communications Act of 1934 (47 U.S.C. 154(i)), as amended, and section 0.231(b) of the Commission's Rules. Since this amendment is a matter of agency organization procedure or practice, the notice and comment and effective date provisions of the Administrative Procedure Act do not apply. *See* 5 U.S.C. 553(b)(A)(d). For this reason, this rulemaking is not subject to the Congressional Review Act and will not be reported to Congress and the General Accounting Office.

4. Accordingly, *it is ordered, that* section 0.408 of the rules is revised as set forth in the revised text effective on March 25, 2004.

5. Persons having questions on this matter should contact Judith B. Herman at (202) 418–0214 or via the Internet to *Judith-B.Herman@fcc.gov.*

List of Subjects in 47 CFR Part 0

Reporting, recordkeeping and third party disclosure requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 0 as follows:

PART 0—COMMISSION ORGANIZATION

■ 1. The authority citation for Part 0 continues to read:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082, as revised; 47 U.S.C. 154, 303 unless otherwise noted.

■ 2. Section 0.408 is revised to read as follows:

§ 0.408 OMB control numbers and expiration dates assigned pursuant to the Paperwork Reduction Act of 1995.

(a) *Purpose.* This section displays the control numbers and expiration dates for the Commission information collection requirements assigned by the Office of Management and Budget (''OMB'') pursuant to the Paperwork Reduction Act of 1995, Pub. L. 104–13. The Commission intends that this section comply with the requirement that agencies display current control numbers and expiration dates assigned by the Director, OMB, for each approved information collection requirement. Not withstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning the OMB control numbers and expiration dates should be directed to the Associate Managing Director—Performance Evaluation and Records Management, (''AMD–PERM''), Federal Communications Commission, Washington, DC 20554.

(b) *Display*

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0004	Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93–62.	09/30/04.
3060–0009	FCC 316	12/31/05.
3060–0010	FCC 323	02/28/06.
3060–0012	FCC 701	10/31/05.
3060–0016	FCC 346	04/30/04.
3060–0017	FCC 347	06/30/06.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0024	Sec. 76.29	09/30/04.
3060–0027	FCC 301	Pending OMB approval.
3060–0029	FCC 302–TV	06/30/04.
3060–0031	FCC 314	Pending OMB approval.
3060–0032	FCC 315	Pending OMB approval.
3060–0034	FCC 340	04/30/04.
3060–0053	FCC 703	02/28/05.
3060–0055	FCC 327	11/30/06.
3060–0056	Part 68—Connection of Terminal Equipment to the Telephone Network	12/31/04.
3060–0057	FCC 731 and Secs. 2.911, 2.925, 2.932, 2.944, 2.960, 2.1033(a) and 2.1043	02/28/05.
3060–0059	FCC 740	12/31/06.
3060–0061	FCC 325	12/31/05.
3060–0062	FCC 330	02/28/05.
3060–0065	FCC 442	04/30/05.
3060–0066	FCC 330–R	06/30/06.
3060–0068	FCC 702	05/31/05.
3060–0072	FCC 409	10/31/05.
3060–0075	FCC 345	10/31/05.
3060–0076	FCC 395	02/28/06.
3060–0084	FCC 323–E	07/31/05.
3060–0093	FCC 405	01/31/07.
3060–0095	FCC 395–A	Pending OMB approval.
3060–0105	FCC 430	11/30/06.
3060–0106	Sec. 43.61	03/31/06.
3060–0110	FCC 303–S	12/31/06.
3060–0113	FCC 396	12/31/06.
3060–0120	FCC 396–A	12/31/06.
3060–0126	Sec. 73.1820	10/31/05.
3060–0132	FCC 1068–A	03/31/07.
3060–0139	FCC 854 and 854–R	10/31/05.
3060–0147	Sec. 64.804	02/28/06.
3060–0149	Part 63, Section 214, Secs. 63.01–63.601	05/31/05.
3060–0157	Sec. 73.99	05/31/06.
3060–0161	Sec. 73.61	06/30/06.
3060–0166	Part 42	08/31/04.
3060–0168	Sec. 43.43	09/30/06.
3060–0169	Secs. 43.51 and 43.53	06/30/05.
3060–0170	Sec. 73.1030	03/31/05.
3060–0171	Sec. 73.1125	10/31/04.
3060–0173	Sec. 73.1207	07/31/04.
3060–0174	Sec. 73.1212	09/30/05.
3060–0175	Sec. 73.1250	08/31/05.
3060–0176	Sec. 73.1510	04/30/06.
3060–0178	Sec. 73.1560	04/30/06.
3060–0179	Sec. 73.1590	07/31/04.
3060–0180	Sec. 73.1610	02/28/05.
3060–0181	Sec. 73.1615	04/30/06.
3060–0182	Sec. 73.1620	04/30/04.
3060–0184	Sec. 73.1740	12/31/04.
3060–0185	Sec. 73.3613	10/31/05.
3060–0187	Sec. 73.3594	Pending OMB approval.
3060–0188	FCC 380	08/31/04.
3060–0190	Sec. 73.3544	Pending OMB approval.
3060–0192	Sec. 87.103	04/30/04.
3060–0194	Sec. 74.21	11/30/04.
3060–0202	Sec. 87.37	10/31/06.
3060–0204	Sec. 90.20(a)(2)(v)	07/31/05.
3060–0206	Part 21	07/31/04.
3060–0207	Part 11	01/31/06.
3060–0208	Sec. 73.1870	08/31/06.
3060–0211	Sec. 73.1943	09/30/04.
3060–0212	Sec. 73.2080	12/31/06.
3060–0213	Sec. 73.3525	Pending OMB approval.
3060–0214	Sec. 73.3526	12/31/05.
3060–0215	Sec. 73.3527	04/30/05.
3060–0216	Sec. 73.3538	01/30/05.
3060–0219	Sec. 90.20(a)(2)(xi)	11/30/05.
3060–0221	Sec. 90.155	11/30/04.
3060–0222	Sec. 97.213	10/31/06.
3060–0223	Sec. 90.129	07/31/05.
3060–0228	Sec. 80.59	07/31/04.
3060–0233	Part 36	09/30/06.
3060–0236	Sec. 74.703	06/30/05.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0240	Equipment Changes	05/31/06.
3060–0241	Temporary Authorizations	04/30/06.
3060–0242	Sec. 74.604	02/28/06.
3060–0248	Sec. 74.751	06/30/05.
3060–0249	Sec. 74.781	10/31/06.
3060–0250	Sec. 74.784	05/31/06.
3060–0259	Sec. 90.263	10/31/06.
3060–0261	Sec. 90.215	04/30/04.
3060–0262	Sec. 90.179	01/31/05.
3060–0264	Sec. 80.413	10/31/06.
3060–0265	Sec. 80.868	07/31/04.
3060–0270	Sec. 90.443	01/31/07.
3060–0281	Sec. 90.651	05/31/04.
3060–0286	Sec. 80.302	04/30/04.
3060–0287	Sec. 78.69	01/31/05.
3060–0288	Sec. 78.33	04/30/06.
3060–0289	Secs. 76.1705 and 76.601	05/31/05.
3060–0290	Sec. 90.517	05/31/05.
3060–0291	Sec. 90.477(a), (b)(2), and (d)(2)	05/31/05.
3060–0292	Part 69	01/31/07.
3060–0295	Secs. 90.607(b)(1) and (c)(1)	Pending OMB approval.
3060–0297	Sec. 80.503	10/31/06.
3060–0298	Part 61	02/28/05.
3060–0307	Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band.	10/31/06.
3060–0308	Sec. 90.505	04/30/04.
3060–0309	Sec. 74.1281	10/31/05.
3060–0310	FCC 322	12/31/06.
3060–0311	Sec. 76.54	12/31/05.
3060–0313	Sec. 76.1701	09/30/04.
3060–0315	Sec. 76.1615 and 76.1715	12/31/05.
3060–0316	Sec. 76.1700	10/31/04.
3060–0320	Sec. 73.1350	04/30/04.
3060–0325	Sec. 80.605	06/30/05.
3060–0329	Sec. 2.955	10/31/05.
3060–0331	FCC 321	12/31/06.
3060–0332	Secs. 76.614 and 76.1706	10/31/04.
3060–0340	Sec. 73.51	03/31/07.
3060–0341	Sec. 73.1680	12/31/06.
3060–0342	Sec. 74.1284	12/31/06.
3060–0346	Sec. 78.27	Pending OMB approval.
3060–0347	Sec. 97.311	02/28/06.
3060–0349	Equal Employment Opportunity Requirements	12/31/06.
3060–0355	FCC 492 and FCC 492A	07/31/04.
3060–0357	Request for Designation as a Recognized Private Operating Agency	11/31/04.
3060–0360	Sec. 80.409(c)	08/31/04.
3060–0364	Secs. 80.409(d) and (e)	08/31/04.
3060–0368	Sec. 97.523	06/30/05.
3060–0370	Part 32	10/31/05.
3060–0374	Sec. 73.1690	12/31/04.
3060–0384	Secs. 64.904 and 64.905	03/31/05.
3060–0386	Sec. 73.1635	07/31/05.
3060–0387	Sec 15.201(d)	03/31/06.
3060–0390	FCC 395–B	Pending OMB approval.
3060–0391	Program to Monitor the Impact of Universal Service Support Mechanisms, CC Docket Nos. 98–202 and 96–45.	02/28/05.
3060–0392	47 CFR Part 1, Subpart J, Pole Attachment Complaint Procedures	01/31/07.
3060–0394	Sec. 1.420	10/31/05.
3060–0395	FCC Reports 43–02, FCC 43–05 and FCC 43–07	Pending OMB approval.
3060–0397	Sec. 15.7(a)	12/31/06.
3060–0398	Secs. 2.948 and 15.117(g)(2)	04/30/06.
3060–0400	Tariff Review Plan	05/31/06.
3060–0404	FCC 350	05/31/05.
3060–0405	FCC 349	Pending OMB approval.
3060–0407	Sec. 73.3598	05/31/05.
3060–0410	FCC 495A and FCC 495B	Pending OMB approval.
3060–0411	FCC 485	06/30/04.
3060–0414	Terrain Shielding Policy	Pending OMB approval.
3060–0419	Secs. 76.94, 76.95, 76.105, 76.106, 76.107, 76.109 and 76.1609	05/31/05.
3060–0422	Sec. 68.5	10/31/04.
3060–0423	Sec. 73.3588	10/31/05.
3060–0427	Sec. 73.3523	02/28/07.
3060–0430	Sec. 1.1206	04/30/05.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0433	FCC 320	05/31/05.
3060–0434	Sec. 90.20(e)(6)	05/31/05.
3060–0435	Sec. 80.361	11/30/05.
3060–0436	Equipment Authorization, Cordless Telephone Security Coding	03/31/06.
3060–0439	Sec. 64.201	Pending OMB approval.
3060–0441	Sec. 90.621(b)(4)	10/31/06.
3060–0449	Sec. 1.65(c)	12/31/04.
3060–0452	Sec. 73.3589	10/31/05.
3060–0454	Regulation of International Accounting Rates	05/31/06.
3060–0463	Telecommunications Relay Services and the Americans with Disabilities Act of 1990, 47 CFR Part 64, Sec. 64.604(a)(3).	06/30/06.
3060–0465	Sec. 74.985	01/31/07.
3060–0466	Sec. 74.1283	05/31/06.
3060–0470	Secs. 64.901–64.903, Allocation of Cost, Cost Allocation Manual, RAO Letters 19 and 26.	03/31/05.
3060–0473	Sec. 74.1251	02/28/06.
3060–0474	Sec. 74.1263	05/31/06.
3060–0483	Sec. 73.687	12/31/06.
3060–0484	Sec. 63.100	04/30/05.
3060–0489	Sec. 73.37	Pending OMB approval.
3060–0490	Sec. 74.902	Pending OMB approval.
3060–0491	Sec. 74.991	Pending OMB approval.
3060–0492	Sec. 74.992	04/30/04.
3060–0493	Sec. 74.986	04/30/04.
3060–0494	Sec. 74.990	04/30/04.
3060–0496	FCC Report 43–08	03/31/07.
3060–0500	Sec. 76.1713	09/30/04.
3060–0501	Secs. 76.206	09/30/04.
3060–0502	Sec. 73.1942	09/30/04.
3060–0506	FCC 302–FM	06/30/06.
3060–0508	Rewrite of Part 22	08/31/04.
3060–0511	FCC Report 43–04	Pending OMB approval.
3060–0512	FCC Report 43–01	Pending OMB approval.
3060–0513	FCC Report 43–03	03/31/07.
3060–0514	Sec. 43.21(b)	05/31/06.
3060–0515	Sec. 43.21(c)	10/31/05.
3060–0519	Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, CG Docket No. 02–278.	09/30/06.
3060–0526	Density Pricing Zone Plans, Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141.	10/31/05.
3060–0531	Local Multipoint Distribution Service (LMDS)	01/31/07.
3060–0532	Secs. 2.1033(b)(10) and 15.121	12/31/05.
3060–0537	Sec. 13.217	05/31/05.
3060–0540	Tariff Filing Requirements For Nondominant Common Carriers	09/30/05.
3060–0543	Sec. 21.913	11/30/05.
3060–0544	Sec. 76.701	Pending OMB approval.
3060–0546	Definition of Markets for Purposes of the Cable Television Mandatory Television Broadcast Signal Carriage Rules.	04/30/06.
3060–0548	Secs. 76.1708, 76.1709, 76.1620, 76.56, and 76.1614	05/31/05.
3060–0550	FCC 328	01/31/06.
3060–0551	Secs. 76.1002 and 76.1004	03/31/07.
3050–0554	Sec. 87.199	06/30/05.
3060–0556	Sec. 80.1061	07/31/05.
3060–0560	Sec. 76.911	09/30/04.
3060–0561	Sec. 76.913	01/31/07.
3060–0562	Sec. 76.916	07/31/04.
3060–0564	Sec. 76.924	04/30/06.
3060–0567	Sec. 76.962	03/31/05.
3060–0568	Commercial Leased Access Rates, Terms, & Conditions	10/31/06.
3060–0569	Sec. 76.975	10/31/06.
3060–0570	Sec. 76.982	07/31/04.
3060–0572	Filing Manual for Annual International Circuit Status Reports	10/31/05.
3060–0573	FCC 394	06/30/06.
3060–0580	Sec. 76.504 and 76.1710	12/31/06.
3060–0581	Sec. 76.503	11/30/06.
3060–0584	FCC 44 and FCC 45	01/31/06.
3060–0589	FCC 159 and FCC 159–C	06/30/06.
3060–0594	FCC 1220	06/30/04.
3060–0595	FCC 1210	09/30/04.
3060–0599	Implementation of Sections 3(n) and 332 of the Communications Act	01/31/07.
3060–0600	FCC 175	04/30/04.
3060–0601	FCC 1200	06/30/04.
3060–0602	Sec. 76.917	06/30/06.

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3060–0607	Sec. 76.922	01/31/07.
3060–0609	Sec. 76.934(e)	07/31/04.
3060–0610	Sec. 76.1606	07/31/04.
3060–0611	Sec. 74.783	12/31/06.
3060–0613	Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91–141, Transport Phase II.	07/31/06.
3060–0621	Rules and Requirements for C & F Block Broadband PCS Licenses	04/30/04.
3060–0624	Sec. 24.103(f)	04/30/04.
3060–0625	Amendment of the Commission's Rules to Establish New Personal Communications Services under Part 24.	Pending OMB approval.
3060–0626	Regulatory Treatment of Mobile Services	08/31/04.
3060–0627	FCC 302–AM	06/30/06.
3060–0629	Sec. 76.1605	07/31/04.
3060–0633	Secs. 73.1230, 74.165, 74.432, 74.564, 74.664, 74.765, 74.832, 74.965 and 74.1265.	08/31/04.
3060–0634	Sec. 73.691	04/30/04.
3060–0636	Equipment Authorization—Declaration of Compliance—Parts 2 and 15	03/31/06.
3060–0638	Sec. 76.934(g)	05/31/05.
3060–0644	FCC 1230	05/31/05.
3060–0645	Sec. 17.4	09/30/05.
3060–0647	Annual Survey of Cable Industry Prices	11/30/06.
3060–0648	Sec. 21.902	02/28/06.
3060–0649	Secs. 76.1601, 76.1607, 76.1617, and 76.1708	02/28/05.
3060–0652	Secs. 76.309, 76.1602, 76.1603, and 76.1619	12/31/04.
3060–0653	Secs. 64.703(b) and (c)	02/28/05.
3060–0654	FCC 304	10/31/04.
3060–0655	Request for Waivers of Regulatory and Application Fees Predicated on Allegations of Financial Hardship.	09/30/04.
3060–0656	FCC 175–M	12/31/04.
3060–0657	Sec. 21.956	09/30/04.
3060–0658	Sec. 21.960	12/31/04.
3060–0660	Sec. 21.937	09/30/04.
3060–0661	Sec. 21.931	10/31/04.
3060–0662	Sec. 21.930	09/30/04.
3060–0663	Sec. 21.934	11/30/05.
3060–0664	FCC 304–A	10/31/04.
3060–0665	Sec. 64.707	12/31/04.
3060–0667	Secs. 76.630, 76.1621, and 76.1622	12/31/04.
3060–0668	Sec. 76.936	03/31/05.
3060–0669	Sec. 76.946	06/30/05.
3060–0673	Sec. 76.956	03/31/05.
3060–0674	Sec. 76.1618	09/30/05.
3060–0678	FCC 312, FCC 312–EZ, FCC 312–R, and FCC 312 Schedules	12/31/06.
3060–0681	Toll-Free Service Access Codes, Part 52, Subpart D, Secs. 52.101–52.111	12/31/06.
3060–0684	Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95–157.	Pending OMB approval.
3060–0685	FCC 1240	08/31/04.
3060–0686	Streamlining the International Section 214 Authorization Process and Tariff Requirements.	Pending OMB approval.
3060–0687	Access to Telecommunications Equipment and Services by Persons with Disabilities, CC Docket No. 87–124.	10/31/05.
3060–0688	FCC 1235	12/31/04.
3060–0690	Rules Regarding the 37.0–38.6 GHz and 38.6–40.0 GHz Bands	02/28/06.
3060–0691	Amendment of Parts 2 and 90 of the Commission's Rules to Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896–901 MHz Bands Allotted to Specialized Mobile Radio Service.	04/30/04.
3060–0692	Home Wiring Provisions	Pending OMB approval.
3060–0695	Sec. 87.219	07/31/05.
3060–0697	Parts 22 and 90 to Facilitate Future Development of Paging Systems	Pending OMB approval.
3060–0698	Amendment of the Commission's Rules to Establish a Radio Astronomy Coordination Zone in Puerto Rico, ET Docket No. 96–2.	05/31/04.
3060–0700	FCC 1275	Pending OMB approval.
3060–0702	Amendment to Parts 20 and 24 of the Commission's Rules, Broadband PCS Competitive Bidding and the Commercial Mobile Radio Service Spectrum Cap.	Pending OMB approval.
3060–0703	FCC 1205	04/30/06.
3060–0704	Policy and Rules Concerning the Interstate, Interexchange Marketplace; Implementation of Section 254(g) of the Communications Act of 1934, as amended, CC Docket No. 96–6.	12/31/05.
3060–0706	Cable Act Reform	10/31/05.
3060–0707	Over-the-Air Reception Devices (OTARD)	09/30/05.
3060–0710	Policy and Rules Concerning the Implementation of the Local Competition Provisions in the Telecommunications Act of 1996—CC Docket No.96–98.	10/31/06.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0711	Implementation of Section 34(a)(1) of the Public Utility Holding Company Act of 1935, as amended by the Telecommunications Act of 1996, Secs. 1.5001 through 1.5007.	12/31/06.
3060–0713	Alternative Broadcast Inspection Program (ABIP) Compliance Notification	09/30/05.
3060–0715	Telecommunications Carriers' Use of Customer Proprietary Network Information (CPNI) and Other Customer Information—CC Docket No. 96–115.	02/28/06.
3060–0716	Blanketing Interference	11/30/06.
3060–0717	Billed Party Preference for InterLATA 0+ Calls, Secs. 64.703(a), 64.709, and 64.710	07/31/04.
3060–0718	Part 101 Governing the Terrestrial Microwave Radio Service	03/31/06.
3060–0719	Quarterly Report of IntraLATA Carriers Listing Pay Phone Automatic Number Identifications (ANIs).	12/31/06.
3060–0723	Public Disclosure of Network Information by Bell Operating Companies	12/31/06.
3060–0725	Quarterly Filing of Nondiscrimination Reports (on Quality of Service, Installation, and Maintenance) by Bell Operating Companies (BOC's).	09/30/06.
3060–0726	Quarterly Report of Interexchange Carriers Listing the Number of Dial-Around Calls for Which Compensation is Being Paid to Pay Phone Owners.	09/30/06.
3060–0727	Sec. 73.213	Pending OMB approval.
3060–0734	Accounting Safeguards, 47 U.S.C. Sections 260, 271–276, and 47 CFR Secs. 53.209, 53.211 and 53.213, SEC Form 10–K.	03/31/05.
3060–0736	Implementation of the Non-Accounting Safeguards of Sections 271 and 272 of the Communications Act of 1934, as amended—CC Docket No. 96–149.	08/31/04.
3060–0737	Disclosure Requirements for Information Services Provided Under a Presubscription or Comparable Arrangement.	05/31/06.
3060–0740	Sec. 95.1015	01/31/06.
3060–0741	Implementation of the Local Competition Provisions on the Telecommunications Act of 1996—CC Docket No. 96–98.	04/30/04.
3060–0742	Telephone Number Portability, Part 52, Subpart C, Secs. 52.21–52.33	08/31/05.
3060–0743	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996—CC Docket No. 96–128.	01/31/07.
3060–0745	Implementation of the Local Exchange Carrier Tariff Streamlining Provisions of the Telecommunications Act of 1996, CC Docket No. 96–187.	12/31/06.
3060–0748	Disclosure Requirements for Information Services Provided through Toll-Free Numbers, Sec. 64.1504.	11/30/06.
3060–0749	Sec. 64.1509	11/30/06.
3060–0750	Sec. 73.673	07/31/06.
3060–0751	Reports Concerning International Private Lines Interconnected to the U.S. Public Switched Network.	05/31/06.
3060–0752	Billing Disclosure Requirements for Pay-Per-Call and Other Information Services, Sec. 64.1510.	11/30/06.
3060–0754	FCC 398	06/30/04.
3060–0755	Infrastructure Sharing, Secs. 59.1–59.4	05/31/06.
3060–0756	Procedural Requirements and Policies for Commission Processing of Bell Operating Company (BOC) Applications for the Provision of In-Region, InterLATA Services under Section 271 of the Telecommunications Act of 1996.	01/31/05.
3060–0757	FCC Auctions Customer Survey	01/31/07.
3060–0758	Amendment of Part 5 of the Commission's Rules to Revise the Experimental Radio Service Regulations, ET Docket No. 92–256.	12/31/06.
3060–0760	Access Charge Reform, CC Docket No. 96–262	12/31/05.
3060–0761	Closed Captioning of Video Programming	Pending OMB approval.
3060–0763	FCC Report 43–06	04/30/06.
3060–0765	Revision of Parts 22 and 90 of the Commission's Rules to Facilitate Future Development of Paging Systems.	Pending OMB approval.
3060–0767	Auction Forms and License Transfer Disclosures—Supplement for the 2nd R&O, Order on Reconsideration, and 5th NPRM in CC Docket No. 92–297.	11/30/06.
3060–0768	28 GHz Band Segmentation Plan Amending the Commission's Rules to Redesignate the 27.5–29.5 GHz Frequency Band, to Reallocate the 29.5–30.0 GHz Frequency Band, and to Establish Rules and Policies for Local Multipoint Distribution Services and for the Fixed Satellite Service.	06/30/06.
3060–0770	Price Cap Performance Review for Local Exchange Carriers—CC Docket No. 94–1 (New Services).	12/31/05.
3060–0771	Sec. 5.61, Procedure for Obtaining a Special Temporary Authorization in the Experimental Radio Service.	Pending OMB approval.
3060–0773	Sec. 2.803, Marketing of RF Devices Prior to Equipment Authorization	12/31/06.
3060–0774	Federal-State Joint Board on Universal Service—CC Docket No. 96–45, Secs. 36.611 and 36.612 and 47 CFR Part 54.	06/30/04.
3060–0775	Secs. 64.1901—64.1903	12/31/06.
3060–0779	Amendment to Part 90 of the Commission's Rules to Provide for Use of the 220–222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89–552.	04/30/04.
3060–0780	Uniform Rate-Setting Methodology	Pending OMB approval.
3060–0782	Petition for Limited Modification of LATA Boundaries to Provide Expanded Local Calling Service (ELCS) at Various Locations.	01/31/07.
3060–0783	Sec. 90.176	12/31/05.
3060–0786	Petitions for LATA Association Changes by Independent Telephone Companies	01/31/07.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0787	Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996; Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance, FCC 478.	04/30/04.
3060–0788	DTV Showings/Interference Agreements	09/30/04.
3060–0789	Modified Alternative Plan, CC Docket No. 90–571	05/31/04.
3060–0790	Sec. 68.110(c)	11/30/06.
3060–0791	Accounting for Judgments and Other Costs Associated with Litigation, CC Docket No. 93–240.	11/30/06.
3060–0793	Federal-State Joint Board on Universal Service, CC Docket No. 96–45, Procedures for Self-Certifying as a Rural Carrier.	10/31/05.
3060–0795	Associate WTB Call Signs and Antenna Registration Numbers with Licensee's FRN and FCC 606.	07/31/05.
3060–0798	FCC 601	Pending OMB approval.
3060–0799	FCC 602	03/31/05.
3060–0800	FCC 603	04/30/05.
3060–0804	Health Care Providers Universal Service Program—FCC 465, FCC 466, FCC 466–A, and FCC 467.	Pending OMB approval.
3060–0805	Secs. 90.523, 90.527, and 90.545	02/28/05.
3060–0806	Universal Service, Schools and Libraries Program, FCC 470 and 471	03/31/06.
3060–0807	Sec. 51.803 and Supplemental Procedures for Petitions to Section 252(e)(5) of the Communications Act of 1934, as amended.	04/30/04.
3060–0809	Communications Assistance for Law Enforcement Act (CALEA)	08/31/06.
3060–0810	Procedures for Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act of 1934, as amended.	05/31/06.
3060–0812	Exemption from Payment of Regulatory Fees When Claiming Non-Profit Status	10/31/05.
3060–0813	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Calling Systems.	06/30/05.
3060–0814	Sec. 54.301	03/31/05.
3060–0816	Local Competition and Broadband Reporting, CC Docket No. 99–301, FCC 477	01/31/07.
3060–0817	Computer III Further Remand Proceedings: BOC Provision of Enhanced Services (ONA Requirements), CC Docket No. 95–20.	09/30/06.
3060–0819	Lifeline Assistance (Lifeline) Connection Assistance (Link-Up) Reporting Worksheet and Instructions, 47 CFR 54.400–54.417, FCC 497.	12/31/06.
3060–0823	Pay Telephone Reclassification, Memorandum Opinion and Order, CC Docket No. 96–128.	02/28/05.
3060–0824	FCC 498	07/31/06.
3060–0833	Implementation of Section 255 of the Telecommunications Act of 1996: Complaint Filings/Designation of Agents.	10/31/04.
3060–0835	Ship Inspections, FCC 806, FCC 824, FCC 827 and FCC 829	03/31/06.
3060–0837	FCC 302–DTV	02/28/05.
3060–0841	Public Notice, Additional Processing Guidelines for DTV (nonchecklist applications)	04/30/05.
3060–0844	Carriage of the Transmissions of Digital Television Broadcast Stations	09/30/04.
3060–0848	Deployment of Wireline Services Offering Advanced Telecommunications Capability—CC Docket No. 98–147.	03/31/06.
3060–0849	Commercial Availability of Navigation Devices, CS Docket No. 97–80	Pending OMB approval.
3060–0850	FCC 605	06/30/06.
3060–0851	FCC 305	12/31/04.
3060–0852	FCC 306	12/31/04.
3060–0853	FCC 479, FCC 486, and FCC 486–T	01/31/07.
3060–0854	Truth-in-Billing Format, CC Docket No. 98–170	Pending OMB approval.
3060–0855	FCC 499, FCC 499–A, and FCC 499–Q	Pending OMB approval.
3060–0856	FCC 472, FCC 473, and FCC 474	01/31/07.
3060–0859	Suggested Guidelines for Petitions for Ruling under Section 253 of the Communications Act.	06/30/06.
3060–0862	Handling Confidential Information	06/30/05.
3060–0863	Satellite Delivery of Network Signals to Unserved Households for Purposes of the Satellite Home Viewer Act.	01/31/06.
3060–0865	Wireless Telecommunications Bureau Universal Licensing System Recordkeeping and Third-Party Disclosure Requirements.	Pending OMB approval.
3060–0874	FCC 475	10/31/04.
3060–0876	USAC Board of Directors Nomination Process, Sec. 54.703 and Review of Administrator's Decision, Secs. 54.719–54.725.	06/30/06.
3060–0881	Sec. 95.861	07/31/05.
3060–0882	Sec. 95.833	07/31/05.
3060–0886	Sec. 73.3534	05/31/05.
3060–0888	Part 76, Cable Television Service Pleading and Complaint Rules	10/31/05.
3060–0891	FCC 330–A	07/31/05.
3060–0893	Universal Licensing Service (ULS) Pre-Auction Database Corrections	02/28/07.
3060–0894	Certification Letter Accounting for Receipt of Federal Support, CC Docket Nos. 96–45 and 96–262.	05/31/06.
3060–0895	Numbering Resource Optimization, FCC 502	Pending OMB approval.
3060–0896	Broadcast Auction Form Exhibits	09/30/05.
3060–0897	MDS and ITFS Two-Way Transmissions	04/30/04.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0900	Compatibility of Wireless Services with Enhanced 911—CC Docket No. 94–102	12/31/05.
3060–0901	Reports of Common Carriers and Affiliates	06/30/06.
3060–0905	Regulations for RF Lighting Devices, Secs. 18.213 and 18.307, ET Docket No. 98–42.	11/30/05.
3060–0906	FCC 317	07/31/06.
3060–0910	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, Third Report and Order in CC Docket No. 94–102.	05/31/06.
3060–0912	Cable Attribution Rules	10/31/06.
3060–0914	Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or in the Alternative, for a Declaratory Ruling.	04/30/04.
3060–0916	Sec. 95.1402	04/30/06.
3060–0917	FCC 160	10/31/06.
3060–0918	FCC 161	10/31/06.
3060–0919	FCC 162	10/31/06.
3060–0920	FCC 318	03/31/05.
3060–0921	Petitions for LATA Boundary Modification for the Deployment of Advanced Services	10/31/06.
3060–0922	FCC 397	11/30/06.
3060–0924	Creation of Low Power Radio Service, MM Docket No. 99–25	11/30/06.
3060–0926	Transfer of the Bands from Federal Government Use: NPRM	04/30/04.
3060–0927	Auditor's Annual Independence and Objectivity Certification	05/31/06.
3060–0928	FCC 302–CA	02/28/07.
3060–0929	FCC 331	Pending OMB approval.
3060–0930	Implementation of the Satellite Home Viewer Improvement Act (SHVIA) of 1999; Enforcement Procedures for Retransmission Consent Violations Conforming to Section 325(e) of the Communications Act of 1934, as amended.	06/30/06.
3060–0931	Maritime Mobile Service Identity (MMSI)	06/30/06.
3060–0932	FCC 301–CA	02/28/07.
3060–0933	FCC 460	11/30/06.
3060–0934	Secs. 2.925, 2.932, 2.944, 2.960, 2.962, 2.1043, 68.160 and 68.162 and FCC 731–TC.	02/28/05.
3060–0936	Sec. 95.1215, Disclosure Policies;Sec. 95.1217, Labeling Requirements	09/30/06.
3060–0937	Establishment of a Class A Television Service, MM Docket No. 00–10	04/30/04.
3060–0938	FCC 319	10/31/06.
3060–0939	E911 Second Memorandum Opinion and Order	05/31/04.
3060–0942	Access Charge Reform, Price Cap Performance Review for Local Exchange Carriers, Low-Volume Long Distance Users, Federal-State Joint Board on Universal Service.	03/31/07.
3060–0943	Sec. 54.809	12/31/06.
3060–0944	Review of Commission Consideration of Applications Under the Cable Landing License Act.	02/28/05.
3060–0945	Sec. 79.2	01/31/07.
3060–0947	Sec. 101.1327	02/28/07
3060–0948	Noncommercial Educational Applicants	Pending OMB approval.
3060–0949	FCC 159–W	10/31/06.
3060–0950	Extending Wireless Telecommunications Services Tribal Lands, WT Docket No. 99–266.	04/30/04.
3060–0951	Service of Petitions for Preemption, 47 CFR Sec. 1.1204(b) Note, and Sec. 1.1206(a) Note 1.	01/31/07.
3060–0952	Proposed Demographic Information and Notifications	01/31/07.
3060–0953	Wireless Medical Telemetry Service, ET Docket No. 99–255	Pending OMB approval.
3060–0954	Implementation of the 911 Act	07/31/05.
3060–0955	2 GHz Mobile Satellite Service Reports	02/28/07.
3060–0957	Wireless Enhanced 911 Service, Fourth Memorandum Opinion and Order	05/31/04.
3060–0959	Compatibility Between Cable Systems and Consumer Electronics Equipment	05/31/04.
3060–0960	Application of Network Non-Duplication, Syndicated Exclusivity, and Sports Blackout Rules to Satellite Retransmissions of Broadcast Signals.	03/31/06.
3060–0962	Redesignation of the 18 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the Ka-Band, and the Allocation of Additional Spectrum for Broadcast Satellite Service Use.	02/28/06.
3060–0963	Sec. 101.527, Construction Requirements for 24 GHz Operations; Sec. 101.529, Renewal Expectancy Criteria for 24 GHz Licensees.	04/30/04.
3060–0966	Secs. 80.385, 80.475, and 97.303, AutomatedMarine Telecommunications Service (AMTS).	04/30/04.
3060–0967	Sec. 79.2	04/30/04.
3060–0968	FCC 501	07/31/04.
3060–0970	Sec. 90.621(e)(2)	06/30/04.
3060–0971	Numbering Resource Optimization	09/30/04.
3060–0972	Multi-Association Group (MAG) Plan for Regulation of Interstate Services of Non-Price Cap Incumbent Local Exchange Carriers and Interexchange Carriers.	01/31/07.
3060–0973	Sec. 64.1120(e)	11/30/04.
3060–0974	Proposed Requirements for Secondary Market Transactions, CC Docket No. 99–200.	04/30/04.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–0975	Promotion of Competitive Networks in Local Telecommunications Markets Multiple Environments (47 CFR Parts 1, 64 and 68).	05/31/04.
3060–0977	Procedures for Reviewing Requests for Relief from State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934.	06/30/04.
3060–0978	Compatibility with E911 Emergency Calling Systems; Fourth Report and Order	06/30/04.
3060–0979	Spectrum Audit Letter	06/30/06.
3060–0980	Implementation of the Satellite Home Viewer Improvement Act (SHVIA), Carriage Consent Issues, Retransmission Consent Issues, CS Docket Nos. 00–96 and 99–363.	06/30/04.
3060–0981	1998 Biennial Review: Streamlining of Cable Television Services, Part 76, Public File and Notice Requirements.	06/30/04.
3060–0982	Implementation of Low Power Television (LPTV) Digital Data Services Pilot Project	10/31/04.
3060–0983	Standards for Co-Channel and Adjacent Channel Interference in the Land Mobile Radio Service.	07/31/04.
3060–0984	Secs. 90.35(b)(2) and 90.175(b)(1)	07/31/04.
3060–0985	Public Safety, State Interoperability Channels	07/31/04.
3060–0986	Federal-State Joint Board on Universal Service, Plan for Reforming the Rural Universal Support Mechanism.	01/31/05.
3060–0987	911 Callback Capability: Non-initialized Phones	06/30/05.
3060–0989	Procedures for Applicants Requiring Section 214 Authorization for Domestic Interstate Transmission Lines Acquired Through Corporate Control, Secs. 63.01, 63.03 and 63.04.	11/30/05.
3060–0990	Proposed Alternatives for the Rural Task Force's Proposal to Freeze High-Cost Loop Support Upon Competitive Entry in the Rural Carrier Study Areas (FNPRM).	08/31/04.
3060–0991	AM Measurement Data	02/28/05.
3060–0992	Request for Extension of the Implementation Deadline for Non-Recurring Services, CC Docket No. 96–45 and Sec. 54.507(d)(1)–(4).	12/31/04.
3060–0994	Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Band.	01/31/07.
3060–0995	Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, Sec. 1.2105(c)(1) of the Commission's Anti-Collusion Rules.	05/31/05.
3060–0996	AM Auction Section 307(b) Submissions	03/31/05.
3060–0997	Sec. 52.15(k)	05/31/05.
3060–0998	Sec. 87.109	01/31/05.
3060–0999	Exemption of Public Mobile Service Phone from the Hearing Aid Compatibility Act: NPRM.	01/31/05.
3060–1000	Sec. 87.147	01/31/05.
3060–1001	FCC 337	05/31/05.
3060–1002	Cable Horizontal and Vertical Ownership Information Collection	01/31/06.
3060–1003	Telecommunications Carrier Emergency Contact Information	07/31/05.
3060–1004	Wireless Telecommunications Bureau Standardizes Carrier Reporting on Wireless E911 Implementation.	01/31/07.
3060–1005	Numbering Resource Optimization—Phase 3	06/30/05.
3060–1006	Phase 3—Further Notice of Proposed Rulemaking (FNPRM) in CC Docket Nos. 00–199 and 97–212, 2000 Biennial Regulatory Review.	05/31/05.
3060–1007	Streamlining and Other Revision of Part 25 of the Commission's Rules	01/31/07.
3060–1008	Reallocation and Service Rules for the 698–746 MHz Band (Television Channels 52–59).	07/31/05.
3060–1009	Telecommunications Reporting Worksheet, CC Docket No. 96–45, Report and Order and Second FNPRM.	02/28/06.
3060–1010	Numbering Resource Optimization—Clarification and Further Notice	05/31/05.
3060–1011	Presubscribed Interexchange Carrier (PIC)—Change Charges NPRM, CC Docket No. 02–53.	05/31/05.
3060–1012	Schools and Libraries Universal Service Support Mechanism, CC Docket No. 02–6, NPRM, Proposed ADA Certification.	06/30/05.
3060–1013	Mitigation of Orbital Debris	06/30/05.
3060–1014	Ku-Band NGSO FSS	08/31/06.
3060–1015	Ultra Wideband Transmission Systems Operating Under Part 15	01/31/06.
3060–1021	Sec. 25.139	11/30/05.
3060–1022	Sec. 101.1403	11/30/05.
3060–1023	Sec. 101.103	11/30/05.
3060–1024	Sec. 101.1413	11/30/05.
3060–1025	Sec. 101.1440	11/30/05.
3060–1026	Sec. 101.1417	11/30/05.
3060–1027	Sec. 27.602	01/31/06.
3060–1028	International Signaling Point Code (ISPC)	01/31/06.
3060–1029	Data Network Identification Code (DNIC)	01/31/06.
3060–1030	Service Rules for Advanced Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz Bands.	01/31/06.
3060–1031	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems—Petition of City of Richardson, TX; Order on Reconsideration II.	08/31/06.

OMB control No.	FCC form number or 47 CFR section or part, docket number or title identifying the collection	OMB expiration date
3060–1032	Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment, FNPRM, CS Docket No. 97–80 and PP Docket No. 00–67.	03/31/07.
3060–1033	FCC 396–C	Pending OMB approval.
3060–1034	Digital Audio Broadcasting Systems and Their Impact on the Terrestrial Radio Broadcast Service.	Pending OMB approval.
3060–1035	FCC 309, 310 and 311	05/31/06.
3060–1036	Potential Reporting Requirements on Local Exchange Carriers to Assist Expeditious Implementation of Wireless E911 Service.	05/31/06.
3060–1038	Digital Television Transition Information Questionnaires	02/28/07.
3060–1039	Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03–128.	02/28/07.
3060–1040	Broadcast Ownership Rules, Report and Order in MB Docket No. 02–777 and MM Docket Nos. 02–235, 02–237, and 00–244.	Pending OMB approval.
3060–1041	Remedial Measures for Failure to Construct Digital Television Stations (DTV Policy Statement).	09/30/06.
3060–1042	Request for Technical Support	09/30/06.
3060–1043	Provision of Improved Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CC Docket No. 98–67.	09/30/06.
3060–1044	Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, CC Docket Nos. 01–338, 96–98 and 98–147.	03/31/07.
3060–1045	FCC 324	12/31/06.
3060–1046	Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, CC Docket No. 96–128.	Pending OMB approval.
3060–1047	Telecommunications Relay Services and Speech-to-Spech Services for Individuals with Hearing and Speech Disabilities, Second Report and Order, Order to Reconsideration, CC Docket No. 98–67.	01/31/07.
3060–1048	Sec. 1.929(c)(1)	01/31/07.
3060–1049	Digital Broadcast Content Protection, MB Docket No. 02–230	05/31/04.
3060–1050	New Allocation for Amateur Radio Service, ET Docket No. 02–98	06/30/04.
3060–1051	Certification Letter Accounting for Receipt of Federal Support, CC Docket Nos. 96–45 and 96–262, NPRM.	01/31/07.
3060–1053	Telecommunications Relay Services, and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Declaratory Ruling, CC Docket No. 98–67.	02/28/07.
3060–1054	FCC 422–IB	02/28/07.
3060–1055	FCC 423–IB	02/28/07.
3060–1056	FCC 421–IB	02/28/07.
3060–1057	FCC 420–IB	02/28/07.
3060–1058	Promoting Efficient Use of Spectrum through the Elimination of Barriers to the Development of Secondary Markets, WT Docket No. 00–230.	07/31/04.
3060–1059	Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Amendment of Parts 2 and 25 to Implement the Global Mobile Personal Communications by Satellite (GMPCS), Memorandum of Understanding.	03/31/07.
3060–1060	Wireless E911 Coordination Initiative Letter	07/31/04.

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Proposed Rules

Federal Register
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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

Office of the Comptroller of the Currency

12 CFR Part 5

[Docket No. 04–08]

RIN 1557–AC81

Rules, Policies, and Procedures for Corporate Activities; (Annual Report on Operating Subsidiaries)

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is issuing this proposed rule to assist consumers in identifying national bank operating subsidiaries that are subject to OCC supervisory authority. These revisions require national banks to file an annual report with the OCC that identifies its operating subsidiaries that do business directly with consumers and are not functionally regulated as defined in section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)). For each operating subsidiary, a national bank would be required to provide information including the name of the operating subsidiary, location and contact information, and the operating subsidiary's lines of business. The OCC will make this information available to the public on its Internet Web site.

DATES: Comments on this proposed rule must be received by April 26, 2004. Comments on the paperwork burden associated with this proposed rule under the Paperwork Reduction Act must be received by May 24, 2004.

ADDRESSES: Please direct your comments to: Office of the Comptroller of the Currency, 250 E Street, SW., Public Information Room, Mailstop 1–5, Washington, DC 20219, Attention: Docket No. 04–08, fax number (202) 874–4448; or Internet address: *regs.comments@occ.treas.gov*. Due to delays in paper mail delivery in the Washington, DC area, we encourage the submission of comments by fax or e-mail whenever possible. Comments may be inspected and photocopied at the OCC's Public Information Room, 250 E Street, SW., Washington, DC. You can make an appointment to inspect comments by calling (202) 874–5043.

FOR FURTHER INFORMATION CONTACT: Stuart E. Feldstein, Assistant Director, Legislative and Regulatory Activities, (202) 874–5090, Patrick T. Tierney, Attorney, Legislative and Regulatory Activities (202) 874–5090, or Tim Driscoll, Project Manager, Supervisory Information (202) 874–4410.

SUPPLEMENTARY INFORMATION:

National banks may conduct aspects of their banking activities through operating subsidiaries.[1] These subsidiaries are corporations, limited liability companies, or similar types of business organizations where the parent bank owns more than 50 percent of the voting or similar type of interest of the operating subsidiary or the parent bank otherwise controls the operating subsidiary and no other entity controls more than 50 percent of the voting or similar type of interest in the subsidiary. Operating subsidiaries are permitted to conduct only activities that are permissible for the parent national bank. Operating subsidiaries conduct these activities ''subject to the same authorization, terms and conditions'' as apply to their parent bank.[2] In essence, operating subsidiaries are a Federally-licensed means by which national banks conduct Federally-authorized banking activities. As provided in our regulations, State laws apply to operating subsidiaries only to the extent that they apply to the parent bank.[3]

Questions recently have arisen about how consumers identify entities that are national bank operating subsidiaries, particularly in the context of where consumers would direct any complaints about their experiences with such an entity. Many national bank operating subsidiaries that deal with consumers use a trade name or brand closely identified with their parent bank. Some do not, however, and thus some consumers may be unsure of the character of the entity and the agency responsible for regulating it.

In order to provide more specific information to consumers, the proposal would add a new paragraph (e)(6) to § 5.34 of our regulations requiring national banks to file an annual report with the OCC containing information about national bank operating subsidiaries that are not functionally regulated by other regulators and that do business directly with consumers.[4] The OCC will make this information available to the public on its Internet customer service Web site at *www.occ.treas.gov/customer.htm*.

New 12 CFR 5.34(e)(6) specifies that an operating subsidiary ''does business directly with consumers'' if it provides products or services to individuals to be used primarily for personal, family, or household purposes. We invite comment on whether this definition adequately describes the intended scope of coverage of the reporting requirement and, if not, the definition the OCC should use.

The proposal requires a national bank to include in the annual report the name and charter number of the parent national bank together with each covered operating subsidiary's mailing address and telephone number, and if different, its principal place of business. A national bank also must indicate the operating subsidiary's lines of business by designating the appropriate code as listed in Appendix B (Federal Reserve Board Activity Codes) to the General Instructions for filing The Report of Changes in Organizational Structure, Form FR Y–10. Form FR Y–10 is used regularly by bank holding companies to report information on their investments and contains a useful list of activities that are familiar to most national banks. If this proposed rule is adopted as a

[1] *See generally*, 12 CFR 5.34 (OCC operating subsidiary regulation).

[2] 12 CFR 5.34(e)(3).

[3] 12 CFR 7.4006.

[4] A subsidiary is a ''functionally regulated'' subsidiary if it is a broker or dealer that is registered under the Securities Exchange Act of 1934; a registered investment adviser, properly registered by or on behalf of either the Securities and Exchange Commission or any State, with respect to the investment advisory activities of such investment adviser and activities incidental to such investment advisory activities; an investment company that is registered under the Investment Company Act of 1940; an insurance company, with respect to insurance activities of the insurance company and activities incidental to such insurance activities, that is subject to supervision by a State insurance regulator; or an entity that is subject to regulation by the Commodity Futures Trading Commission, with respect to the commodities activities of such entity and activities incidental to such commodities activities. *See* 12 U.S.C. 1844(c)(5)(B)(i)–(v).

final rule, a copy of the activities list will be made available on the OCC's Internet Web site at *www.occ.treas.gov* and at *www.banknet.gov*.

The OCC invites comment on whether reference to this list of activities for identifying operating subsidiary lines of business is convenient for national banks or whether there are other methods that would be less burdensome.

We also invite comment on whether the information requested is adequate to apprise consumers of the information they need to identify the company as a national bank operating subsidiary. Commenters also are invited to address whether national banks should report information on operating subsidiaries that are functionally regulated by other regulators, and with respect to those subsidiaries, whether, and if so, how best to direct consumers to the appropriate regulator(s) for the particular ''functionally regulated'' company.

The proposal requires a national bank to prepare its report on an annual basis as of each March 31st and to file the report with the OCC by July 1st of that year. If the proposal is adopted as a final rule, these dates may be adjusted in order to assure that first report is received as soon as practicable in 2004, allowing adequate time for compliance. A national bank may file its report electronically with the OCC by consulting the filing requirements at *www.banknet.gov*.

Request for Comments

The OCC welcomes comments on any aspect of this proposal, particularly, those issues specifically noted in this preamble.

Solicitation of Comments on Use of Plain Language

Section 722 of the Gramm-Leach-Bliley Act, Pub. L. 106–102, sec. 722, 113 Stat. 1338, 1471 (Nov. 12, 1999), requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make the proposal easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the proposal clearly stated? If not, how could the regulation be more clearly stated?
- Does the proposal contain language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- What else could we do to make the regulation easier to understand?

Community Bank Comment Request

In addition, we invite your comments on the impact of this proposal on community banks. The OCC recognizes that community banks operate with more limited resources than larger institutions and may present a different risk profile. Thus, the OCC specifically requests comments on the impact of the proposal on community banks' current resources and available personnel with the requisite expertise, and whether the goals of the proposal could be achieved, for community banks, through an alternative approach.

Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act, the OCC certifies that this proposal will not have a significant economic impact on a substantial number of small entities. The proposal would require national banks to report information that should be readily available to the banks. National banks that are part of a bank holding company structure are already reporting some or all of the information requested in a substantially similar manner. The economic impact upon national banks of this proposed rule is estimated to be negligible, thus the proposal will not have a significant impact on a substantial number of small entities.

Executive Order 12866

The OCC has determined that this proposed rule is not a significant regulatory action under Executive Order 12866.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Pub. L. 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may 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 year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that the proposal will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, the proposal is not subject to section 202 of the Unfunded Mandates Act.

Paperwork Reduction Act

The information collection requirements contained in this proposal have been submitted to OMB for review and approval in accordance with the Paperwork Reduction Act of 1995. This proposal will increase paperwork burden for respondents by adding certain reporting requirements. The information collection requirements are contained in 12 CFR 5.34(e)(6) which requires each national bank to file an annual report on its operating subsidiaries.

The OCC estimates burden for this information collection as follows:

Number of Respondents: 2,100.

Number of Responses: 1 per year.

Estimated Time per Response: 3 hours.

Total Estimated Annual Burden: 6,300 burden hours.

The OCC invites comments on:

(1) Whether the collection of information contained in the proposal is necessary for the proper performance of the OCC's functions, including whether the information collection has practical utility;

(2) The accuracy of the OCC's estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected;

(4) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology; and

(5) Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments should be sent to John Ference or Camille Dixon, Office of the Comptroller of the Currency, Legislative and Regulatory Activities Division, Attention: 1557–AROS, 250 E Street, SW., Mailstop 8–4, Washington, DC 20219. Due to delays in paper mail in the Washington area, commenters are encouraged to submit their comments by fax to (202) 874–4889 or by e-mail to *camille.dixon@occ.treas.gov*. Comments should also be sent to Joseph F. Lackey, Jr., Desk Officer, Office of Information and Regulatory Affairs, Attention: 1557–AROS, Office of Management and

Budget, Room 10235, Washington, DC 20503. Comments may also be sent by e-mail to *jlackeyj@omb.eop.gov*.

Executive Order 13132

The OCC has determined that this proposal does not have any Federalism implications, as required by Executive Order 13132.

List of Subjects in 12 CFR Part 5

Administrative practice and procedure, National banks, Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, part 5 of chapter I of title 12 of the Code of Federal Regulations are proposed to be amended as follows:

PART 5—RULES, POLICIES, AND PROCEDURES FOR CORPORATE ACTIVITIES

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

Authority: 12 U.S.C. 1 *et seq.*, 93a; 215a–2; 215a–3; and section 5136A of the Revised Statutes (12 U.S.C. 24a).

2. In § 5.34, a new paragraph (e)(6) is added to read as follows:

§ 5.34 Operating subsidiaries.

* * * * *

(e)(6) *Annual Report on Operating Subsidiaries—(i) Filing requirement.* Each national bank shall prepare and file with the OCC an Annual Report on Operating Subsidiaries containing the information set forth in paragraph (e)(6)(ii) of this section for each of its operating subsidiaries that:

(A) Is not functionally regulated within the meaning of section 5(c)(5) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1844(c)(5)); and

(B) Does business directly with consumers in the United States. An operating subsidiary ''does business directly with consumers'' if it provides products or services to individuals to be used primarily for personal, family, or household purposes.

(ii) *Information required.* The Annual Report on Operating Subsidiaries must contain the following information for each covered operating subsidiary listed:

(A) The name and charter number of the parent national bank;

(B) The name, mailing address (which shall include the street address or post office box, city, state, and zip code), and telephone number of the operating subsidiary;

(C) The principal place of business of the operating subsidiary, if different from the address provided pursuant to paragraph (e)(6)(ii)(B); and

(D) The lines of business in which the operating subsidiary is engaged by designating the appropriate code contained in Appendix B (Federal Reserve Board Activity Codes) to the General Instructions for filing The Report of Changes in Organizational Structure, Form FR Y–10, a copy of which is set forth on the OCC's Web site. If the operating subsidiary is engaged in an activity not set forth in this list, the national bank shall use the code 0000 and provide a brief description of the activity.

(iii) *Filing time frames and availability of information.* Each national bank's Annual Report on Operating Subsidiaries shall contain information current as of March 31 of the year in which the report is filed. The national bank shall submit its report to the OCC on or before July 1, 2004, and on or before July 1 of each year thereafter. The national bank may submit the Annual Report on Operating Subsidiaries electronically on the form prescribed by the OCC. The OCC will make available to the public the information contained in the Annual Report on Operating Subsidiaries on its Internet Web site at *http://www.occ.treas.gov*.

Dated: March 19, 2004.

John D. Hawke, Jr.,

Comptroller of the Currency.

[FR Doc. 04–6710 Filed 3–24–04; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2001–NM–352–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes, that currently requires repetitive inspections to check the play of the eye-end of the piston rod of the elevator servo-controls, and follow-on corrective actions, if necessary. This action would require the replacement of certain elevator servo-controls with new, improved servo-controls. The actions specified by the proposed AD are intended to detect and correct excessive play of the eye-end of the piston rod of the elevator servo-controls, which could result in failure of the elevator servo-control. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by April 26, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–352–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-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2001–NM–352–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 the proposed rule may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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:

Comments Invited

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

Submit comments using the following format:

• Organize comments issue-by-issue. For example, discuss a request to

change the compliance time and a request to change the service bulletin reference as two separate issues.

• For each issue, state what specific change to the proposed AD is being requested.

• Include justification (*e.g.*, reasons or data) for each request.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2001–NM–352–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2001–NM–352–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On June 7, 2000, the FAA issued AD 2000–12–06, amendment 39–11784 (65 FR 37476, June 15, 2000), applicable to certain Airbus Model A330 and A340 series airplanes, to require repetitive inspections to check the play of the eye-end of the piston rod of the elevator servo-controls, and follow-on corrective actions, if necessary. That action was prompted by a report of a broken piston rod of an elevator servo-control. The requirements of that AD are intended to detect and correct excessive play of the eye-end of the piston rod of the elevator servo-controls, which could result in failure of the elevator servo-control.

Actions Since Issuance of Previous Rule

Since the issuance of AD 2000–12–06, the Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, issued French airworthiness directives 2001–518(B) and 2001–519(B), both dated October 31, 2001. The French airworthiness directives continue to require the repetitive inspections to check the play of the eye-end of the piston rod of the elevator servo-controls, and any necessary follow-on corrective actions. The French airworthiness directives also mandate replacement of certain elevator servo-controls with new, improved elevator servo controls, which would eliminate the need for the repetitive inspections required by AD 2000–12–06. The applicability of the French airworthiness directives excludes airplanes modified in production.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A330–27–3076 (for Model A330 series airplanes) and A340–27–4083 (for Model A340 series airplanes), both Revision 02, both dated July 11, 2002. The service bulletins include procedures for:

• Replacing the rod eye of certain elevator servo-controls and modifying those elevator servo-controls.

• Replacing certain servo-controls with new, improved servo-controls.

• Removing and reinstalling the items that attach the elevator servo-controls to the elevator attachment bracket, checking the position of each elevator servo-control after it has been modified or replaced, and tightening the nuts to the appropriate torque (5 m.daN (37.0 lbf ft)).

The DGAC classified these service bulletins as mandatory and issued French airworthiness directives 2001–518(B) and 2001–519(B), both dated October 31, 2001, to ensure the continued airworthiness of these airplanes in France.

The Airbus service bulletins reference TRW Service Bulletin SC4800–27–34–09, Revision 1, dated November 9, 2001, as an additional source of service information for accomplishment of the part replacement.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 2000–12–06 to continue to require repetitive inspections to check the play of the eye-end of the piston rod of the elevator servo-controls, and any necessary follow-on corrective actions. This new action would require the replacement of certain elevator servo-controls with new, improved servo-controls. The actions would be required to be accomplished in accordance with the service bulletins described 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 (AMOC). Because we have now included this material in part 39, only the office authorized to approve AMOCs is identified in each individual AD. Therefore, paragraph (c) and Note 1 of AD 2000–12–06 are not included in this proposed AD.

Cost Impact

There are approximately 9 airplanes of U.S. registry that would be affected by this proposed AD.

The actions that are currently required by AD 2000–12–06 and retained in this proposed AD take approximately 2 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the currently required repetitive inspections is estimated to be $1,170, or $130 per airplane, per inspection cycle.

The new actions that are proposed in this AD action would take between 15 and 20 work hours per airplane to accomplish, at an average labor rate of $65 per work hour. Required parts would be provided at no cost. Based on these figures, the cost impact of the proposed part replacement is estimated to be between $975 and $1,300 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the current or proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The

cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Currently, there are no Airbus Model A340 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would take between 15 and 20 work hours per airplane to accomplish the proposed part replacement, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of part replacement would be between $975 and $1,300 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–11784 (65 FR 37476, June 15, 2000), and by adding a new airworthiness directive (AD), to read as follows:

Airbus: Docket 2001–NM–352–AD. Supersedes AD 2000–12–06, Amendment 39–11784.

Applicability: Model A330 and A340 series airplanes equipped with any ''SAMM'' elevator servo-control having any part number (P/N) SC4800–2, SC4800–3, SC4800–4, SC4800–5, SC4800–6, SC4800–7, or SC4800–8; certificated in any category; except those with Airbus Modification 47674 installed in production.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct excessive play of the eye-end of the piston rod of the elevator servo-controls, which could result in failure of the elevator servo-control, accomplish the following:

Restatement of Requirements of AD 2000–12–06

(a) Within 30 months since date of manufacture of the airplane, or within 500 flight hours after July 20, 2000 (the effective date of AD 2000–12–06), whichever occurs later, perform an inspection to check the play of the piston rod eye-ends of the elevator servo-controls, in accordance with Airbus Service Bulletin A330–27–3062 (for Model A330 series airplanes), Revision 01, dated July 21, 1999, or Revision 02, dated February 11, 2000, or Revision 03, dated August 9, 2000, or Revision 04, dated January 30, 2001; or Airbus Service Bulletin A340–27–4072 (for Model A340 series airplanes), Revision 01, dated July 21, 1999, or Revision 02, dated February 11, 2000, or Revision 03, dated August 9, 2000, or Revision 04, dated January 30, 2001; as applicable. Thereafter, repeat the inspection at intervals not to exceed 15 months, until accomplishment of paragraph (b) of this AD.

(1) If any play that is 0.0059 inch (0.15 mm) or greater and less than 0.0118 inch (0.30 mm) is detected: Prior to further flight, replace the rod eye-end with a new SARMA or NMB rod eye-end, in accordance with the applicable service bulletin.

(2) If any play that is 0.0118 inch (0.30 mm) or greater is detected: Prior to further flight, perform a dye penetrant inspection to detect cracking of the servo-control, in accordance with the applicable service bulletin.

(i) If no crack is detected: Prior to further flight, replace the rod eye-end with a new SARMA or NMB rod eye-end, in accordance with the applicable service bulletin.

(ii) If any crack is detected: Prior to further flight, replace the servo-control with a new servo-control, in accordance with the applicable service bulletin.

Note 1: Accomplishment of an inspection in accordance with Airbus Service Bulletin A330–27–3062 (for Model A330 series airplanes) or A340–27–4072 (for Model A340 series airplanes), both dated February 5, 1999; is considered acceptable for compliance with the initial inspection requirements of paragraph (a) of this AD.

Note 2: The Airbus service bulletins reference SAMM Service Bulletin SC4800–27–34–06, dated January 2, 1999, as an additional source of service information for accomplishment of the dye penetrant inspection specified by paragraph (a)(2) of this AD.

New Requirements of This AD

Replacement

(b) Within 34 months after the effective date of this AD, replace any elevator servo-control having any P/N SC4800–2, SC4800–3, SC4800–4, SC4800–5, SC4800–6, SC4800–7, or SC4800–8, with an elevator servo-control having P/N SC4800–7A or SC4800–9, in accordance with Airbus Service Bulletin A330–27–3076 (for Model A330 series airplanes) or A340–27–4083 (for Model A340 series airplanes), both Revision 02, both dated July 11, 2002, as applicable. Accomplishment of this replacement terminates the repetitive inspections required by paragraph (a) of this AD.

Note 3: The Airbus service bulletins reference TRW Service Bulletin SC4800–27–34–09, Revision 1, dated November 9, 2001, as an additional source of service information for accomplishment of the part replacement.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, is authorized to approve alternative methods of compliance for this AD.

Note 4: The subject of this AD is addressed in French airworthiness directives 2001–518(B) and 2001–519(B), both dated October 31, 2001.

Issued in Renton, Washington, on March 19, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6678 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–244–AD]

RIN 2120–AA64

Airworthiness Directives; Raytheon Model BAe.125 Series 800A, 800A (C–29A), and 800B Airplanes; and Model Hawker 800 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Model BAe.125 series 800A, 800A (C–29A), and 800B airplanes; and Model Hawker 800 airplanes. This proposal would require a one-time inspection of certain wire bundles for discrepancies and related corrective action. This action is necessary to find and fix chafing and damage to the wire bundles, which could result in electrical arcing and heat damage in a potential fuel zone and possible fire or explosion in the fuel tank. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by May 10, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–244–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-nprmcomment@faa.gov*. Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–244–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 the proposed rule may be obtained from Raytheon Aircraft Company, Department 62, P.O. Box 85, Wichita, Kansas 67201–0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas.

FOR FURTHER INFORMATION CONTACT: Philip Petty, Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4139; fax (316) 946–4107.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–244–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–244–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that wires from the fuel boost pump of relays ''KT'' and ''JT'' interfered with and chafed against the avionics wire bundle that was routed through pressure bung ''DD'' and the wing fuel transfer valve lever. This occurred because sufficient clearance was not attained during the manufacturing process. One incident resulted in a short circuit of the affected fuel boost pump wires against the radio altimeter coax cables. Chafing and damage to the wire bundles could result in electrical arcing and heat damage in a potential fuel zone, and possible fire or explosion in the fuel tank.

Explanation of Relevant Service Information

We have reviewed and approved Raytheon Service Bulletin SB 24–3588, Revision 1, dated September 2003, which describes procedures for a one-time inspection for discrepancies (chafing, damage, adequate clearance); of the wire bundles extending from relays ''JT'' and ''KT'' on Panel ''JA''; the wire bundle entering pressure bung ''DD''; and the wire bundles adjacent to relay ''KT'' and against the wing fuel transfer valve lever, and related corrective action. The inspection includes securing the wire bundles with cable ties if clearance is adequate (minimum clearance between wire bundles is 0.25 inch), to maintain adequate clearance. The related corrective action includes the following:

- Repairing or replacing any damaged wires, as applicable.
- Replacing or splicing wires to achieve adequate clearance if clearance is inadequate.
- If clearance is inadequate between the wire bundles, and the wire bundles and relay boxes: Installing P-clips to maintain clearance after adequate clearance is attained.
- If clearance is inadequate between the wiring extending from relay ''KT'' and the wing fuel transfer valve lever: Installing P-clips to maintain clearance after adequate clearance is attained.

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

Explanation of Requirements of Proposed Rule

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

Differences Between This Proposed AD and Service Bulletin

The service bulletin recommends accomplishing the inspection for discrepancies of the wire bundles within 10 flight hours or 30 days, whichever is first, however; this proposed AD allows accomplishment of the inspection within 125 flight hours or 90 days, whichever is first. In developing an appropriate compliance time for this proposed AD, we considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the average

utilization of the affected fleet, and the time necessary to perform the inspection (1 hour). In light of all of these factors, we find a compliance time of within 125 flight hours or 90 days, whichever is first, represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety.

The service bulletin refers to an ''inspection'' of certain wire bundles for discrepancies, but we have determined that the procedures in the service bulletin should be described as a ''detailed inspection.'' Note 1 has been included in this proposed AD to define this type of inspection.

Cost Impact

There are about 184 airplanes of the affected design in the worldwide fleet. We estimate that 110 airplanes of U.S. registry would be affected by this proposed AD, that it would take about 1 work hour per airplane to accomplish the proposed inspection, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the inspection proposed by this AD on U.S. operators is estimated to be $7,150, or $65 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Raytheon Aircraft Company: Docket 2003–NM–244–AD.

Applicability: Model BAe.125 series 800A, 800A (C–29A), and 800B airplanes; and Model Hawker 800 airplanes, as listed in Raytheon Service Bulletin SB 24–3588, Revision 1, dated September 2003; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To find and fix chafing and damage to certain wire bundles, which could result in electrical arcing and heat damage in a potential fuel zone and possible fire or explosion in the fuel tank, accomplish the following:

One-Time Inspection/Corrective Action

(a) Within 125 flight hours or 90 days after the effective date of this AD, whichever is first: Do a one-time detailed inspection for discrepancies of the wire bundles extending from relays 'JT' and 'KT' on Panel 'JA,' and the wire bundle entering pressure bung 'DD'; and do any related corrective action; by doing all the actions per Part 3.A. of the Accomplishment Instructions of Raytheon Service Bulletin SB 24–3588, Revision 1, dated September 2003. Do any related corrective action before further flight.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Inspections/Corrective Action Accomplished Per Previous Issue of Service Bulletin

(b) Inspections and corrective action accomplished before the effective date of this AD per Raytheon Service Bulletin SB 24–3588, dated February 2003, are considered acceptable for compliance with the corresponding actions specified in this AD.

Alternative Methods of Compliance

(c) In accordance with 14 CFR 39.19, the Manager, Wichita Aircraft Certification Office, FAA, is authorized to approve alternative methods of compliance (AMOCs) for this AD.

Issued in Renton, Washington, on March 19, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6679 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2003–NM–200–AD]

RIN 2120–AA64

Airworthiness Directives; Short Brothers Model SD3–60 SHERPA Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all Short Brothers Model SD3–60 SHERPA series airplanes. This proposal would require repetitive inspections and torque tests for discrepancies of certain bolts and rivets; and related investigative and corrective actions. This action is necessary to detect and correct loose bolts that attach the vertical stabilizer to the horizontal stabilizer, and pulled or loose rivets in the upper shear angles, which could result in reduced structural integrity of the vertical stabilizer. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by April 26, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–

200–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-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2003–NM–200–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 the proposed rule may be obtained from Short Brothers, Airworthiness & Engineering Quality, P.O. Box 241, Airport Road, Belfast BT3 9DZ, Northern Ireland. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2003–NM–200–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2003–NM–200–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all Short Brothers Model SD3–60 SHERPA series airplanes. The CAA advises that during an unscheduled inspection of an SD3–60 SHERPA airplane, some of the bolts that attach the vertical stabilizer to the horizontal stabilizer were found to be loose. This condition, if not corrected, could result in reduced structural integrity of the vertical stabilizer.

Explanation of Relevant Service Information

Short Brothers has issued Service Bulletin SD3–60 Sherpa–55–1, dated June 6, 2003, which describes procedures for inspecting and performing torque tests to detect the following discrepancies: Loose bolts that attach the vertical stabilizer to the horizontal stabilizer; and loose or pulled rivets in the upper shear angles. The service bulletin recommends repeating these inspections and torque tests every 1,500 flight hours, and reporting all findings to the manufacturer.

If any discrepancy is found during any inspection, the service bulletin describes the procedures for related investigative and corrective actions. The related investigative action is a further inspection to detect worn or distorted bolts, and worn or elongated bolt holes. The related corrective actions are:

- Fitting a new bolt with a new stiffnut and sufficient washers to ensure that the nut does not neck at full torque. This includes opening up a worn or elongated hole to oversize diameter, if necessary; and reporting any elongated holes that cannot be removed by oversizing to Short Brothers PLC.
- Replacing any discrepant shear angle using oversize rivets.

Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 001–06–2003 to ensure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

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

Explanation of Requirements of Proposed AD

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

Differences Between the Proposed AD and the Service Bulletin

Although the service bulletin specifies that operators may contact the manufacturer for disposition of certain repair conditions, this proposal would require operators to repair those conditions per a method approved by either the FAA or the CAA (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair approved by either the FAA or the CAA would be acceptable for compliance with this proposed AD.

Operators should note that, although the Accomplishment Instructions of the referenced service bulletin describe procedures for submitting findings to the manufacturer, this proposed AD would not require those actions.

Clarification Between the Proposed AD and the Service Bulletin

Although the service bulletin does not specify the type of inspection, this proposed AD would require a ''detailed inspection.'' We have included a note in the proposed AD to clarify the definition of a detailed inspection.

Cost Impact

The FAA estimates that 27 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 5 work hours per airplane to accomplish the proposed inspections and torque tests, and that the average labor rate is $65 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $8,775, or $325 per airplane, per inspection/test cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Short Brothers PLC: Docket 2003–NM–200–AD.

Applicability: All Short Brothers Model SD3–60 SHERPA series airplanes, certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct loose bolts that attach the vertical stabilizer to the horizontal stabilizer, and pulled or loose rivets in the upper shear angles, which could result in reduced structural integrity of the vertical stabilizer, accomplish the following:

Repetitive Inspections and Torque Tests and Related Investigative Action

(a) Prior to the accumulation of 1,500 total flight hours, or within 2 months after the effective date of this AD, whichever occurs later: Perform a detailed inspection, including a torque test, to detect discrepancies in the bolts or bolt holes that attach the vertical stabilizer to the horizontal stabilizer; and to detect loose or pulled rivets in the upper shear angles. Repeat the detailed inspection and torque test at intervals not to exceed 1,500 flight hours. If any discrepancy is found in the bolts or bolt holes, do the related investigative action before further flight. Accomplish all actions in accordance with the Accomplishment Instructions of Short Brothers Service Bulletin SD3–60 Sherpa–55–1, dated June 6, 2003.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Related Corrective Actions

(b) If any discrepancy is found during any inspection or torque test required by paragraph (a) of this AD: Before further flight, repair in accordance with the Accomplishment Instructions of Short Brothers Service Bulletin SD3–60 Sherpa–55–1, dated June 6, 2003. Where the service bulletin specifies to contact the manufacturer for disposition of certain repair conditions: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Civil Aviation Authority or its delegated agent.

No Reporting Requirement

(c) Although the service bulletin referenced in this AD specifies to submit certain information to the manufacturer, this AD does not include such a requirement.

Alternative Methods of Compliance

(d) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in British airworthiness directive 001–06–2003.

Issued in Renton, Washington, on March 19, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6680 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2002–NM–246–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330, A340–200, and A340–300 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Model A330, A340–200, and A340–300 series airplanes. This proposal would require repetitive inspections for evidence of corrosion and sheared attachment bolts of the sensor struts at flap track 4 on the left and right sides of the airplane; related investigative and corrective actions as necessary; and a terminating action for the repetitive inspections, by requiring the eventual replacement of all sensor struts with new, improved sensor struts that are less sensitive to corrosion. This action is necessary to prevent loss of the sensor strut function, resulting in the

inability to detect flap drive disconnection at flap track stations 4 and 5, which could lead to separation of the outboard flap from the airplane, and consequent reduced controllability of the airplane. This action is intended to address the identified unsafe condition.

DATES: Comments must be received by April 26, 2004.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–246–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-nprmcomment@faa.gov.* Comments sent via fax or the Internet must contain ''Docket No. 2002–NM–246–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 the proposed rule may be obtained from Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Tim Backman, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2797; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Submit comments using the following format:

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this action must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2002–NM–246–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2002–NM–246–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Airbus Model A330, A340–200, and A340–300 series airplanes. The DGAC advises that it has received several reports of corroded sensor struts and sheared attachment bolts at flap track 4 on Model A330 series airplanes. Investigation revealed that corrosion of the sensor struts was due to wear of the protective surface. Further investigation revealed that the corroded sensor struts created friction with the piston rod, resulting in increased axial loads. The increased loads caused the shearing of the attachment bolts due to fatigue rupture. This condition, if not corrected, could result in loss of the sensor strut function, resulting in the inability to detect flap drive disconnection at flap track stations 4 and 5, which could lead to separation of the outboard flap from the airplane, and consequent reduced controllability of the airplane.

The sensor strut system on Model A340–200 and –300 series airplanes is identical to that on the affected Model A330 series airplanes. Therefore, those Model A340–200 and –300 series airplanes may be subject to the same unsafe condition revealed on the Model A330 series airplanes.

Explanation of Relevant Service Information

Airbus has issued Service Bulletins A330–27–3091, Revision 03 (for Model A330 series airplanes); and A340–27–4097, Revision 03 (for Model A340–200 and –300 series airplanes); both dated January 16, 2004. These service bulletins describe procedures for:

- Repetitively inspecting (by applying hand force to the piston of the sensor struts) the sensor struts at flap track 4, on the left and right sides of the airplane, for evidence of corrosion and sheared attachment bolts.
- For certain airplanes, removing affected sensor struts and measuring the axial force, cleaning sensor strut assemblies, re-installing the sensors, and inspecting (checking) the adjacent structure and attachment elements for cracking and/or deformation.
- Contacting Airbus for repair information if cracking and/or deformation are found.
- Replacing affected sensor struts with a part number as listed in Paragraph 2.C of the applicable service bulletin, including part numbers listed in the ''Old Part No.'' column.
- Doing an operational test of the flap system after installation of any new sensor strut.

Accomplishment of the actions specified in the applicable service bulletins is intended to adequately address the identified unsafe condition. The DGAC classified these service bulletins as mandatory and issued French airworthiness directives F–2003–425 and F–2003–426, both dated December 10, 2003, to ensure the continued airworthiness of these airplanes in France.

Airbus has also issued Service Bulletins A330–27–3092 (for Model A330 series airplanes); and A340–27–4098 (for Model A340–200 and –300 series airplanes); both dated February 14, 2003. These service bulletins describe procedures for replacing the existing sensor struts at flap track 4 on the left and right sides of the airplane with new, improved sensor struts having part number F5757492600000, that are less sensitive to corrosion; and testing the flap system after installation of new sensor struts.

Accomplishment of these service bulletins eliminates the need for the repetitive inspections specified in Airbus Service Bulletins A330–27–3091, Revision 03, and A340–27–4097, Revision 03.

Airbus Service Bulletin A330–27–3092 recommends prior or concurrent accomplishment of Airbus Service Bulletin A330–27–3091. Airbus Service Bulletin A340–27–4098 recommends prior or concurrent accomplishment of Airbus Service Bulletin A340–27–4097.

FAA's Conclusions

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

Explanation of Requirements of Proposed AD

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the applicable service bulletins described previously, except as discussed below. This proposed AD also would provide for terminating action for the repetitive inspections.

Differences Among the Service Bulletins, French Airworthiness Directive, and the Proposed AD

Although Airbus Service Bulletins A330–27–3091, Revision 03, and A340–27–4097, Revision 03, specify to report inspection results to Airbus, this proposed AD does not require that action. We do not need this information from operators.

These service bulletins also specify that operators may contact the manufacturer for disposition of certain repair conditions. This proposed AD would require operators to repair those conditions per a method approved by either us or the DGAC (or its delegated agent). In light of the type of repair that would be required to address the unsafe condition, and consistent with existing bilateral airworthiness agreements, we have determined that, for this proposed AD, a repair approved by either us or the DGAC would be acceptable for compliance with this proposed AD.

Cost Impact

We estimate that 9 Airbus Model A330 airplanes of U.S. registry would be affected by this proposed AD.

It would take approximately 1 work hour per airplane to accomplish the proposed repetitive inspections, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the proposed inspections on U.S. operators is estimated to be $585, or $65 per airplane, per inspection cycle.

If required, replacement of discrepant sensor struts and attachment bolts would take approximately 3 work hours, at an average labor rate of $65 per work hour. The cost for required parts would be nominal. Based on these figures, the cost impact of the proposed replacement of sensor struts is $195 per airplane.

It would take approximately 2 work hours accomplish the installation of the new, improved sensor struts, at an average labor rate of $65 per work hour. The cost of required parts would be $8,400. Based on these figures, the cost impact of the proposed installation on U.S. operators is estimated to be $76,770, or $8,530 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this 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. The manufacturer may cover the cost of replacement parts associated with this proposed AD, subject to warranty conditions.

Currently, there are no Airbus Model A340 series airplanes on the U.S. Register. However, should an affected airplane be imported and placed on the U.S. Register in the future, it would take approximately work hour per airplane to accomplish the proposed inspection, at an average labor rate of $65 per work hour. Based on these figures, the cost impact of the AD for Model A340 operators would be $65 per airplane.

Should an Airbus Model A340 series airplane be imported and placed on the U.S. Register in the future and replace affected sensor struts and attachment bolts, it would take approximately 3 work hours, at an average labor rate of $65 per work hour. The cost for required parts would be nominal. Based on these figures, the cost impact of the proposed replacement of sensor struts is $195 per airplane.

It would take approximately 2 work hours accomplish the installation of the new, improved sensor struts, at an average labor rate of $65 per work hour. The cost of required parts would be $8,400. Based on these figures, the cost impact of the proposed installation is estimated to be $8,530 per airplane.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket 2002–NM–246–AD.

Applicability: Model A330 series airplanes; and Model A340–200 and A340–300 series airplanes; certificated in any category; except

those airplanes on which one of the following has been incorporated: Airbus Modification 48579 in production; Airbus Service Bulletin A330–27–3092, dated February 14, 2003, in-service; or Airbus Service Bulletin A340–27–4098, dated February 14, 2003, in-service.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the sensor strut function, resulting in the inability to detect flap drive disconnection at flap track stations 4 and 5, which could lead to separation of the outboard flap from the airplane, and consequent reduced controllability of the airplane, accomplish the following:

Inspection

(a) Within 2,800 flight hours or 18 months after the effective date of this AD, whichever occurs later: Do an inspection by applying hand force to the piston of the sensor struts and moving the sensor struts longitudinally, for evidence of corrosion in the sensor struts at flap track 4, on the left and right sides of the airplane, by doing all the applicable actions specified in the Accomplishment Instructions of Airbus Service Bulletin A330–27–3091, Revision 03 (for Model A330 series airplanes); or Service Bulletin A340–27–4097, Revision 03 (for Model A340–200 and –300 series airplanes); both dated January 16, 2004; as applicable. If the longitudinal travel range is 60.0mm (2.36 inches) or more: Repeat the inspection thereafter at intervals not to exceed 18 months, until the requirements of paragraph (d) of this AD are accomplished.

Related Investigative and Corrective Actions

(b) If the result of the inspection required by paragraph (a) of this AD is a longitudinal travel range of less than 60.0mm (2.36 inches): Before further flight, remove all affected sensor struts, and measure the axial force of any affected sensor struts, by doing all of the applicable actions per the Accomplishment Instructions of Airbus Service Bulletin A330–27–3091, Revision 03 (for Model A330 series airplanes); or Service Bulletin A340–27–4097, Revision 03 (for Model A340–200 and –300 series airplanes); both dated January 16, 2004; as applicable.

(1) If the axial force F is less than or equal to 50 daN (112.41 lbf.): Clean and re-install the sensor struts per the Accomplishment Instructions of the applicable service bulletin. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 18 months, until the requirements of paragraph (d) of this AD are accomplished.

(2) If the axial force F is more than 50 daN (112.41 lbf.): Before further flight, do a detailed inspection for cracking and/or deformation of the adjacent structure and attachment parts per the Accomplishment Instructions of the applicable service bulletin

(i) If no cracking and/or deformation is found: Within 25 flight cycles after the inspection required by paragraph (b) of this AD, replace the sensor struts and attachment bolts per the Accomplishment Instructions of the applicable service bulletin. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 18 months, until the requirements of paragraph (d) of this AD are accomplished.

(ii) If any cracking and/or deformation is found: Before further flight, repair per a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or the Direction Générale de l'Aviation Civile (or its delegated agent); and replace the sensor struts and attachment bolts per the Accomplishment Instructions of the applicable service bulletin. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 18 months, until the requirements of paragraph (d) of this AD are accomplished.

Note 1: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Concurrent Requirements

(c) The actions required by paragraphs (a) and (b) of this AD must be done before or concurrently with the requirements of paragraph (d) of this AD. Replacement of any sensor strut with a sensor strut having part number (P/N) F5757492600000, during accomplishment of paragraph (b) of this AD, is acceptable for compliance with paragraph (d) of this AD, for that strut.

Terminating Action

(d) Within 42 months after the effective date of this AD: Replace all existing sensor struts with new, improved sensor struts having P/N F5757492600000 per the Accomplishment Instructions of Airbus Service Bulletins A330–27–3092 (for Model A330 series airplanes); or A340–27–4098 (for Model A340–200 and –300 series airplanes); both dated February 14, 2003; as applicable. Accomplishment of this replacement constitutes terminating action for the repetitive inspections required by paragraphs (a) and (b) of this AD.

Credit for Actions Done per Previous Issue of Service Bulletins

(e) Accomplishment of the specified actions before the effective date of this AD per Airbus Service Bulletin A330–27–3091, dated February 2, 2002; Revision 01, dated May 17, 2002; or Revision 02, dated September 5, 2002; or A340–27–4097, dated February 6, 2002; Revision 01, dated May 17, 2002; or Revision 02, dated September 5, 2002; as applicable; is considered acceptable for compliance with the applicable requirements of paragraphs (a) and (b) of this AD.

Submission of Information Not Required

(f) Although the service bulletins specify to send inspection results to the manufacturer, those actions are not required by this AD.

Alternative Methods of Compliance

(g) In accordance with 14 CFR 39.19, the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, is authorized to approve alternative methods of compliance for this AD.

Note 2: The subject of this AD is addressed in French airworthiness directives F–2003–425 and F–2003–426, both dated December 10, 2003.

Issued in Renton, Washington, on March 19, 2004.

Kevin M. Mullin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 04–6681 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 249

[Release Nos. 33–8397A; 34–49403A; International Series Release No. 1274A; File No. S7–15–04]

RIN 3235–AI92

First-Time Application of International Financial Reporting Standards; Correction

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the file number in the preamble to a proposed amendment to Form 20-F published in the **Federal Register** of Thursday, March 18, 2004 (69 FR 12903) a one-time accommodation relating to financial statements prepared under International Financial Reporting Standards for foreign private issuers registered with the SEC. The file number should read as set forth above.

FOR FURTHER INFORMATION CONTACT: Questions concerning this correction should be directed to Frances Sienkiewicz, Office of the Secretary, at (202) 942–7072.

Correction

In proposed amendment FR Doc. 04–5982, beginning on page 12903 in the issue of March 18, 2004, make the following corrections:

1. On page 12904, first column, in the **ADDRESSES** section, next to last line, revise ''S7–13–04'' to read ''S7–15–04.''

2. On page 12916, first column, in *E. Request for Comment* section, in the 17th and 13th lines from the bottom of that section, revise ''S7–13–04'' to read ''S7–15–04.''

Dated: March 18, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 04–6588 Filed 3–24–04; 8:45 am]

BILLING CODE 8010–01–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

[IA–013–FOR]

Iowa Regulatory Program

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

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

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are announcing receipt of a proposed amendment to the Iowa regulatory program (Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). Iowa proposes to revise its regulatory program by updating its adoption by reference of applicable portions of 30 CFR part 700 to End from the July 1, 1992, version to the July 1, 2002, version. Iowa intends to revise its program to be consistent with the corresponding Federal regulations.

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

DATES: We will accept written comments on this amendment until 4 p.m., c.s.t., April 26, 2004. If requested, we will hold a public hearing on the amendment on April 19, 2004. We will accept requests to speak at a hearing until 4 p.m., c.s.t. on April 9, 2004.

ADDRESSES: You should mail or hand deliver written comments and requests to speak at the hearing to Charles E. Sandberg, Mid-Continent Regional Coordinating Center, at the address listed below.

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

Charles E. Sandberg, Mid-Continent Regional Coordinating Center, Office of Surface Mining, 501 Belle Street, Alton, Illinois 62002, Telephone: (618) 463–6460, Fax: (618) 463–6470.

Iowa Department of Agriculture and Land Stewardship, Division of Soil Conservation, Henry A. Wallace Building, Des Moines, Iowa 50319, Telephone: (515) 281–5321.

FOR FURTHER INFORMATION CONTACT: Charles E. Sandberg, Mid-Continent Regional Coordinating Center. Telephone: (618) 463–6460.

SUPPLEMENTARY INFORMATION:

I. Background on the Iowa Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, ''a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of this Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to this Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the Iowa program effective April 10, 1981. You can find background information on the Iowa program, including the Secretary's findings, the disposition of comments, and the conditions of approval, in the January 21, 1981, **Federal Register** (46 FR 5885). You can also find later actions concerning the Iowa program and program amendments at 30 CFR 915.10, 915.15, and 915.16.

II. Description of the Proposed Amendment

By letter dated February 24, 2004 (Administrative Record No. IA–448), Iowa sent us an amendment to its program under SMCRA (30 U.S.C. 1201 *et seq.*). Iowa sent the amendment in response to a June 17, 1997, letter and an August 23, 2000, letter (Administrative Record Nos. IA–440 and IA–444, respectively) that we sent to Iowa in accordance with 30 CFR 732.17(c). Below is a summary of the changes proposed by Iowa. The full text of the program amendment is available for you to read at the locations listed above under **ADDRESSES.**

A. Adoptions by Reference of 30 CFR Part 700 to End Revised as of July 1, 2002

Iowa proposes to update its adoption by reference of applicable sections of 30 CFR part 700 to End from the July 1, 1992, version to the July 1, 2002, version and to revise terms and cross-references, as required. The sections of Iowa's coal mining rules that are being revised in this manner are listed in the table below.

27 Iowa Administrative Code chapter 40, coal mining rules	Topic
27—40.1(1), 40.1(4)	Authority and scope.
27—40.3(207)	General.
27—40.4(207), 40.4(2), 40.4(3)	Permanent regulatory program and exemption for coal extraction incidental to the extraction of other minerals.
27—40.5(207)	Restrictions on financial interests of State employees.
27—40.6(207)	Exemptions for coal extraction incident to government—financed highway or other constructions.
27—40.7(207)	Protection of employees.
27—40.11(207)	Initial regulatory program.
27—40.12(207)	General performance standards—initial program.
27—40.13(207)	Special performance standards—initial program.
27—40.21(207), 40.21(4), 40.21(5), 40.21(6)	Areas designated by an Act of Congress.
27—40.22(207), 40.22(2)	Criteria for designating areas as unsuitable for surface coal mining operations.
27—40.23(207)	State procedures for designating areas unsuitable for surface coal mining operations.
27—40.30(207), 40.30(1), 40.30(4)	Requirements for coal exploration.

27 Iowa Administrative Code chapter 40, coal mining rules	Topic
27—40.31(207), 40.31(1), 40.31(2), 40.31(3), 40.31(4), 40.31(5), 40.31(6), 40.31(7), 40.31.(8), 40.31(9), 40.31(13), 40.31(14), 40.31(15).	Requirements for permits and permit processing.
27—40.32(207), 40.32(1), 40.32(2), 40.32(4)	Revision or amendment; renewal; and transfer, assignment, or sale of permit rights.
27—40.33(207)	General content requirements for permit applications.
27—40.34(207), 40.34(2), 40.34(3)	Permit application—minimum requirements for legal, financial, compliance, and related information.
27—40.35(207)	Surface mining permit applications—minimum requirements for information on environmental resources.
27—40.36(207)	Surface mining permit applications—minimum requirements for reclamation and operation plan.
27—40.37(207), 40.37(4)	Underground mining permit applications—minimum requirements for information on environmental resources.
27—40.38(207), 40.38(2), 40.38(3)	Underground mining permit applications—minimum requirements for reclamation and operation plan.
27—40.39(207)	Requirements for permits for special categories of mining.
27—40.41(207)	Permanent regulatory program—small operator assistance program.
27—40.51(207)	Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs.
27—40.61(207), 40.61(4)	Permanent program performance standards—general provisions.
27—40.62(207)	Permanent program performance standards—coal exploration.
27—40.63(207), 40.63(9)	Permanent program performance standards—surface mining activities.
27—40.64(207)	Permanent program performance standards—underground mining activities.
27—40.65(207)	Special permanent program performance standards—auger mining.
27—40.66(207)	Special permanent program performance standards—operations on prime farmland.
27—40.67(207)	Permanent program performance standards—coal preparation plants not located within the permit area of a mine.
27—40.71(207)	State regulatory authority—inspection and enforcement.
27—40.73(2)g	Cessation orders.
27—40.73(4)d	Suspension or revocation of permits.
27—40.74(207), 40.74(9)	Civil penalties.
27—40.75(207)	Individual civil penalties.
27—40.81(207)	Permanent regulatory program requirements—standards for certification of blasters.
27—40.82(207)	Certification of blasters.
27—40.92(8)	Contested cases.

B. Definitions

1. At 27—40.4(9), Iowa proposes to remove its definition of ''previously mined area'' and to adopt the Federal definition of ''previously mined area'' by reference.

2. At 27—40.4(11), Iowa proposes to delete the definition for ''violation, failure or refusal'' at 30 CFR 701.5 and insert in its place, the following definition:

''Violation, failure, or refusal,'' means—

(1) A violation of a condition of an approved permit pursuant to the Iowa program or an enforcement action pursuant to Iowa Code section 207.14, or

(2) A failure or refusal to comply with any order issued under Iowa Code section 207.14 or any order incorporated in a final decision issued by the administrator, except an order incorporated in a decision issued under subrule 40.74(7) or rule 27—40.7(207).

C. Exemptions for Coal Extraction Incident to Government—Financed Highway or Other Construction

Iowa proposes to remove 27—40.6(2), which deleted the words ''250 tons'' from 30 CFR 707.12 and inserted the words ''50 tons.''

D. Requirements for Permits and Permit Processing

At 40.31(12), Iowa added the following paragraph to 30 CFR 773.17:

(h) The permittee shall ensure and the permit shall contain specific conditions requiring that, as a condition of the permit, the permittee shall not, except as permitted by law, willfully resist, prevent, impede, or interfere with the division or any of its agents in the performance of their duties.

E. Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Iowa proposes to delete 27—40.35(3), which deleted from 30 CFR 779.22(a)(1) the words ''A map'' and inserted the words ''A map at a scale of 1:2400 or larger or an aerial photo.''

F. Permanent Program Performance Standards—Surface Mining Activities

At 27—40.63(6), Iowa added a reference to its ''Revegetation Success Standards and Statistically Valid Sampling Techniques'' dated April 1999, as approved on December 27, 2001.

G. Permanent Program Performance Standards—Underground Mining Activities

1. At 27—40.64(4), Iowa added a reference to its ''Revegetation Success Standards and Statistically Valid Sampling Techniques'' dated April 1999, as approved on December 27, 2001.

2. Iowa proposes to remove 27—40.64(6), which deleted from 30 CFR 817.121(c)(2) the phrase ''To the extent required under applicable provisions of State law.''

H. Individual Civil Penalties

At 27—40.75(2), Iowa removed its definition of ''Violation, failure or refusal'' and added it at 27—40.4(11).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment

satisfies the applicable program approval criteria of 30 CFR 732.15. If we approve the amendment, it will become part of the State program.

Written Comments

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

Availability of Comments

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

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m., c.s.t. on April 9, 2004. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT.** We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

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

Public Meeting

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

IV. Procedural Determinations

Executive Order 12630—Takings

In this rule, the State is adopting valid existing rights standards that are similar to the standards in the Federal definition at 30 CFR 761.5. Therefore, this rule has the same takings implications as the Federal valid existing rights rule. The takings implications assessment for the Federal valid existing rights rule appears in Part XXIX.E. of the preamble to that rule. *See* 64 FR 70766, 70822–27, December 17, 1999.

Executive Order 12866—Regulatory Planning and Review

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

Executive Order 12988—Civil Justice Reform

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

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. This determination is based on the fact that the Iowa program does not regulate coal exploration and surface coal mining and reclamation operations on Indian lands. Therefore, the Iowa program has no effect on Federally-recognized Indian tribes.

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

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

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute

major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

Unfunded Mandates

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

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: March 9, 2004.

Ervin J. Barchenger,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

[FR Doc. 04–6734 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 948

[WV–101–FOR]

West Virginia Regulatory Program

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

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

SUMMARY: We are announcing our proposal to remove a required program amendment from the West Virginia regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act). The required program amendment concerns stocking standards for commercial forestry and forestry postmining land use for operations with a variance from the requirements to restore approximate original contour (AOC). The proposed removal of the required amendment is intended to acknowledge actions taken by the State to render the West Virginia program no less effective than the Federal regulations.

DATES: We will accept written comments on this amendment until 4 p.m. (local time), on April 26, 2004. If requested, we will hold a public hearing on the amendment on April 19, 2004. We will accept requests to speak at a hearing until 4 p.m. (local time), on April 9, 2004.

ADDRESSES: You should mail or hand-deliver written comments and requests to speak at the hearing to Mr. Roger W. Calhoun, Director, Charleston Field Office at the address listed below.

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

Mr. Roger W. Calhoun, Director, Charleston Field Office, Office of Surface Mining Reclamation and Enforcement, 1027 Virginia Street, East, Charleston, West Virginia 25301, Telephone: (304) 347–7158. Fax: (304) 347–7158.

West Virginia Department of Environmental Protection, 10 McJunkin Road, Nitro, West Virginia 25143, Telephone: (304) 759–0510.

In addition, you may review a copy of the amendment during regular business hours at the following locations:

Office of Surface Mining Reclamation and Enforcement, Morgantown Area Office, 75 High Street, Room 229, P.O. Box 886, Morgantown, West Virginia 26507, Telephone: (304) 291–4004. (By Appointment Only)

Office of Surface Mining Reclamation and Enforcement, Beckley Area Office, 323 Harper Park Drive, Suite 3, Beckley, West Virginia 25801, Telephone: (304) 255–5265.

FOR FURTHER INFORMATION CONTACT: Mr. Roger W. Calhoun, Director, Charleston Field Office, Telephone: (304) 347–7158.

SUPPLEMENTARY INFORMATION:

I. Background on the West Virginia Program

Section 503(a) of the Act permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders by demonstrating that its program includes, among other things, * * * a State law which provides for the regulation of surface coal mining and reclamation operations in accordance with the requirements of the Act * * *; and rules and regulations consistent with regulations issued by the Secretary pursuant to the Act.'' See 30 U.S.C. 1253(a)(1) and (7). On the basis of these criteria, the Secretary of the Interior conditionally approved the West Virginia program on January 21, 1981. You can find background information on the West Virginia program, including the Secretary's findings, the disposition of comments, and conditions of approval of the West Virginia program in the January 21, 1981, **Federal Register** (46 FR 5915). You can also find later actions concerning West Virginia's program and program amendments at 30

CFR 948.10, 948.12, 948.13, 948.15, and 948.16.

II. Description of the Proposed Amendment

By letters dated March 14, 2000, and March 28, 2000, and electronic mail dated April 6, 2000 (Administrative Record Numbers WV–1147, WV–1148, and WV–1149, respectively), the West Virginia Department of Environmental Protection (WVDEP) submitted an amendment to its program. Among other things, the amendment added new Code of State Regulations (CSR) 38–2–7.4 concerning standards applicable to AOC variance operations with a postmining land use of commercial forestry and forestry. CSR 38–2–7.4.b.1.I concerns the standards of success for the postmining land use. We announced our approval of CSR 38–2–7.4, with certain exceptions, on August 18, 2000 (65 FR 50409) Administrative Record Number WV–1174).

In our August 18, 2000, **Federal Register** notice, we did not approve the new tree stocking standards for commercial forestry and forestry postmining land use because there was no evidence that the West Virginia Division of Forestry had reviewed and approved the proposed standards as is required by the Federal regulations at 30 CFR 816.116(b)(3)(i) (65 FR 50409, 50422). In addition, we required that the WVDEP consult with and obtain the approval of the Division of Forestry on the new stocking standards for commercial forestry and forestry at CSR 38–2–7.4.b.1.I. We codified this requirement in the Federal regulations at 30 CFR 948.16(aaaaa).

Under the Federal regulations at 30 CFR 816.116(b)(3)(i), the approval of the stocking standards may be on a program-wide or permit-specific basis. Since a program-wide approval had not yet been granted by the Division of Forestry at the time of our August 18, 2000, notice, we determined that the WVDEP must obtain approval on a permit-specific basis until such time that it received program-wide approval by the Division of Forestry.

By letter dated February 26, 2002, (Administrative Record Number WV–1276), the WVDEP, Division of Mining and Reclamation submitted, among other materials, a letter dated November 17, 2000, from the Division of Forestry to the WVDEP. In that letter, the Division of Forestry approved, on a statewide basis, the stocking rates at CSR 38–2–7.4, concerning standards applicable to mountaintop removal mining operations with a postmining land use of commercial forestry and forestry.

Therefore, it appears that the November 17, 2000, letter from the Division of Forestry to the WVDEP satisfies the required program amendment at 30 CFR 948.16(aaaaa). Consequently, we are proposing to remove the required amendment at 30 CFR 948.16(aaaaa).

III. Public Comment Procedures

Under the provisions of 30 CFR 732.17(h), we are seeking your comments on whether the amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If we find that the required program amendment at 30 CFR 948.16(aaaaa) has been satisfied, it will be removed.

Written Comments

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

Availability of Comments

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

Public Hearing

If you wish to speak at the public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT** by 4 p.m. (local time), on April 9, 2004. If you are disabled and need special accommodations to attend a public hearing, contact the person listed under **FOR FURTHER INFORMATION CONTACT**. We will arrange the location and time of the hearing with those persons requesting the hearing. If no one requests an opportunity to speak, we will not hold a hearing.

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

Public Meeting

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

IV. Procedural Determinations

Executive Order 12630—Takings

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

Executive Order 12866—Regulatory Planning and Review

This rule is exempt from review by the Office of Management and Budget (OMB) under Executive Order 12866.

Executive Order 12988—Civil Justice Reform

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

submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

Executive Order 13132—Federalism

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

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes and have determined that the rule does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. The basis for this determination is that our decision is on a State regulatory program and does not involve a Federal regulation involving Indian lands.

Executive Order 13211—Regulations That Significantly Affect The Supply, Distribution, Or Use Of Energy

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

National Environmental Policy Act

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

Paperwork Reduction Act

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

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Small Business Regulatory Enforcement Fairness Act

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

Unfunded Mandates

This rule will not impose an unfunded mandate on State, local, or tribal governments or the private sector of $100 million or more in any given year. This determination is based upon the analysis performed under various laws and executive orders for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 948

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 26, 2004.

Tim L. Dieringer,

Acting Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 04–6735 Filed 3–24–04; 8:45 am]

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DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AC98

Chickasaw National Recreation Area, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

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

DATES: Comments must be received by May 24, 2004.

ADDRESSES: Comments on the proposed rule should be sent to Connie Rudd, Acting Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK 73086, e-mail: *chic@den.nps.gov.*

If you comment by e-mail, please include ''PWC rule'' in the subject line and your name and return address in the body of your Internet message. Also, you may hand deliver comments to the Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK.

For additional information see ''Public Participation'' under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Kym Hall, Special Assistant, National Park Service, 1849 C Street, NW., Room 3145, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Kym_Hall@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Additional Alternatives

The information contained in this proposed rule supports implementation of portions of the preferred alternative in the Environmental Assessment published March 10, 2003. The public should be aware that three other alternatives were presented in the EA, including a no-PWC alternative, and those alternatives should also be reviewed and considered when making comments on this proposed rule.

Personal Watercraft Regulation

On March 21, 2000, the National Park Service published a regulation (36 CFR 3.24) on the management of PWC use within all units of the National Park System (65 FR 15077). This regulation prohibits PWC use in all National Park System units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation banned PWC use in all park units effective April 20, 2000, except 21 parks, lakeshores, seashores, and recreation areas. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should be permitted to continue.

Description of Chickasaw National Recreation Area

Chickasaw National Recreation Area is a part of America's national system of parks, monuments, battlefields, recreation areas, and other natural and cultural resources. Chickasaw National Recreation Area is located in Murray County, near U.S. Highway 177, just south of the town of Sulphur, Oklahoma, approximately 90 miles south of Oklahoma City. Chickasaw National Recreation Area encompasses 9,888.83 acres of land and water and is created by the Arbuckle Dam. The recreation area includes many lakes and creeks, with the largest water areas being the Lake of the Arbuckles and Veterans Lake.

Chickasaw National Recreation Area is the first national park in the state of Oklahoma. It is also one of the most heavily visited parks for its size in the National Park System, with over 3 million total visits including 1.5 million visits a year to use the park's recreational facilities. Chickasaw remains relatively undeveloped. Summer visitors engage in camping, picnicking, hiking, mountain biking, horseback riding, hunting, sightseeing, auto touring, nature viewing, photography, boating, waterskiing, fishing, and swimming.

The significance of Chickasaw stems from the following resources and values of the park:

- The availability of both mineral and fresh water, which come from one of the most complex geological and hydrological features in the United States.
- The presence of the cultural landscape of Platt Historic District, which reflects the era of 1933–1940 when the Civilian Conservation Corp (CCC) implemented NPS ''rustic'' designs.
- The availability of recreational opportunities for visitors to experience a wide range of outdoor experiences—swimming, boating, fishing, hiking, observing nature, hunting, camping, biking, horseback riding, family reunions, and picnicking.
- The presence of a transition zone where the eastern deciduous forest and the western prairies meet, which is unique to the central part of the United States.

Purpose of Chickasaw National Recreation Area

Chickasaw National Recreation Area was originally established by act of Congress as Sulphur Springs Reservation in 1902 near Sulphur, Oklahoma. Congress enlarged Sulphur Springs Reservation slightly and established it as Platt National Park in 1906. Later, it was combined with Lake of the Arbuckles to create the present day Chickasaw National Recreation Area.

The purpose of the park is addressed in the following statements that are excerpts from the park's *Strategic Plan.* The laws establishing Chickasaw provided for the National Park Service to:

- Provide for the proper utilization and control of springs and waters of its creeks.
- Provide for efficient administration of other adjacent areas containing scenic, scientific, natural, and historic values.
- Provide public outdoor recreation use and enjoyment of Arbuckle Reservoir.
- Permit hunting and fishing in some areas.

Therefore, the purpose of Chickasaw is the protection of springs and waters; the preservation of sites of archaeological or ethnological interest; the provision of outdoor recreation; the administration of scenic, scientific, natural, and historic values; the memorialization of the Chickasaw Indian Nation; and the provision for hunting and fishing.

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1 *et seq.*) Congress granted the NPS broad authority to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) allows the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *''

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *''

As with the United States Coast Guard, NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, is based upon the Property and Commerce Clauses of the U.S. Constitution. In regard to the NPS, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *'' (16 U.S.C. 1a–2(h)). In 1996 the NPS published a final rule (61 FR 35136, July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its authority to regulate activities within the National Park System boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Chickasaw National Recreation Area

Visitation at Chickasaw has remained relatively stable the last three years, with an average of 3 million visitors annually, including traffic passing through the park on U.S. Highway 177. Approximately 1.5 million visitors annually use the recreation area's facilities, including visitors pursuing recreational activities on the reservoir and those engaging in other recreational opportunities. Based on ranger observations and contacts, most PWC users are from the immediate region; within a radius of about 200 miles are Oklahoma City and the Dallas/Fort Worth area, with a population of about 5.5 million.

The majority of PWC use occurs primarily from April through September, although PWC users may be on the lake year-round. PWC users spend an average of four hours on the lake during a daily visit.

The park began counting PWC in 1996, and through the end of June 2001 approximately 1,820 PWC had been counted in the park (on a cumulative basis), compared to about 7,150 boats. Based on the number of annual launch ramp permits issued, PWC use declined from 1997 to 2000. In addition to annual permits, day use permits are also issued. These do not specify the type of boat being used and, based on staff observations, the percent of PWC entering the lake is higher for day use permits during the warm weather season. On busy summer weekends in 2001 and 2002, park staff observed between 34 and 94 PWC per day in the recreation area.

According to park records, approximately 59 PWC per day were observed during the midweek July 4, 2002, holiday period (Wednesday through Friday). Approximately 114 PWC per day were observed on Saturday and Sunday during that holiday weekend.

Lake of the Arbuckles is the only lake in Chickasaw open to PWC use; the ''Superintendent's Compendium'' (1.5 and 1.7) has closed all lakes of 100 acres or less to PWC use, including Veterans Lake (67 acres). The central part of the main body of the lake is a high-use area for PWC. Four areas of Lake of the Arbuckles are closed to all vessels to protect swimmers. Those areas are: the Goddard Youth Camp Cove, a 150 foot wide zone around the picnic area at the end of Hwy 110 (known as ''The Point'') beginning at the buoy line on the north side of the picnic area and extending south and east into the cove to the east of the picnic area, the cove located directly north of the north branch of the F Loop Road, and the Buckhorn Campground D Loop beach shoreline. These closures are sometimes violated in the Buckhorn and The Point areas when visitors on PWC and boats access picnic sites.

There are several areas designated as flat wake zones and are described as: the Guy Sandy arm upstream (north) of the east/west buoy line located near Masters pond, the Guy Sandy Cove (boat launch) west of the buoy marking the entrance to the cove, Rock Creek upstream (north) of the east/west buoy line at approximately 034°27′50″ north latitude, the Buckhorn Ramp bay, east of the north/south line drawn from the Buckhorn Ramp Breakwater Dam, a 150 foot wide zone along the north shore of the Buckhorn Creek arm starting at the north end of the Buckhorn Boat Ramp Breakwater Dam and continuing southeast to the Buckhorn Campground D Loop Beach, the cove south and east of the Buckhorn Campground C and D Loops, the cove located east of Buckhorn Campground B Loop and adjacent to Buckhorn Campground A Loop, the second cove east of Buckhorn Campground B Loop, fed by a creek identified as Dry Branch, and Buckhorn Creek upstream (east) of the east/west buoy line located at approximately 096°59′3.50″ longitude, know as the G Road Cliffs area.

Conflicts in visitor use can arise in areas that restrict boats of any kind, such as the end of Highway 110 and along the Buckhorn Pavilion to the F Loop picnic areas along the lake. These areas attract swimmers who may or may not be associated with a boat or PWC, and the conflict occurs when these vessels come into the areas to beach, pick up passengers, or change operators.

From 1995 to 2000 there were 20 vessel accidents in the recreation area, eight of which involved PWC. Four of the PWC accidents were collisions with boats, two were collisions with other PWC, and two involved PWC operators falling or being thrown off their vessels. Six of the eight accidents resulted in personal injury, and two only in property damage. The accidents occurred in the following areas: Buckhorn Arm (4), Guy Sandy Arm (2), Point Arm (1), and the central lake area (1). From 2001 to present, a total of seven accidents have been reported, five boat-only accidents and two PWC-only accidents.

Resource Protection and Public Use Issues

Chickasaw National Recreation Area Environmental Assessment

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Chickasaw National Recreation Area*. The Environmental Assessment (EA) was open for public review and comment from March 10, 2003, through April 8, 2003. The EA has been posted on the NRA's Web site (*http://www.nps.gov/chic/CHICPWCEA.pdf*). A copy may be requested by calling Susie Staples at 580–622–3161, extension 1–220, or by writing the Superintendent, Chickasaw National Recreation Area, 1008 W. 2nd Street, Sulphur, OK 73086.

The purpose of the environmental assessment was to evaluate a range of alternatives and strategies for the management of PWC use at Chickasaw National Recreation Area to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The analysis assumed alternatives would be implemented beginning in 2002 and considered a 10–year period, from 2002 to 2012.

The environmental assessment evaluated four alternatives concerning the use of PWC at Chickasaw National Recreation Area. Three of the alternatives considered in the environmental assessment would permit PWC use in the park under certain conditions. Alternative A would reestablish the PWC policies that existed prior to November 6, 2002, when PWC use was permitted in Chickasaw National Recreation Area under the current Superintendent's Compendium (1.5 and 1.7) (Revised October 23, 2002, *http://www.nps.gov/chic/compen02.htm*) Alternative B would permit PWC use in roughly the same areas as Alternative A with some additional restrictions, and monitoring and enforcement policies. Alternative C would build on the enforcement and monitoring policies and other restrictions in Alternative B, by adding additional area and operating restrictions to further limit the use of PWC.

In addition to these three alternatives for permitting restricted PWC use, a no-action alternative was considered that would prohibit all PWC use within the National Recreation Area. All four alternatives were evaluated with respect to PWC impacts on water quality, air quality, soundscapes, wildlife, wildlife habitat, shoreline vegetation, visitor conflicts, visitor safety, and cultural resources.

Based on the analysis, NPS determined that Alternative B is the park's preferred alternative. Alternative B best accomplishes the objectives of managing PWC use and fulfilling the park's mission without restricting lawful use. This document proposes regulations to implement portions of Alternative B at Chickasaw National Recreation Area.

The NPS will consider the comments received on this proposal, as well as the comments received on the Environmental Assessment. In the final rule, the NPS will implement Alternative B, as proposed, or choose a different alternative or combination of alternatives. Therefore, the public should review and consider the other alternatives contained in the Environmental Assessment when

making comments on this proposed rule.

The following summarizes the predominant resource protection and public use issues associated with PWC use at Chickasaw National Recreation Area. Each of these issues is analyzed in the *Chickasaw National Recreation Area, Personal Watercraft Use Environmental Assessment.*

Water Quality

The vast majority of PWC in use today are powered by conventional two-stroke, carbureted engines, which discharge as much as 30% of their fuel unburned directly into the water. Hydrocarbons, including benzene, toluene, ethyl benzene, and xylene (BTEX) and polyaromatic hydrocarbons (PAHs), are released. These discharges have potential adverse effects on water quality.

PAHs, including those from PWC emissions, adversely affect water quality by means of harmful phototoxic effects on ecologically sensitive plankton and other small water organisms. This in turn can affect aquatic life and ultimately aquatic food chains. The primary concern is in shallow water ecosystems.

Lake of the Arbuckles, located completely within Chickasaw National Recreation Area, serves as a potable water supply for the cities of Ardmore, Davis, and Wynnewood, as well as the Wynnewood Refining Company, through water allocations from the Arbuckle Master Conservancy District. Additionally, the city of Dougherty and the Goddard Youth Camp contract with the Water Conservancy District for potable water. PWC emissions may cause impacts on water quality and subsequent concerns from entities using Lake of the Arbuckles as a potable water supply.

Continuing PWC use with the additional management restrictions proposed in this NPRM would have negligible adverse impacts on water quality in 2002 and 2012 based on all ecotoxicological benchmarks and on the human health benchmark for benzo(a)pyrene. PWC impacts on water quality from benzene in Lake of Arbuckles would be minor in 2002 and 2012; impacts in the flat wake zones would be potentially moderate in 2002, decreasing to minor in 2012. (For an explanation of terms such as ''negligible'' and ''adverse,'' see page 68 of the Environmental Assessment.)

Cumulative water quality impacts from all boating activity would be negligible in 2002 and 2012 except for benzene under the human health benchmark. Cumulative impacts from benzene could be potentially major in 2002, decreasing to moderate in 2012 as a result of improved engine technology. Benzene impacts in Lake of the Arbuckles could be greater if a strong thermocline became established, reducing the volume of water available for mixing and dilution. Conversely, impacts in the flat wake zones could be reduced by the inflow of water from the streams feeding the lake. Testing of water quality for benzene in Lake of the Arbuckles would be necessary in order for the recreation area to confirm the estimates of impacts following a high-use day. Impacts would also be reduced by prohibiting refueling of PWC while in the water.

The PWC use being proposed is not expected to result in an impairment of the water quality resource.

Air Quality

PWC emit various compounds that pollute the air. In the two-stroke engines commonly used in PWC, the lubricating oil is used once and is expelled as part of the exhaust; and the combustion process results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_X), particulate matter (PM), and carbon monoxide (CO). PWC also emit fuel components such as benzene that are known to cause adverse health effects. Even though PWC engine exhaust is usually routed below the waterline, a portion of the exhaust gases go into the air. These air pollutants may adversely impact park visitor and employee health, as well as sensitive park resources.

For example, in the presence of sunlight VOC and NO_X emissions combine to form ozone. Ozone causes respiratory problems in humans, including cough, airway irritation, and chest pain during inhalation. Ozone is also toxic to sensitive species of vegetation. It causes visible foliar injury, decreases plant growth, and increases plant susceptibility to insects and disease. Carbon monoxide can affect humans as well. It interferes with the oxygen carrying capacity of blood, resulting in lack of oxygen to tissues. NO_X and PM emissions associated with PWC use can also degrade visibility. NO_X can also contribute to acid deposition effects on plants, water, and soil. However, because emission estimates show that NO_X from PWC are minimal (less than 5 tons per year), acid deposition effects attributable to PWC use are expected to be minimal.

Continuing PWC use at Chickasaw as proposed would result in a moderate adverse impact from CO, a minor adverse impact from VOC, and negligible adverse impact from PM_{10} and NO_X in 2002. In 2012 the impact level for CO would remain moderate adverse, and VOC, PM_{10}, and NO_X impacts would be negligible. Extending the flat wake zone in the area of the Buckhorn development area would reduce the emissions of all pollutants except NO_X in comparison to the PWC use under the Superintendent's Compendium (1.5 and 1.7) which has less flat wake restrictions.

Cumulative emissions levels for CO would be moderate adverse in both 2002 and 2012. Impact for VOC would decrease from moderate in 2002 to minor in 2012, while impacts for PM_{10} and NO_X would be negligible. This proposed rule would maintain existing air quality conditions, with future reductions in PM_{10}, HC, and VOC emissions due to improved emission controls.

The PWC use being proposed would not result in an impairment of air quality.

Soundscapes Values

The primary soundscape issue relative to PWC use is that other visitors may perceive the sound made by PWC as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because PWC travel along the shore to outlying areas. However, as PWC use increases and concentrates at beach areas, related noise becomes more of an issue, particularly during certain times of the day. Additionally, visitor sensitivity to PWC noise varies from anglers (more sensitive) to swimmers at popular beaches (less sensitive).

The biggest difference between noise from PWC and that from motorboats is that the former frequently leave the water, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder and the smacking of the craft against the water surface results in a loud ''whoop'' or series of them. With the rapid maneuvering and frequent speed changes, the impeller has no constant ''throughput'' and no consistent load on the engine. Consequently, the engine speed rises and falls, resulting in a variable pitch. This constantly changing noise is often perceived as more disturbing than the constant noise from motorboats.

Under the proposed rule, PWC noise would continue to have minor to moderate, temporary, adverse impacts over the short and long term at most locations on Lake of the Arbuckles and the immediate surrounding area. Impact levels would be related to the number of PWC operating, as well as the

sensitivities of the other visitors. Expanding the flat wake zone around Buckhorn developed area would have a beneficial effect, although it would not change overall impact types of threshold levels. Over the long term PWC noise levels would be reduced with the introduction of newer engine technologies.

Cumulative noise impacts from PWC, motorboats, and other visitors would be minor to moderate because these sounds would be heard occasionally throughout the day, and they could predominate on busy days during the high-use season.

The PWC use being proposed would not result in an impairment of the park's soundscape.

Wildlife and Wildlife Habitat

PWC use affects wildlife by interrupting normal activities, causing alarm or flight, causing animals to avoid habitat, displacing habitat, and affecting reproductive success. This is thought to be caused by PWC speed, noise, and access to sensitive areas, especially in shallow water. Waterfowl and nesting birds are the most vulnerable to PWC. Fleeing a disturbance created by a PWC user may force birds to abandon eggs during crucial embryo development stages, prevent nest defense from predators, and contribute to stress and associated behavior changes. Impacts on sensitive species, such as the bald eagle, are documented below under ''Threatened, Endangered, or Special Concern Species.''

At Chickasaw, wildlife typically stay near the shoreline due to habitat constraints, with some species present on the water surface 200 feet (or more) from shore. No cases of PWC operators deliberately harassing or chasing birds or other wildlife on the Lake of the Arbuckles have been documented, nor have collisions with waterfowl or wildlife. Additionally, bird breeding season occurs in the early spring when few PWC are present. Most mammals are either transient visitors from inland parts or the recreation area or are already acclimated to human intrusion. Aquatic mammals such as beaver are mobile and avoid nose and disturbance associated with PWC use. Their breeding areas are typically backwater areas not frequented by PWC.

With respect to effects on wildlife, PWC use under this proposed rule would have a similar impact as PWC use under the current requirements and under the Superintendent's Compendium (1.5 and 1.7). PWC use would have negligible to minor, temporary, adverse effects on wildlife and wildlife habitat. Continued use of PWC at Chickasaw would have negligible to no adverse effects on fish, and negligible to minor impacts on waterfowl and other wildlife.

Cumulative impacts on wildlife from all visitor activities would be negligible to minor.

This proposed rule would not result in an impairment of wildlife or wildlife habitat.

Threatened, Endangered, or Special Concern Species

PWC use could potentially affect special status species similar to other wildlife by inducing flight and alarm responses, disrupting normal behaviors and causing stress, degrading habitat quality, and potentially affecting reproductive success.

The animal species at Chickasaw that have the potential to be affected by proposed PWC regulation include the federally listed bald eagle (threatened), whooping crane (endangered) and interior least tern (endangered). The two rare species, not legally protected under the Endangered Species Act, include the alligator snapping turtle and the Oklahoma cave amphipod. No Federal or State listed plant species are known to occur in Chickasaw.

The Bald Eagle, Interior Least Tern, and Whooping Crane are primarily winter residents at Chickasaw, although whooping cranes were sighted over Lake of the Arbuckles in October 2002 (NPS 2002c). There is no documented evidence of breeding or nesting by these species in Chickasaw. Off-season PWC use would have negligible or minor effects on the birds occasionally feeding in the area. The alligator snapping turtle could be exposed to PWC use along the shoreline during the nesting season; however, the turtles are only likely to occur within the flat wake zones which would minimize adverse effects because of reduced vessel speed in those zones. There would be no direct impact to the amphipod, which may occur in the caves along the shoreline, since PWC could not access those waters since the caves are too small.

PWC use under the proposed rule may affect, but is not likely to adversely affect, any listed wildlife or plant species at Chickasaw. While some disturbances could occur to transient wildlife species from off-season PWC use, the impacts would not be of sufficient duration or intensity to cause adverse impacts. No impacts would occur in areas where PWC use would be prohibited.

Cumulative impacts from all park visitor activities are not likely to adversely affect listed species. Listed wildlife species are only transient winter residents, and any impacts on individual plants would not jeopardize species populations within the park.

No impairment to any listed species would occur under this proposed rule.

Shorelines and Shoreline Vegetation

PWC provide access to the shoreline, and operators may disembark to explore or sunbathe. As a result, shoreline vegetation could be trampled in order to access shoreline trails or to explore along the shore. PWC users are able to access areas where most other motorcraft cannot go, which may disturb sensitive plant species such as water willow and a variety of water grasses. In addition, wakes created by PWC may affect shorelines and cause erosion.

The increased flat wake zone around the Buckhorn developed area would reduce impacts on shoreline vegetation in that area. In all other areas of the lake, PWC use and impacts under the proposed rule would be the same as those under previous use conditions. Overall, PWC use would result in a negligible to minor, localized, adverse impact on shoreline vegetation over the short and long term, with no perceptible changes in plant community size, integrity, or continuity.

Therefore, under the proposed rule, PWC use would have negligible to minor, localized, adverse impacts on sensitive shoreline vegetation over the short and long term, with no perceptible changes in plant community size, integrity, or continuity. The proposed PWC use restrictions would not result in an impairment of shoreline vegetation.

Visitor Experience

PWC use is viewed by some segments of the public as a nuisance due to the noise, speed, and overall environmental effects of PWCs, while others believe that PWC are no different from other motorized vessels and that people have a right to enjoy the sport. The primary concern involves changes in noise, pitch, and volume due to the way PWC are operated. Additionally, the sound of any watercraft can carry for long distances, especially on a calm day.

To determine impacts, the level of PWC use was calculated for areas of the national recreation area. Other recreational activities and visitor experiences that are proposed in these locations were also identified. Visitor surveys and staff observations were evaluated to determine visitor attitudes and satisfaction in areas where PWC are used. Baseline visitor survey data at Chickasaw suggest that the vast majority of visitors are satisfied with their current and past experiences.

Impacts on PWC Users. Other than the increased flat wake zone around the Buckhorn developed area, no additional areas would be closed to PWC use except on an as-needed basis, such as seasonal or permanent closures to protect threatened or endangered species and/or sensitive park resources. Fueling personal watercraft away from the water surface would possibly result in a minor inconvenience. Management restrictions under this proposed rule would result in minor to moderate adverse impacts on visitors who use PWC at Chickasaw.

Impacts on Other Boaters. Impacts on other boaters would be very similar to those previously experienced, because restrictions under the proposed rule would be specific only to PWC operators and would not affect areas or hours of operation or the number of users permitted on the lake. There could be fewer PWC users on the lake, and this would reduce conflicts with boaters. Impacts on other boaters would continue to be negligible to minor, long term, and adverse.

Impacts on Other Visitors. Impacts on other shoreline users would be similar to those previously experienced. Other visitors, particularly swimmers, may notice a slight beneficial impact due to the extended flat wake zone around the Buckhorn developed area and PWC operators refueling their watercraft in areas away from the shoreline. Impacts on other visitors would continue to have negligible to minor adverse impacts on the experiences of these shoreline visitors.

Visitor Conflicts and Safety

The National Transportation Safety Board reported that in 1996 PWC represented 7.5% of all state-registered recreational boats, but were involved in 36% of all boating accidents. In the same year, PWC operators accounted for more than 41% of people injured in boating accidents. PWC operators accounted for approximately 85% of the persons injured in accidents studied in 1997.

In part, this is believed to be a boater education issue (*e.g.*, inexperienced operators lose control of the craft), but it also is a function of the PWC operation (*e.g.*, no brakes or clutch; when drivers let up on the throttle to avoid a collision, steering becomes difficult).

Newer models will reportedly have improved safety devices such as better steering and braking systems, however, it will take time to infuse the market with these types of newer machines.

Under the proposed rule, there would be the following impacts on swimmers and other boaters:

PWC User / Swimmer Conflicts. Impacts would be similar to the previous situation, since the number of PWC operating within the recreation area probably would not change. Extending the flat wake zone around the Buckhorn developed area, along with continued PWC use, would result in a negligible change in visitor experiences or conflicts with swimmers. However, continued violations of the flat wake zone and an expected increase of 1% per year in PWC use at congested locations, particularly boat launches near popular swim areas, could affect swimmers in the long term. Swimmers would benefit from PWC operators having to fuel their watercraft away from the water surface since it is likely that less raw fuel would be present in the water. Based on this analysis, PWC activity at Lake of the Arbuckles would have minor adverse impacts on the experiences of swimmers. Swimmers at other Chickasaw locations would continue to experience negligible adverse impacts because of the lower level of PWC use in other areas in Chickasaw.

PWC User/Other Boater Conflicts. Impacts would be similar to the previous situation. Overall, PWC use would continue to have minor to moderate adverse impacts on other motorized boat users at Chickasaw. Impacts would be concentrated at localized areas, primarily launches at The Point, Buckhorn, and Guy Sandy.

Cultural Resources

The National Park Service has a responsibility to consider the impact its actions have on cultural resources (archeological and ethnographic) in the park system. Chickasaw has cultural resources potentially eligible for listing on the National Register of Historic Places near Lake of the Arbuckles. These known sites may indicate the presence of other, unknown sites along the shores of the lake. Shoreline erosion and uncontrolled visitor access may affect these resources since riders are able to access / beach / launch in areas less accessible to most motorized vessels. Archeological sites may exist on the shoreline and under water. Erosion could cause problems with sites protected under the Native American Graves Protection and Repatriation Act.

Native American resources or use areas may be affected by erosion along shorelines, or by uncontrolled visitor access since riders are able to access / beach / launch in areas less accessible to most motorized vessels.

Potential impacts on archaeological and submerged cultural resources directly attributable to unrestricted PWC use are difficult to quantify. The most likely impact on archaeological and submerged cultural sites would result from PWC users landing in areas otherwise inaccessible to most other national recreation area visitors and illegally collecting or damaging artifacts. According to park staff, looting and vandalism of cultural resources is not a substantial problem. A direct causal relationship between impacts and PWC use is difficult to identify, since many of these areas are also accessible to backcountry hikers or other watercraft users.

Continuing PWC use under a special regulation with additional prescriptions is not expected to adversely affect the overall condition of cultural resources because project-by-project inventories and mitigation would still be conducted. This proposed rule would not result in an impairment of cultural resources.

Appropriate Native American tribes were contacted and no concerns have been expressed regarding PWC use at Lake of the Arbuckles. The following tribes were contacted; Apache Tribe of Oklahoma, Caddo Tribal Council, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Comanche Tribal Business Committee, The Pawnee Business Council, The Wichita Executive Committee. None of the tribes had any comments on the proposed action. In addition, the Oklahoma Archeological Survey was contacted. There comment was that they had no objections to the project. An ethnographic study of the Platt District has been initiated and that portion of the national recreation area is a significant ethnographic resource. However, it would appear that the activity areas in the Platt District are far enough from the lake so as not to be influenced by PWC use. A specific survey for ethnographic resources in the Lake of the Arbuckles District has not been undertaken, but no specific concerns about this area have been expressed.

The proposed rule would not impact any known ethnographic resources or traditional use areas along the shoreline of Lake of the Arbuckles. No cumulative impacts on ethnographic resources have been identified and the proposed rule would not impair ethnographic resources.

The Proposed Rule

As established by the April 2000 National Park Service rule (36 CFR 3.24), PWC use is prohibited in all National Park System areas unless

determined appropriate. The process used to identify appropriate PWC use at Chickasaw National Recreation Area considered the known and potential effects of PWC on park natural resources, traditional uses, public health and safety. The proposed rule is designed to manage PWC use within the National Recreation Area in a manner that achieves the legislated purposes for which the park was established while providing reasonable access to the park by PWC.

NPS proposes to continue PWC use at Chickasaw National Recreation Area under a special regulation in § 7.50(b) with additional management restrictions. The following provisions are included in the proposed rule and would remain the same as those previously enforced in the Superintendent's Compendium (36 CFR 1.5 and 1.7): prohibited launch areas and safety/operating restrictions.

The following Oklahoma State regulations would also apply and be enforced pursuant to 36 CFR 3.1:

- 12-year-old and younger PWC operators must be accompanied by an adult.
- PWC may not be operated within 50 feet of another vessel while traveling at 10 mph or faster.
- Use of a manufacturer installed cutoff switch is required.
- Towing a water-skier is prohibited unless a cutoff switch is installed.
- PWC must have an observer in addition to the operator.
- PWC are not allowed to operate from sunset to sunrise.
- PFD are mandatory for all PWC riders.

Under this proposed rule the following additional PWC restrictions would be enforced:

- The fueling of PWC would be prohibited on the water surface. The proposed rule required that fueling be allowed only while the PWC is on a trailer and away from the water surface.
- Flat wake zones would be established around the Buckhorn developed area and would extend from the existing launch ramp cove to the Buckhorn C Loop Cove in a 150-foot buffer along the shoreline and in the Buckhorn Ramp bay, east of the north/south line drawn from the Buckhorn Ramp Breakwater Dam. Several other flat wake areas would also be established around developed areas throughout the Lake including the Guy Sandy arm near Masters Pond, the Guy Sandy Cove and Rock Creek.
- Four exclusion areas would also be established in Goddard Youth Camp Cove, near The Point, the cove north of the north branch of F Loop Road and the shoreline around Buckhorn Campground D Loop. The exclusion areas are popular swimming areas and these closures will improve visitor safety.

Economic Summary

Alternative A would permit PWC use as previously managed within the park before the ban, while Alternatives B and C would permit PWC use with additional requirements. Alternative B is the preferred alternative, and includes monitoring and closures to protect park resources, state boater registration requirements, no-wake zones, and restrictions on fueling and operator age. In addition to those requirements, Alternative C also includes an education requirement and restrictions on the number of permits issued, time and area of operation, and emissions. Alternative D is the no-action alternative and represents the baseline conditions for this economic analysis. Under that alternative, all PWC use would remain prohibited from the park. All benefits and costs associated with Alternatives A, B, and C are measured relative to that baseline.

The primary beneficiaries of Alternatives A, B, and C would be the park visitors who use PWCs and the businesses that serve them such as rental shops, gas stations, restaurants, and hotels. Over a ten-year horizon from 2003 to 2012, the present value of benefits to PWC users is expected to range between $5,399,420 and $8,222,440, depending on the alternative analyzed and the discount rate used. The present value of benefits to businesses over the same timeframe is expected to range between $25,560 and $368,570. These benefit estimates are presented in Table 1. The amortized values per year of these benefits over the ten-year timeframe are presented in Table 2.

TABLE 1.—PRESENT VALUE OF BENEFITS FOR PWC USE IN CHICKASAW NATIONAL RECREATION AREA, 2003–2012 (2001 $) [a]

	PWC Users	Businesses	Total
Alternative A:			
Discounted at 3% [b]	$8,222,440	$48,270 to $368,570	$8,270,710 to $8,591,010.
Discounted at 7% [b]	6,749,250	39,620 to 302,540	6,788,870 to 7,051,790.
Alternative B:			
Discounted at 3% [b]	7,400,220	41,480 to 308,410	7,441,700 to 7,708,630.
Discounted at 7% [b]	6,074,340	34,050 to 253,150	6,108,390 to 6,327,490.
Alternative C:			
Discounted at 3% [b]	6,577,970	31,150 to 208,490	6,609,120 to 6,786,460.
Discounted at 7% [b]	5,399,420	25,560 to 171,140	5,424,980 to 5,570,560.

[a] Benefits were rounded to the nearest ten dollars, and may not sum to the indicated totals due to independent rounding.
[b] Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

TABLE 2.—AMORTIZED TOTAL BENEFITS PER YEAR FOR PWC USE IN CHICKASAW NATIONAL RECREATION AREA, 2003–2012 (2001 $)

	Amortized total benefits per year [a]
Alternative A:	
Discounted at 3% [b]	$969,580 to $1,007,128.
Discounted at 7% [b]	966,582 to 1,004,016.
Alternative B:	
Discounted at 3% [b]	872,394 to 903,687.
Discounted at 7% [b]	869,697 to 900,892.

TABLE 2.—AMORTIZED TOTAL BENEFITS PER YEAR FOR PWC USE IN CHICKASAW NATIONAL RECREATION AREA, 2003–2012 (2001 $)—Continued

	Amortized total benefits per year [a]
Alternative C:	
Discounted at 3% [b]	774,790 to 795,580.
Discounted at 7% [b]	772,395 to 793,122.

[a] This is the present value of total benefits reported in Table 1 amortized over the ten-year analysis timeframe at the indicated discount rate.
[b] Office of Management and Budget Circular A–4 recommends a 7% discount rate in general, and a 3% discount rate when analyzing impacts to private consumption.

The primary group that would incur costs under Alternatives A, B, and C would be the park visitors who do not use PWCs and whose park experiences would be negatively affected by PWC use within the park. At Chickasaw National Recreation Area, non-PWC uses include boating, canoeing, fishing, and hiking. Additionally, the public could incur costs associated with impacts to aesthetics, ecosystem protection, human health and safety, congestion, nonuse values, and enforcement. However, these costs could not be quantified because of a lack of available data.

Because the costs of Alternatives A, B, and C could not be quantified, the net benefits associated with those alternatives (benefits minus costs) also could not be quantified. However, the magnitude of costs associated with PWC use would likely be greatest under Alternative A, and lower for Alternatives B and C, respectively, due to increasingly stringent restrictions on PWC use.

From an economic perspective, the selection of Alternative B as the preferred alternative was considered reasonable even though the quantified benefits are smaller than under Alternative A. That is because the costs associated with non-PWC use, aesthetics, ecosystem protection, human health and safety, congestion, and nonuse values would likely be greater under Alternative A than under Alternative B. Quantification of those costs could reasonably result in Alternative B having the greatest level of net benefits.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

The National Park Service has completed the report ''Economic Analysis of Management Alternatives for Personal Watercraft in Chickasaw National Recreation Area'' (MACTEC Engineering) dated June 2003. The report found that this proposed rule will not have a negative economic impact. In fact this rule, which will not impact local PWC dealerships and rental shops, may have an overall positive impact on the local economy. This positive impact on the local economy is a result of an increase of other users, most notably canoeists, swimmers, anglers and traditional boaters seeking solitude and quiet, and improved water quality.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

Actions taken under this rule will not interfere with other agencies or local government plans, policies, or controls. This is an agency specific rule.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

This rule will have no effects on entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel policy issues. This regulation is one of the special regulations being issued for managing PWC use in National Park Units. The National Park Service published the general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirements of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and National Park Service policy and park management but no significant changes to use are proposed in this rule.

Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based upon the finding in a report prepared by the National Park Service entitled, ''Economic Analysis of Management Alternatives for Personal Watercraft in Chickasaw National Recreation Area'' (MACTEC Engineering) dated June 2003. The focus of this study was to document the impact of this rule on two types of small entities, PWC dealerships and PWC rental outlets. This report found that the potential loss for these types of businesses as a result of this rule would be minimal to none.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. The National Park Service has completed an economic analysis to make this determination. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector.

This rule is an agency specific rule and imposes no other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant taking implications. A taking implication assessment is not required. No takings of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas and only allows use within a small portion of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB Form 83-I is not required.

National Environmental Policy Act

The National Park Service has analyzed this rule in accordance with the criteria of the National Environmental Policy Act and has prepared an Environmental Assessment (EA). The EA was open for public review and comment from March 10, 2003, through April 8, 2003. The EA has been posted on the NPS Web site (*http://www.nps.gov/chic/CHICPWCEA.pdf*). A copy may be requested by calling Susie Staples at 580–622–3161, extension 1–220, or by writing the Superintendent, Chickasaw National Recreation Area, 1008 W. 2nd Street, Sulphur, OK 73086.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects. The following tribes were contacted; Apache Tribe of Oklahoma, Caddo Tribal Council, The Chickasaw Nation, The Choctaw Nation of Oklahoma, Comanche Tribal Business Committee, The Pawnee Business Council, The Wichita Executive Committee. None of the tribes had any comments on the proposed action.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, *etc.*) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example, § 7.50 Chickasaw Recreation Area.) (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. E-mail: *Execsec@ios.doi.gov*.

Drafting Information

The primary authors of this regulation are: Sarah Bransom, Environmental Quality Division, Denver; Kym Hall, Special Assistant, Washington, DC; and Steven P. Burrough, Natural Resource Program Manager and Mark Foust, Chief Ranger, Chickasaw NRA.

Public Participation

If you wish to comment, you may submit your comments by any one of several methods. You may mail written comments to: Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK 73086, comment by electronic mail to: *chic@den.nps.gov*, or comment by Fax at: 580–622–2296. Please also include ''PWC rule'' in the subject line and your name and return address in the body of your Internet message. Finally, you may hand deliver comments to the Superintendent, Chickasaw National Recreation Area, 1008 W. Second Street, Sulphur, OK.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and Recordkeeping requirements.

For the reasons stated in the preamble, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

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

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Add new paragraph (b) to § 7.50 to read as follows:

§ 7.50 Chickasaw Recreation Area.

* * * * *

(b) *Personal watercraft (PWC).*

(1) PWC may operate on Lake of the Arbuckles except in the following closed areas:

(i) The Goddard Youth Camp Cove.

(ii) A 150 foot wide zone around the picnic area at the end of Highway 110 known as ''The Point'', beginning at the buoy line on the north side of the picnic area and extending south and east into the cove to the east of the picnic area.

(iii) The cove located directly north of the north branch of F Loop Road.

(iv) A 150 foot wide zone around the Buckhorn Campground D Loop shoreline.

(2) PWC may not be operated at greater than flat wake speed in the following locations:

(i) The Guy Sandy arm north of the east/west buoy line located near Masters Pond.

(ii) The Guy Sandy Cove west of the buoy marking the entrance to the cove.

(iii) Rock Creek north of the east/west buoy line at approximately 034°27′50″North Latitude.

(iv) The Buckhorn Ramp bay, east of the north south line drawn from the Buckhorn Ramp breakwater Dam.

(v) A 150 foot wide zone along the north shore of the Buckhorn Creek arm starting at the north end of the Buckhorn Boat Ramp Breakwater Dam and continuing southeast to the Buckhorn Campground D Loop beach.

(vi) The cove south and east of Buckhorn Campground C and D Loops.

(vii) The cove located east of Buckhorn Campground B Loop and adjacent to Buckhorn Campground A Loop.

(viii) The second cove east of Buckhorn Campground B Loop, fed by a creek identified as Dry Branch.

(ix) Buckhorn Creek east of the east/west buoy line located at approximately 096°59′3.50″ Longitude, known as the G Road Cliffs area.

(x) Within 150 feet of all persons, docks, boat launch ramps, boats at anchor, boats from which people are fishing, and shoreline areas near campgrounds.

(3) PWC may only be launched from the following boat ramps:

(i) Buckhorn boat ramp.

(ii) The Point boat ramp.

(iii) Guy Sandy boat ramp.

(iv) Upper Guy Sandy boat ramp.

(4) The fueling of PWC is prohibited on the water surface. Fueling is allowed only while the PWC is away from the water surface and on a trailer.

(5) The Superintendent may temporarily limit, restrict or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: March 11, 2004.

Paul Hoffman,

Deputy Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. 04–6640 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–2H–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 51

RIN 1024–AD20

Authentic Native Handicrafts

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: Section 416 of the National Parks Omnibus Management Act of 1998 encourages the sale of authentic United States Indian, Native Alaskan, Native Samoan and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the national park system. This proposed rule would implement this and related requirements in 36 CFR 51.83.

DATES: Written comments must be received on or before May 24, 2004.

ADDRESSES: Written comments should be sent to Cynthia Orlando, Concession Program Manager, National Park Service, 1849 C Street, NW. (2410), Washington, DC 20240. Fax: 202/371–2090. E-mail: *WASO_Regulations@nps.gov.*

FOR FURTHER INFORMATION CONTACT: Cynthia Orlando, Concession Program Manager, National Park Service, 1849 C Street, NW. (2410), Washington, DC 20240.

SUPPLEMENTARY INFORMATION: For many years it has been the policy of the National Park Service (NPS) to encourage its concessioners to sell native handicrafts to park area visitors. The Congress, through Section 416 of the National Parks Omnibus Management Act of 1998 (1998 Act), embodied this policy into law, stating that:

> Promoting the sale of authentic United States Indian, Alaskan Native, Native Samoan, and Native Hawaiian handicrafts relating to the cultural, historical, and geographic characteristics of units of the National Park System is encouraged, and the Secretary shall ensure that there is a continuing effort to enhance the handicraft trade where it exists and establish the trade in appropriate areas where the trade currently does not exist.

In furtherance of this objective, Section 416(b) of the 1998 Act exempts the revenue derived by NPS concessioners from the sale of United States Indian, Alaskan Native, Native Samoan and Native Hawaiian handicrafts from concession contract franchise fees. This proposed regulation collectively refers to these handicrafts as ''authentic native handicrafts.''

Also, Section 417 of the 1998 Act requires the Secretary of the Interior (Secretary) to promulgate a regulation that further defines United States Indian, Alaskan Native and Native Hawaiian handicrafts.

Section 409 of the 1998 Act (16 U.S.C. 5958) requires the National Park Service Concessions Management Advisory Board (Advisory Board) to make recommendations to the Secretary regarding the nature and scope of products that qualify as authentic native handicrafts within the meaning of the 1998 Act. This proposed regulation has been developed in consideration of the recommendations of the Advisory Board.

When finalized, the proposed regulation will give guidance to the NPS and NPS concessioners as to what products meet the definition of authentic native handicrafts for purposes of franchise fee exemptions and other elements of the NPS concessions management program.

In developing the proposed regulation, NPS, upon the recommendation of the Advisory Board, incorporated to the extent appropriate the relevant definitions established by the Indian Arts and Crafts Board of the Department of the Interior (IACB) in 25 CFR part 309 in recognition of the native handicraft expertise of the IACB.

Please note that Section 417 of the 1998 Act requires the Secretary to further define ''United States Indian, Alaskan Native, and Native Hawaiian handicraft.'' However, section 416 of the 1998 Act additionally refers to Native Samoan handicraft. Accordingly, although the term ''Native Samoan handicraft'' is not defined in the proposed regulation, the proposed regulation specifies that the sale of Native Samoan handicrafts is encouraged and exempt from NPS concession contract franchise fees. An administrative definition of ''Native Samoan handicraft'' will be developed by NPS in consultation with appropriate Samoans and Samoan organizations.

The source of the definition of ''Alaskan Native'' contained in the proposed regulation is section 1602(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

The source of the term ''arts and crafts objects'' is 25 CFR part 309 (the regulations of the IACB) as adapted for purposes of this regulation.

The source of the definition of ''authentic native handicrafts'' contained in the proposed regulation is 25 CFR part 309 as adapted for the purposes of this proposed regulation.

The source of the term ''Native Hawaiian'' is Section 3001(10) of the Native American Graves Protection Act (25 U.S.C. 3001(10) and Section 14(10)) of the National Museum of the American Indian Act (Pub. L. 101–185).

The source of the term ''United States Indian'' is the applicable portion of the term ''Indian'' as defined in 25 CFR part 309.

Drafting Information

The primary authors of this rule are NPS officials that manage the concession program in units of the national park system with the advice and assistance of the Advisory Board.

Compliance With Laws, Executive Orders and Department Policy

Regulatory Planning and Review (Executive Order 12866)

In accordance with the criteria in Executive Order 12866, the Office of Management and Budget makes the final determination as to the significance of this regulatory action and it has determined that this document is not a significant rule and is not subject to review as:

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects or entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

This rule is not subject to the Regulatory Flexibility Act as it is not required to be published for comment before adoption by 5 U.S.C. 553 or other law. (Section 553 of title 5 does not apply to regulations regarding contracts or public lands.) NPS is soliciting public comment on this proposed rule as a matter of policy.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule does not have an annual effect on the economy of $100 million or more; will not cause a major increase in costs or prices for consumers, individual entities, Federal, State, or local government agencies, or geographic regions; and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. The effect of the proposed rule is to establish definitions for the sale of native handicrafts in areas of the national park system.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12360, this rule does not have significant takings implications. A takings assessment is not required.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism assessment. The rule imposes no requirements on any governmental entity other than NPS.

Civil Justice Reform (Executive Order 12998)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and does not meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties. Accordingly, a submission under the Paperwork Reduction Act is not required.

National Environmental Policy Act

This rule does not constitute a major Federal action affecting the quality of the human environment. A detailed statement under the National Environment Policy Act is not required. The rule will not increase public use of park areas, introduce non-compatible uses into park areas, conflict with adjacent land ownerships or land uses, or cause a nuisance to property owners or occupants adjacent to park areas. Accordingly, this rule is categorically excluded from procedural requirements of the National Environmental Policy Act by 516 DM 6, App. 7.4A(10).

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 ''Consultation and Coordination With Indian Tribal Governments'' (65 FR 67249), the President's memorandum of April 29, 1994, ''Government-to-Government Relations With Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated potential effects on federally recognized Indian tribes and have determined that there are no potential effects on the tribes.

Clarity of This Rule

Executive Order 12866 requires Federal agencies to write regulations that are easy to understand. Comment is invited on how to make this rule easier to understand, including answers to the following questions: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain undefined technical language or jargon that interferes with its clarity? (3) Does the format of the rule (groupings and order of sections, use of headings, paragraphing, etc.) aid in or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more but shorter sections? (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? (6) What else could be done to make the rule easier to understand?

Please send a copy of any comments that concern how this rule could be made easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240.

Public Comment Solicitation

If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Cindy Orlando, National Park Service, 1849 C Street, NW., (2410), Washington, DC 20240. You may also comment via the Internet to *WASO_Regulations@nps.gov*. Please also include ''Attn: RIN 1024–AD20'' in the subject line and your name and return address in your Internet message. You may fax your comments to 202/371–2090. Finally, you may hand-deliver comments to National Park Service, Concession Program, 1201 Eye Street, NW., 11th Floor, Washington, DC. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses available for public inspection in their entirety.

List of Subjects in 36 CFR Part 51

Concessions, Government contracts, National parks, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons stated in the preamble, we propose to add to Subpart I of 36 CFR part 51, a § 51.83 as set forth below:

PART 51—CONCESSION CONTRACTS

1. The authority citation for part 51 continues to read as follows:

Authority: The Act of August 25, 1916, as amended and supplemented, 16 U.S.C. 1 *et seq.,* particularly, 16 U.S.C. 3 and Title IV of the National Parks Omnibus Management Act of 1998 (Pub. L. 105–391).

Source: 65 FR 20668, Apr. 17, 2000, unless otherwise noted.

Subpart I—Concession Contract Provisions

Add section 51.83 (currently reserved for Handicrafts) to read as follows:

§ 51.83 Sale of Native Handicrafts.

(a) *In General:* Where authorized by an applicable concession contract, concessioners are encouraged to sell authentic native handicrafts that reflect the cultural, historical, and geographic characteristics of the related park area. To further this objective, concession contracts will contain a provision that exempts the revenue of a concessioner derived from the sale of authentic native handicrafts from the concession contract's franchise fee.

(b) *Definitions:* For purposes of this section, the term:

(1) *Alaskan Native* means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metalakatla Indian Community), Eskimo, or Aleut blood, or combination thereof. The term includes any person as so defined either or both of whose adoptive parents are not Alaskan Natives. It also includes, in the absence of proof of a minimum blood quantum, any citizen of the United States who is regarded as an Alaskan native by the Alaskan native village or native group of which he or she claims to be a member and whose father or mother is (or, if deceased, was) regarded as an Alaskan native by any village or group.

(2) *Arts and crafts objects* are art works and crafts that are in a traditional or non-traditional style or medium.

(3) *Authentic native handicrafts* are arts and crafts objects created by a United States Indian, Alaskan Native, Native Samoan or Native Hawaiian that are made with the help of only such devices as allow the manual skill of the maker to condition the shape and design of each individual object.

(4) *Native Hawaiian* means any individual who is a descendant of the aboriginal people that, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

(5) *United States Indian* means any individual that is a member of an Indian tribe as defined in 18 U.S.C. Section 1159.

Dated: March 5, 2004.

Craig Manson,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 04–6641 Filed 3–24–04; 8:45 am]

BILLING CODE 4312–53–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 25 and 64

[IB Docket No. 02–10; DA 04–579]

Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925–6425 MHz/3700–4200 MHz Bands and 14.0–14.5 GHz/11.7–12.2 GHz Bands

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On January 22, 2004, the Federal Communications Commission published a proposed rule document seeking comment on proposals regarding the terrestrial fixed service and fixed satellite service operators in the C and Ku-bands. In response to a request filed by Maritime Telecommunications Network, Inc., the Commission extended the reply comment pleading cycle.

DATES: Reply Comments are due on or before March 24, 2004.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Peggy Reitzel, Policy Division, International Bureau, (202) 418–1460.

SUPPLEMENTARY INFORMATION:

1. On November 24, 2003, the Commission released a Notice of Proposed Rulemaking (NPRM) in this proceeding (69 FR 3056, January 22, 2004). The NPRM seeks comment from the public on proposals that seek to provide regulatory certainty to both terrestrial fixed service (FS) and fixed satellite service (FSS) operators in the C- and Ku-bands by protecting existing terrestrial FS and FSS operations from harmful interference that may be caused by ESVs; by allowing for future growth of FS and FSS networks; and by promoting more efficient use of the spectrum by permitting new uses of the bands by ESVs, thereby enabling important new communications services to be provided to consumers on board vessels.

2. On February 25, 2004, Maritime Telecommunications Network, Inc. (''MTN'') filed a motion for an extension of time requesting the Commission to extend the reply comment filing deadline in this proceeding. MTN argued that additional time was necessary to address the intricate issues and the number of comments filed in this proceeding.

3. The Commission agrees that the proceeding raises complex issues and that a large number of parties filed comments. Thus, the Commission granted MTN's request and extended the reply comment pleading cycle until March 24, 2004. The Commission believes that the public interest will be served by this extension to allow for a more complete record in this proceeding.

4. Accordingly, pursuant to § 1.46 of the Commission's rules, 47 CFR 1.46, the request of Maritime Telecommunications Network Inc. is granted.

5. The deadline for filing reply comments in this proceeding is extended to March 25, 2004.

6. This action is taken under delegated authority pursuant to §§ 0.51 and 0.261 of the Commission's rules, 47 CFR 0.51, 0.261.

Federal Communications Commission.

James Ball,

Chief, Policy Division, International Bureau.

[FR Doc. 04–6720 Filed 3–24–04; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register
Vol. 69, No. 58
Thursday, March 25, 2004

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS–04–05]

Notice of Opportunity to Request a Soybean Referendum

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS) is announcing that soybean producers may request a referendum to determine if producers want a referendum on the Soybean Promotion and Research Order (Order) as authorized under the Soybean Promotion, Research, and Consumer Information Act (Act). If at least 10 percent (not in excess of one-fifth of which may be producers in any one State) of the 663,880 eligible producers, as determined by the Department of Agriculture (USDA), nationwide participate in the Request for Referendum a referendum will be held within 1 year from that determination. If results of the Request for Referendum indicate that a referendum is not supported, a referendum would not be conducted.

DATES: Soybean producers may request a referendum during a 4-week period beginning on May 3, 2004, and ending on May 28, 2004. To be eligible to participate in the Request for Referendum, producers must certify and provide supporting documentation that shows they, or the producer entity they are authorized to represent, paid an assessment at sometime between January 1, 2002, and December 31, 2003.

Form LS–51–1, Request for Referendum, may be obtained by mail, fax, or in person from the Farm Service Agency (FSA) county offices from May 3, 2004, through May 28, 2004. Form LS–51–1 may also be obtained via the Internet at *http://www.ams.usda.gov/lsg/mpb/re-soy.htm* during the same time period. Completed forms and supporting documentation must be returned to the appropriate county FSA offices by fax or in person no later than close of business May 28, 2004, or if returned by mail must be postmarked by midnight May 28, 2004.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Payne, Chief; Marketing Programs Branch, Livestock and Seed Program; Agricultural Marketing Service (AMS), USDA, Room 2638–S; STOP 0251; 1400 Independence Avenue, SW., Washington, DC 20250–02541, on telephone number 202/720–1115, fax number 202/720–1125, or by e-mail at *Kenneth.Payne@usda.gov* or Phil Brockman; DAFO, USDA, FSA; STOP 0542; 1400 Independence Avenue, SW.; Washington DC 20250–0542, on telephone number 202/690–8034, fax number 202/720–5900, or by e-mail on *Phil.Brockman@usda.gov*.

SUPPLEMENTARY INFORMATION: In accordance with the Act (7 U.S.C. 6301 *et seq.*), this Notice announces the dates when the Request for Referendum will be conducted and the place where soybean producers may request a referendum on the Order. The Act provides that the Secretary, 5 years after the conduct of the initial referendum and every 5 years thereafter, shall give soybean producers the opportunity to request an additional referendum on the Order. The initial referendum was held in February 1994. The last opportunity for producers to request a referendum on the Order was October 1999. Only 17,970 eligible soybean producers completed valid requests—far short of the 60,082 required to trigger a referendum.

Individual producers and other producer entities will be provided the opportunity to request a referendum, at the county FSA office where FSA maintains and processes the producer's administrative farm records. For the producer not participating in FSA programs, the opportunity to request a referendum will be provided at the county FSA office serving the county where the producer owns or rents land. Participation in the Request for Referendum is not mandatory.

On March 23, 2004,USDA published in the **Federal Register** a final rule (69 FR 13458) that sets forth procedures that will be used in conducting the Request for Referendum. The final rule includes definitions, provisions for supervising the process for requesting a referendum, eligibility, procedures for requesting and completing the required form, required documentation showing that assessment was paid, where the Request for Referendum will be conducted, counting and reporting results, and disposition of the forms and records. Since the Request for Referendum will be conducted at the county FSA offices, FSA employees will assist AMS by determining eligibility, counting requests, and reporting results.

Pursuant to the Act, USDA is conducting the required Request for Referendum from May 3, 2004, through May 28, 2004.

To be eligible to participate in the Request for Referendum producers or the producer entity they are authorized to represent must certify and provide supporting documentation that shows they paid an assessment sometime between January 1, 2002, and December 31, 2003.

Form LS–51–1 may be requested in person, by mail, or by facsimile from May 3, 2004, through May 28, 2004. Form LS–51–1 may also be obtained via the Internet at *http://www.ams.usda.gov/lsg/mpb/re-soy.htm* during the same 4-week period. Individual producers and other producer entities would request a referendum at the county FSA office where FSA maintains and processes the producer's, corporation's, or other entity's administrative farm records. For the producer, corporation, or other entity not participating in FSA programs, the opportunity to request a referendum would be provided at the county FSA office serving the county where the producer, corporation, or other entity owns or rents land.

Producers can determine the location of county FSA offices by contacting (1) the nearest FSA office, (2) the State FSA office, or (3) through an online search of FSA's Web site at *http://www.fsa.usda.gov/pas/default.asp*. From the options available on this Web site select ''Your local office,'' click on your State, and click on the map to select a county.

Form LS–51–1 and supporting documentation may be returned in person, by mail, or facsimile to the appropriate county FSA office. Form LS–51–1, and accompanying documentation may be returned in person or by facsimile, must be received

in the appropriate county office prior to the close of business of May 28, 2004. Form LS–51–1 and accompanying documentation returned by mail must be postmarked no later than midnight of May 28, 2004.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection requirements made in connection with the Request for Referendum have been approved by the Office of Management and Budget (OMB) and assigned OMB control number 0581–0093.

Authority: 7 U.S.C. 6301–6311.

Dated: March 23, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–6767 Filed 3–23–04; 11:40 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; FS–2800–9–Contract for the Sale of Mineral Materials

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to extend the information collection, FS–2800–9-Contract for the Sale of Mineral Materials. The collected information enables the Forest Service to ensure that individuals, organizations, companies, or corporations, conducting mining operations on National Forest System lands, conduct the operations in a manner consistent with all applicable land management laws and regulations in an environmentally responsible manner and are financially accountable.

DATES: Comments must be received in writing on or before May 24, 2004.

ADDRESSES: Comments concerning this notice should be addressed to Director, Minerals and Geology Management Staff, Mail Stop 1126, 1601 N. Kent Street—5th Floor, Forest Service, USDA, Arlington, VA 22209.

Comments also may be submitted via facsimile to (703) 605–1575 or by e-mail to *mgreeley@fs.fed.us.*

The public may inspect comments in the Office of the Director, Minerals and Geology Management Staff, 1601 N. Kent Street—5th Floor, Forest Service, USDA, Arlington, Virginia, during normal business hours. Visitors are encouraged to call ahead to (703) 605–4797 to facilitate entry into the building.

FOR FURTHER INFORMATION, CONTACT: Mike Greeley, Minerals and Geology Management, at (703) 605–4797.

SUPPLEMENTARY INFORMATION:

Background

The Mineral Materials Act of 1947, as amended, and the Multiple Use Mining Act of 1955, as amended, authorize the Secretary of Agriculture to dispose of petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and other similar materials on lands administered by the Forest Service. Individuals, organizations, companies, or corporations may apply for a permit to mine these mineral materials using the form, FS–2800–9-Contract for the Sale of Mineral Materials. The agency is requesting an authorization extension for form FS–2800–9-Contract for the Sale of Mineral Materials.

Description of Information Collection

The following describes the information collection to be extended:

Title: FS–2800–9—Contract for the Sale of Mineral Materials.

OMB Number: 0596–0081.

Expiration Date of Approval: May 31, 2004.

Type of Request: Extension.

Abstract: The collected information enables the Forest Service to document planned operations, to prescribe the terms and conditions the agency deems necessary to protect surface resources, and to effect a binding contract agreement.

Forest Service employees will evaluate the collected information to ensure that entities, applying to mine petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and other similar materials on lands administered by the Forest Service, are financially accountable and conduct their activities in accordance with the mineral regulations at Part 228, subpart C, of Title 36 of the Code of Federal Regulations.

Individuals, organizations, companies, or corporations, interested in mining mineral materials on National Forest System lands, may contact their local Forest Service office to inquire about opportunities and to learn about areas on which such activities are permitted. Interested parties also may request the form, FS–2800–9, at this time.

Individuals, organizations, companies, or corporations are asked to provide information that includes the purchaser's name and address, the location and dimensions of the area to be mined, the kind of material that will be mined, the quantity of material that will be mined, the sales price of the mined material, the payment schedule, the amount of the bond, and the period of the contract.

Data collected in this information collection are not available from other sources.

Estimate of Burden: 2.5 hours.

Type of Respondents: Mineral materials operators.

Estimated Number of Respondents: 6,000.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 15,000 hours.

Comment is invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments, including name and address when provided, will become a matter of public record. Comments will be summarized and included in the submission for Office of Management and Budget approval.

Dated: March 19, 2004.

Gloria Manning,

Associate Deputy Chief, National Forest System.

[FR Doc. 04–6686 Filed 3–24–04; 8:45 am]

BILLING CODE 3410–11–P

AMERICAN BATTLE MONUMENTS COMMISSION

SES Performance Review Board

AGENCY: American Battle Monuments Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of the appointment of members of the ABMC Performance Review Board.

FOR FURTHER INFORMATION CONTACT: Theodore Gloukhoff, Director of Personnel and Administration, American Battle Monuments

Commission, Courthouse Plaza II, Suite 500, 2300 Clarendon Boulevard, Arlington, Virginia, 22201–3367, Telephone Number: (703) 696–6908.
American Battle Monuments Commission SES Performance Review Board;
Mr. Donald Basham, Chief, Engineering and Construction Division, Directorate of Civil Works, U.S. Army Corps of Engineers;
Mr. Stephen Coakley, Director of Resource Management, U.S. Army Corps of Engineers;
Ms. Patricia Rivers, Chief, Environmental Division, Directorate of Military Programs, U.S. Army Corps of Engineers.

Theodore Gloukhoff,

Director, Personnel and Administration.

[FR Doc. 04–6630 Filed 3–24–04; 8:45 am]

BILLING CODE 6120–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges; Yaudat Mustafa Talyi

Renewal and Modification of Order Temporarily Denying Export Privileges

Pursuant to Section 766.24 of the Export Administration Regulations (''EAR''),[1] the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, through its Office of Export Enforcement (''OEE''), has requested that I renew and modify the order (''TDO'') issued on September 24, 2003, effective September 25, 2003, temporarily denying export privileges of Yaudat Mustafa Talyi, a.k.a. Joseph Talyi, 41, Chamale Cove East, Slidell, Louisiana 70460 (''Talyi''), and International Business Services, Ltd., 700 Gause Boulevard, Suite 304, Slidell, Louisiana 70458, 41 Chamale Cove East, Slidell, Louisiana 70460, and 2301 Covington Highway 190, Slidell, Louisiana 70460 (''IBS''). Pursuant to Sections 766.23 and 766.24(c) of the EAR, the TDO also applies to the following as related persons to Talyi and IBS: Top Oil Tools, Ltd. (''Top Oil''), 41 Chamale Cove East, Slidell, Louisiana 70460; Uni-Arab Engineering and Oil Field Services (''Uni-Arab''), P.O. Box 46112, Abu Dhabi, United Arab Emirates, and, Al-Gaith Tower, Hamden Street, Flat No. 1202, Abu Dhabi, United Arab Emirates; Jaime Radi Mustafa a.k.a. Radi Mustafa (''Radi Mustafa''), 888 Cross Gates Boulevard, Slidell, Louisiana 70458, and Khalidiya, P.O. Box 46112, Abu Dhabi, United Arab Emirates; and Nureddin Shariff Sehweil, a.k.a. Dean Sehweil (''Dean Sehweil''). 888 Cross Gates Boulevard, Slidell, Louisiana 70458, and, 106 Everest Drive, Slidell, Louisiana 70461, and Khalidiya, P.O. Box 46112, Abu Dhabi, United Arab Emirates.

BIS is requesting that the TDO be renewed as to Talyi for a period of 180 days. BIS is not requesting that the TDO be renewed against Talyi's two companies, Respondent IBS and related person Top Oil, as both were dissolved as corporate entities on February 16, 2004. Further, BIS is not asking that the TDO be renewed as to Uni-Arab, Mustafa and Sehweil as BIS intends to pursue other administrative action against them.

A. Basis for Renewal of the Order Temporarily Denying the Export Privileges of Yaudat Mustafa Talyi, a.k.a. Joseph Talyi

In its March 2, 2004 request, BIS states that based upon new evidence and evidence previously adduced that was the basis for the issuance of the initial order temporarily denying Talyi and two of his companies export privileges on September 30, 2002 order and the March 29, 2003 renewal (as modified on July 23, 2003 to add Uni-Arab, Radi Mustafa, and Dean Sehweil as related persons), it believes that renewal of the TDO as to Talyi is necessary to prevent further violations of U.S. export control laws. The new evidence is that Talyi has pled guilty to two violations of the International Emergency Economic Powers Act for his participation in illegal export transactions and Talyi has tentatively agreed to settle a related BIS administrative enforcement case against him. Specifically, on January 29, 2004, in the United States District Court for the Eastern District of Louisiana, pursuant to a plea agreement, Talyi pled guilty to two felony counts of violating the International Emergency Economic Powers Act for his participation in an export and attempted export of items subject to the EAR from the United States to the United Arab Emirates. Significantly, those export transactions were made after the initial TDO had been issued against Talyi and his two companies and after they had received notice of the denial of export privileges. Talyi's sentencing is schedule for April 28, 2004 and pending sentencing Talyi is free on bail.

The evidence previously submitted by BIS in support its requests for orders temporarily denying export privileges proves that Talyi had exported or participated in the export of items to Libya in violation of the EAR and other U.S. export controls in a manner that was deliberate, covert, and suggested a likelihood that violations would occur again absent a TDO. *See* 67 *FR* 62225 (October 4, 2002) and BIS Request for Renewal of TDO, dated September 5, 2003, at 5–7.

Accordingly, I am renewing the order temporarily denying the export privileges of Talyi for a period of 180 days, as I have concluded that a TDO against Talyi continues to be a necessary, in the public interest, to prevent an imminent violation of the EAR.

It is Therefore Ordered: First, that Yaudat Mustafa Talyi, a.k.a. Joseph Talyi, 41 Chamale Cove East, Slidell, Louisiana 70460 (''Talyi'') (the ''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the EAR;

[1] The EAR, which are currently codified at 15 CFR parts 730–774 (2003), are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420) (2000) (the ''Act''). From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1707 (2000)) (''IEEPA''). On November 13, 2000, the Act was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833 (August 11, 2003)), has continued the EAR in effect under IEEPA.

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Denied Person order in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, in addition to the related person named above, after notice and opportunity for comment as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to the denied person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, denied persons may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022. A related person may appeal to the Administrative Law Judge at the aforementioned address in accordance with the provisions of Section 766.23(c) of the EAR.

This Order is effective immediately and shall remain in effect for a period of 180 days. A copy of this Order shall be served on Talyi and shall be published in the **Federal Register.**

Dated: Entered this 19th day of March 2004.

Julie L. Myers,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 04–6691 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Action Affecting Export Privileges: Uni-Arab Engineering and Oil Field Services

Order Temporarily Denying Export Privileges

Through the Office of Export Enforcement (''OEE''), the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, has requested that I issue an Order pursuant to Section 766.24 of the Export Administration Regulations (currently codified at 15 CFR 730–774 (2003)) (''EAR''),[1] temporarily denying export privileges of Uni-Arab Engineering and Oil Field Services (''Uni-Arab''), P.O. Box 46112, Abu Dhabi, United Arab Emirates, and. Al-Gaith Tower, Hamden Street, Flat No. 1202, Abu Dhabi, United Arab Emirates (hereinafter referred to as the ''Respondent''). OEE has also requested that, in order to prevent evasion, this Order should be made applicable to Jaime Radi Mustafa, a.k.a. Radi Mustafa (''Radi Mustafa''), 888 Cross Gates Boulevard, Slidell, Louisiana 70458, and, Khalidiya, P.O. Box 46112, Abu Dhabi, United Arab Emirates; and Nureddin Shariff Sehweil, a.k.a. Dean Sehweil (''Dean Sehweil''), 888 Cross Gates Boulevard, Slidell, Louisiana 70458, and 106 Everest Drive, Slidell, Louisiana 70461, and, Khalidiya, P.O. Box 46112, Abu Dhabi, United Arab Emirates (hereinafter collectively referred to as the ''Related Persons'').

In its request, BIS states that, based upon an investigation by OEE, it believes that the Respondent has attempted to evade the terms of a temporary denial order dated September 30, 2002, that denied the export privileges of International Business Services, Ltd. (''IBS''), and its owner, Yaudat Mustafa Talyi, a.k.a. Joseph Talyi (''Talyi''), for 180 days. *See* 67 FR 62225. BIS states that it further believes that Respondent has, for more than ten years, engaged in the business of exporting U.S. origin items to Libya without the required U.S. Government authorization.

In addition, OEE's investigation has determined that the Related Persons, Radi Mustafa and Dean Sehweil are, respectively, the Assistant Managing Director and the Managing Director of Uni-Arab and that it is appropriate to name them as Related Persons.

I find the evidence presented by BIS demonstrates that the Respondent has conspired to commit repeated violations of U.S. export control laws, including the EAR, that such violations have been deliberate and covert, and that, given the nature of the items shipped and the manner in which they have been shipped in the past, such violations could go undetected in the future. As such, a Temporary Denial Order (''TDO'') is needed to give notice to companies in the United States and abroad that they should cease dealing with the Respondent and Related Persons in export transactions involving U.S.-origin commodities, software or technology. Such a TDO is consistent with the public interest to preclude future violations of the EAR.

Accordingly, I find that a TDO naming Uni-Arab as the respondent and Radi Mustafa and Dean Sehweil as related persons is necessary, in the public interest, to prevent an imminent violation of the EAR. This Order is issued on an *ex parte* basis without a hearing based upon BIS's showing of an imminent violation.

It is Therefore Ordered:

First, that the Respondent, Uni-Arab Engineering and Oil Field Services, P.O. Box 46112, Abu Dhabi, United Arab Emirates, and Al-Gaith Tower, Hamden Street, Flat No. 1202, Abu Dhabi, United Arab Emirates and Related Persons Jaime Radi Mustafa, a.k.a. Radi Mustafa, 888 Cross Gates Boulevard, Slidell, Louisiana 70458, and, Khalidiya, P.O. Box 46112, Abu Dhabi, United Arab Emirates; and Nureddin Shariff Sehweil, a.k.a. Dean Sehweil, 888 Cross Gates Boulevard, Slidell, Louisiana 70458, and, 106 Everest Drive, Slidell,

[1] The EAR, which are currently codified at 15 CFR parts 730–774 (2003), are issued under the Export Administration Act of 1979, as amended (50 U.S.C. app 2401–2420 (2000)) (''EAA'') was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Export Administration Regulations (''EAR'') in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1707 (2000)) (''IEEPA''). On November 13, 2000, the EAA was reauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the EAA has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended by the Notice of August 7, 2003 (68 FR 47833, August 11, 2003), has continued the EAR in effect under IEEPA.

Louisiana 70461, and, Khalidiya, P.O Box 46112, Abu Dhabi, United Arab Emirates may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Export Administration Regulations (''EAR''), or in any other activity subject to the EAR, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR, or in any other activity subject to the EAR.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Respondent or Related Persons any item subject to the EAR;

B. Take any action that facilitates the acquisition or attempted acquisition by the Respondent or Related Persons of the ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Respondent or Related Persons acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Respondent or Related persons of any item subject to the EAR that has been exported from the United States;

D. Obtain from the Respondent or Related Persons in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed or controlled by the Respondent or Related Persons, or service any item, of whatever origin, that is owned, possessed or controlled by the Respondent or Related Persons if such service involves the use of any time subject to the EAR that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that, after notice and opportunity to oppose such action, as provided in section 766.23 of the EAR, any other person, firm, corporation, or business organization related to the Respondent by affiliation, ownership, control, or position of responsibility in the conduct of trade or business may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the EAR where the only items involved that are subject to the EAR are the foreign-produced direct product of U.S.-origin technology.

In accordance with the provisions of Section 766.24(e) of the EAR, the Respondent may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.23(c) of the EAR, the Related Persons may, at any time, appeal this Order by filing a full written statement in support of the appeal with the Office of the Administrative Law Judge, U.S. Coast Guard ALJ Docketing Center, 40 South Gay Street, Baltimore, Maryland 21202–4022.

In accordance with the provisions of Section 766.24(d) of the EAR, BIS may seek renewal of this Order by filing a written request not later than 20 days before the expiration date. The Respondent may oppose a request to renew this Order by filing a written submission with the Assistant Secretary of Commerce for Export Enforcement, which must be received not later than seven days before the expiration date of the Order.

A copy of this Order shall be served on the Respondent and Related Persons and shall be published in the **Federal Register**.

This Order is effective immediately and shall remain in effect for 180 days.

Entered this 19th day of March, 2004.

Julie L. Myers,

Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 04–6690 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896, A–821–819]

Notice of Initiation of Antidumping Duty Investigations: Magnesium Metal From the People's Republic of China and the Russian Federation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: March 25, 2004.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita at 202–482–4243 (People's Republic of China) or Mark Hoadley at (202) 482–3148 (Russian Federation), Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Initiation of Investigations

The Petition

On February 27, 2004, the Department of Commerce (the Department) received a petition filed in proper form by U.S. Magnesium Corporation LLC (US Magnesium), United Steelworkers of America, Local 8319, and Glass, Molders, Pottery, Plastics & Allied Workers International, Local 374 (collectively, ''petitioners''), an ad hoc coalition representative of U.S. producers of magnesium metal. Petitioners filed amendments to the petition on March 8, 10, 12, and 15, 2004.

In accordance with section 732(b)(1) of the Tariff Act of 1930 (the Act), petitioners allege that imports of magnesium metal from the People's Republic of China (PRC) and the Russian Federation (Russia), are, or are likely to be, sold in the United States at less than normal value within the meaning of section 731 of the Act, and that such imports are materially injuring, or threatening material injury to, an industry in the United States.

The Department finds that petitioners filed this petition on behalf of the domestic industry because they are an interested party as defined in section 771(9)(G) of the Act and they have demonstrated sufficient industry support with respect to both of the antidumping investigations that they are requesting the Department initiate. *See, infra*, ''Determination of Industry Support for the Petition.''

Scope of Investigations

People's Republic of China

The products covered by this investigation are primary and secondary

alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: Products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an ''ASTM Specification for Magnesium Alloy'' [1] and thus are outside the scope of the existing antidumping orders on magnesium from China (generally referred to as ''alloy'' magnesium).

The scope of this investigation excludes: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less that 99.8 percent, by weight, that do not conform to an ''ASTM Specification for Magnesium Alloy'' [2]; (2) magnesium that is in liquid or molten form; and (3) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[3]

The merchandise subject to this investigation is classifiable under items 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Russia

The products covered by this investigation are primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium-based scrap into magnesium metal. The magnesium covered by this investigation includes blends of primary and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) Products that contain at least 99.95 percent magnesium, by weight (generally referred to as ''ultra-pure'' magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by weight (generally referred to as ''pure'' magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less that 99.8 percent, by weight, whether or not conforming to an ''ASTM Specification for Magnesium Alloy.'' [4]

The scope of this investigation excludes: (1) Magnesium that is in liquid or molten form; and (2) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non-magnesium granular materials to make magnesium-based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite. [5]

The merchandise subject to this investigation is classifiable under items 8104.11.00, 8104.19.00, and 8104.30.00 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Determination of Industry Support for the Petition

Section 732(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 732(c)(4)(A) of the Act provides that the Department's industry support determination, which is to be made before the initiation of the investigation, be based on whether a minimum percentage of the relevant industry supports the petition. A petition meets this requirement if the domestic producers or workers who support the petition account for: (1) At least 25 percent of the total production of the domestic like product; and (2) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing

[1] The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.*

[2] This material is already covered by existing antidumping orders. *See Notice of Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Notice of Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation*, 60 FR 25691 (May 12, 1995); and *Notice of Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 57936 (Nov. 19, 2001).

[3] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia. *See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not chemically combined in liquid form and cast into the same ingot.

[4] The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.*

[5] This second exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from China, Israel, and Russia.

See Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China, 66 FR 49345 (September 27, 2001); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not chemically combined in liquid form and cast into the same ingot.

support for, or opposition to, the petition. Moreover, section 732(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, the Department shall: (i) Poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A), or (ii) determine industry support using a statistically valid sampling method.

Section 771(4)(A) of the Act defines the ''industry'' as the producers of a domestic like product. The International Trade Commission (ITC), which is responsible for determining whether ''the domestic industry'' has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both the Department and the ITC must apply the same statutory definition regarding the domestic like product (section 771(10) of the Act), they do so for different purposes and pursuant to a separate and distinct authority. In addition, the Department's determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to the law.[6]

Section 771(10) of the Act defines the domestic like product as ''a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.'' Thus, the reference point from which the domestic like product analysis begins is ''the article subject to an investigation,'' *i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition.

In this case, the domestic like product referred to in the petition is the product defined in the ''Scopes of Investigations'' section, above, for Russia. While the scope definition for Russia differs from that for the PRC, the domestic like product is the same for both countries and includes all magnesium as defined by the broader Russian scope definition. For the details of the Department's like product analysis, *see* Attachment VI of *Office of AD/CVD Enforcement Initiation Checklist: Magnesium Metal from the People's Republic of China (''PRC'') and the Russian Federation (''Russia'')*, dated March 18, 2004 (*Initiation Checklist*).

Moreover, the Department has determined that the petition contains adequate evidence of industry support; therefore, polling was unnecessary. *See* Attachment III of the *Initiation Checklist*. Specifically, based on the analysis contained in the *Initiation Checklist,* the Department finds that producers supporting the petition represent over 50 percent of total production of the domestic like product.

Accordingly, the Department determines that this petition is filed on behalf of the domestic industry within the meaning of section 732(b)(1) of the Act.

Period of Investigation

The anticipated period of investigation (POI) for the PRC is July 1, 2003 through December 31, 2003. The anticipated POI for Russia is January 1, 2003 through December 31, 2003.

Export Price and Normal Value

The following are descriptions of the allegations of sales at less than normal value upon which the Department based its decision to initiate these investigations. The sources of data for U.S. prices, constructed value (CV), and factors of production are discussed in greater detail in the *Initiation Checklist.* Should the need arise to use any of this information as facts available under section 776 of the Act in our preliminary or final determinations, we will reexamine the information and revise the margin calculations as necessary.

Regarding an investigation involving a non-market economy (NME) country, the Department presumes, based on the extent of central government control in an NME, that a single dumping margin, should there be one, is appropriate for all NME exporters in the given country. In the course of these investigations, all parties will have the opportunity to provide relevant information related to the issues of a country's NME status and the granting of separate rates to individual exporters. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585, 22586–87 (May 2, 1994).

People's Republic of China

Export Price

Petitioners based U.S. price for Chinese exports on the average free on board (FOB) value as indicated by U.S. Customs and Border Protection (CBP) data collected by the Bureau of Census. They used data for the POI, and only for cast magnesium alloys. Petitioners did not include imports of granular magnesium from China because it is a basket category including both pure and alloy granular magnesium. *See* the *Initiation Checklist.*

Normal Value

Petitioners assert that the PRC is an NME country, and notes that in all previous investigations the Department has determined that the PRC is an NME. *See Notice of Final Determination of Sales at Less Than Fair Value: Bulk Aspirin From the People's Republic of China*, 65 FR 33805 (May 25, 2000). The PRC will be treated as an NME unless and until its NME status is revoked. *See* section 771(18)(C)(i) of the Act. Because the PRC's status as an NME remains in effect, petitioners estimated the dumping margin using a NME methodology. Petitioners based their normal value (NV) calculations on the factors of production methodology as described in section 773(c)(3) of Act. They compiled their list of inputs and factor consumption rates from four different sources, including public information provided by respondents in past PRC magnesium proceedings, a technical paper presented at an industry conference, and an affidavit submitted by an employee of U.S. Magnesium.

Petitioners selected India as the surrogate country for the PRC. Petitioners argued that, pursuant to section 773(c)(4) of the Act, India is an appropriate surrogate because it is a market-economy country that is at a comparable level of economic development to the PRC and is a significant producer of comparable merchandise. Based on the information provided by petitioners, we believe that the use of India as a surrogate country is appropriate for purposes of initiating this investigation. *See* the *Initiation Checklist.*

In accordance with section 773(c)(4) of the Act, petitioners valued factors of production, where possible, on reasonably available, public surrogate country data. To value certain raw materials, petitioners used official Indian government import statistics, excluding those values from countries previously determined by the Department to be NME countries and excluding imports into India from Indonesia, Korea and Thailand, in light of the prevalence of export subsidies in those countries. *See Notice of Final Determination of Sales at Less Than Fair Value: Ferrovanadium from the People's Republic of China*, 67 FR 71137, 71139 (Nov. 29, 2002).

Petitioners did not provide factor values for magnesium chloride or aluminum-beryllium hardener, since

[6] *See Algoma Steel Corp. Ltd.* v. *United States,* 688 F. Supp. 639, 642–44 (CIT 1988) (''the ITC does not look behind ITA's determination, but accepts ITA's determination as to which merchandise is in the class of merchandise sold at LTFV'').

neither price quotes nor Indian import statistics were available. Petitioners valued dolomite using the October 2002 price quote reported in rupees that was contained in a past PRC magnesium proceeding. Petitioners explained that India imported only a small quantity of dolomite during the April 2002 to May 2003 period so that reliable import statistics for this period were not available. Petitioners valued sulphur powder using a September 9, 2003 price quote from the Indian trade magazine, Chemical Weekly. Petitioners relied on Indian import statistics to value the amount of coal used to produce one ton of magnesium metal. Petitioners relied on the Indian electricity rate for industrial users, as reported by the U.S. Department of Energy, to value electricity. For inputs valued in Indian rupees and not contemporaneous with the POI, petitioners used information from wholesale price indices to determine the appropriate adjustments for inflation. In addition, petitioners made currency conversions, where necessary, based on the average rupee/U.S. dollar exchange rate for the POI.

Petitioners valued labor using the regression-based wage rate for the PRC provided by the Department, in accordance with section 351.408(c)(3) of the Department's regulations.

Petitioners valued factory overhead, selling, general, and administrative expenses (SG&A), and profit using the financial statements of two Indian aluminum producers. Petitioners explained that the Department has previously relied on the financial statements of Southern Magnesium, an Indian magnesium producer, to determine these values for Chinese magnesium producers. However, Southern Magnesium is currently classified as a ''sick industrial company'' under Indian commercial law and has ceased to produce magnesium. Thus, petitioners did not select Southern Magnesium as a surrogate company for calculating factory overhead, SG&A, and profit. Petitioners further explained that they are not aware of any other magnesium producers in any of the potential surrogate countries. Therefore, petitioners selected aluminum as the most comparable merchandise, since India is a known producer of aluminum, and aluminum is a metal produced from ores using an energy-intensive (and especially electricity-intensive) process. Furthermore, petitioners argue that the Department has previously determined that aluminum and magnesium are comparable products within the meaning of the statute, and has relied on data from financial statements of Indian aluminum producers for the purpose of deriving these components of the cost of production. *See Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form from the People's Republic of China*, 66 FR 49345 (September 27, 2001) and accompanying Issues and Decision Memorandum at Comment 3. Likewise, petitioners noted that the Department determined that aluminum was a product comparable to magnesium in the new shipper review of pure magnesium from the PRC. *See Pure Magnesium from the People's Republic of China: Final Results of Antidumping Duty New Shipper Administrative Review*, 63 FR 3085, 3088 (January 21, 1998). Therefore, in the absence of financial data for a producer of the identical merchandise, petitioners have relied upon the financial statements of two Indian producers of comparable merchandise (aluminum) to calculate the ratios for factory overhead, SG&A, and profit.

Based on comparisons of export price (EP) to NV, calculated in accordance with section 773(c) of the Act, the estimated dumping margin for magnesium from the PRC is 141.49 percent. *See* the *Initiation Checklist* for details on supporting documentation and calculations.

Russia

Export Price

Petitioners were unable to obtain transaction prices for U.S. sales produced in Russia, and, therefore, based U.S. price on the average FOB value as indicated by CBP data collected by the Bureau of Census. The petitioners included values based on this data for the POI for pure magnesium and alloy magnesium. There were no imports of granular magnesium from Russia during this time period, according to the customs data. *See* the *Initiation Checklist.*

Normal Value

On June 6, 2002, the Department determined to consider Russia as a market economy, effective April 1, 2002. *See Memorandum for Faryar Shirzad from Albert Hsu, Inquiry into the Status of the Russian Federation as a Non-Market Economy Country Under the U.S. Antidumping Law.* As such, the petition contains information for calculating NV using the market economy methodology.

Petitioners provided evidence supporting the conclusion that the Russian home market is viable. However, they were unable to obtain any public or confidential information on the prices charged by the Russian producers to their Russian customers. As such, petitioners next turned to the World Trade Atlas to locate a suitable third country market for Russian export sales. Based on the volume and value data reported in the World Trade Atlas, the Netherlands is the third country market with the highest volume of sales of magnesium from Russia.

Petitioners then demonstrated that sales to the Netherlands were made at prices below the cost of production (COP), and, that, therefore, NV must be based on CV. *See Initiation Checklist.* They calculated the cost of manufacturing component of NV using the costs of U.S. Magnesium, one of the petitioners, adjusted for known differences between the Russian and U.S. production processes. Because U.S. Magnesium does not maintain product-specific costs in its normal cost accounting system, petitioners also made adjustments to derive product-specific costs for primary pure and alloy magnesium. Petitioners relied on the financial statements of the Russian producers to calculate SG&A, interest expense, and profit.

Petitioners claim that ''the energy sector in Russia continues to operate under strict government regulations, resulting in energy prices that are not reflective of market conditions,'' and provided documentation discussing the general involvement of the Russian government in price setting for, providing subsidies to, and otherwise regulating the Russian electricity industry. Therefore, argue petitioners, the Department should make an adjustment for distorted energy costs. Using publicly available information for ''benchmark'' prices for electricity in Hungary, Poland, and the Czech Republic, and the actual electricity price paid by one Russian magnesium producer, petitioners derive a figure of $0.2515 to add to the product-specific NVs. This amounts to an adjustment of between 19.12 to 20.82 percent of the unadjusted NV. We recognize that the valuation of energy costs is a complex issue that will need to be fully examined during the course of this investigation. We intend to examine thoroughly both the factual bases and methodological approaches to this issue with all interested parties.

Based on comparisons of EP to NV, calculated in accordance with section 773(c) of the Act, the estimated range of dumping margins for magnesium from Russia is 54.40 to 68.94 percent without the adjustment for electricity, and 86.54 to 101.24 percent with the adjustment. *See* the *Initiation Checklist* for details

on supporting documentation and calculations.

Fair Value Comparisons

Based on the data provided by petitioners, there is reason to believe that imports of magnesium from the PRC and Russia are being, or are likely to be, sold at less than normal value.

Allegations and Evidence of Material Injury and Causation

Petitioners allege that the U.S. industry producing the domestic like product is being materially injured, or is threatened with material injury, by reason of the individual and cumulated imports of the subject merchandise sold at less than NV.

Petitioners contend that the industry's injured condition and threat of being injured is evident in the domestic industry's decline in domestic capacity, capacity utilization, production, and shipments, loss of U.S. market share, declining employment, declining average unit sales values/industry price erosion, declining financial performance, inability to complete capital and R&D projects, specific instances of lost sales and revenue, and excess capacity in the PRC and Russia. Injury is caused by imports of subject merchandise, which are different under the PRC scope than under the Russian scope. We have assessed the allegations and supporting evidence regarding material injury and causation and we have determined that these allegations are properly supported by adequate evidence and meet the statutory requirements for initiation. *See* the *Initiation Checklist.*

Initiation of Antidumping Investigations

Based upon our examination of the petition we have found that it meets the requirements of section 732 of the Act. Therefore, we are initiating antidumping duty investigations to determine whether imports of magnesium from the PRC and Russia are being, or are likely to be, sold in the United States at less than normal value. We will make our preliminary determinations no later than 140 days after the date of this initiation, unless this deadline is extended pursuant to section 733(b)(1)(A) of the Act.

Distribution of Copies of the Petition

In accordance with section 732(b)(3)(A) of the Act, a copy of the public version of the petition has been provided to the representatives of the governments of the PRC and Russia. We will attempt to provide a copy of the public version of the petition to each exporter named in the petition, as provided for under 19 CFR 351.203(c)(2).

ITC Notification

We have notified the ITC of our initiations as required by section 732(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine no later than April 12, 2004, whether there is a reasonable indication that imports of magnesium from the PRC and Russia are causing material injury, or threatening to cause material injury, to a U.S. industry. A negative ITC determination for either country will result in the investigation being terminated with respect to that country; otherwise, these investigations will proceed according to statutory and regulatory time limits.

This notice is issued and published pursuant to section 777(i) of the Act.

Dated: March 18, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–6717 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–059]

Notice of Final Results of Antidumping Duty Changed Circumstances Review: Pressure Sensitive Plastic Tape From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of Antidumping Duty Changed Circumstances Review.

SUMMARY: On February 2, 2004, the Department of Commerce (the Department) published a notice of preliminary results of changed circumstances review of the antidumping duty order on pressure sensitive plastic tape (PSPT) from Italy in which we preliminarily determined that Tyco Adhesives Italia S.p.A. (Tyco) is a successor-in-interest company to Manuli Tapes S.p.A. (Manuli). *See Notice of Preliminary Results of Antidumping Duty Changed Circumstances Review: Pressure Sensitive Plastic Tape from Italy,* 69 FR 4922 (February 2, 2004) (*Notice of Preliminary Results*). We gave interested parties an opportunity to comment on the preliminary results, but received no comments. Therefore, the final results do not differ from the preliminary results of review.

EFFECTIVE DATE: March 25, 2004.

FOR FURTHER INFORMATION CONTACT: Zev Primor or Mark Manning, AD/CVD Enforcement, Group II, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–4114 or (202) 482–5253, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 3, 2003, Tyco requested that the Department conduct a changed circumstances review of the antidumping duty order on PSPT from Italy pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(c)(3)(ii)(2003). Tyco claims to be the successor-in-interest to Manuli Tapes, S.p.A.,[1] and, as such, claims that it is entitled to receive the same antidumping treatment as Manuli. On August 7, 2003, at the request of the Department, Tyco submitted additional information and documentation pertaining to its changed circumstances request. From November 12 through November 15, 2003, the Department conducted a verification of the information pertaining to this changed circumstances review at Tyco's offices in Novara and Tyco's plant in Formia, both located in Italy.

On February 2, 2004, the Department published the preliminary results of review and invited interested parties to comment. *See Notice of Preliminary Results.* We received no comments.

Scope of Review

Imports covered by the review are shipments of PSPT measuring over 1⅜ inches in width and not exceeding 4 millimeters in thickness, currently classifiable under items 3919.90.20 and 3919.90.50 of the Harmonized Tariff Schedule of the United States (HTSUS). HTSUS subheadings are provided for convenience and customs purposes. The written description remains dispositive as to the scope of the product coverage.

Final Results of Review

In antidumping duty changed circumstances reviews involving a successor-in-interest determination, the Department typically examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base.

[1] On December 31, 1999, after merging with another company, Manuli Autoadesivi S.p.A. changed its corporate name to Manuli Tapes S.p.A.

See Brass Sheet and Strip from Canada: Notice of Final Results of Antidumping Administrative Review, 57 FR 20460, 20462 (May 13, 1992) (*Canadian Brass*). While no single factor or combination of factors will necessarily be dispositive, the Department generally will consider the new company to be the successor to the predecessor company if the resulting operations are essentially the same as those of the predecessor company. *See, e.g., Industrial Phosphoric Acid from Israel: Final Results of Changed Circumstances Review,* 59 FR 6944, 6945 (February 14, 1994), and *Canadian Brass,* 57 FR 20460. Thus, if the record evidence demonstrates that, with respect to the production and sale of the subject merchandise, the new company operates as the same business entity as the predecessor company, the Department may assign the new company the cash deposit rate of its predecessor. *See, e.g., Fresh and Chilled Atlantic Salmon from Norway: Final Results of Changed Circumstances Antidumping Duty Administrative Review,* 64 FR 9979, 9980 (March 1, 1999).

We have examined the information provided by Tyco and determined that Tyco is the successor-in-interest to Manuli. Tyco's acquisition of Manuli has precipitated minimal changes to the original Manuli corporate structure. Tyco's management, production facilities, supplier relationships, sales facilities and customer base are essentially unchanged from those of Manuli's. Therefore, the record evidence demonstrates that the new entity essentially operates in the same manner as the predecessor company. Consequently, we determined that Tyco should receive the same antidumping duty treatment as Manuli, *i.e.*, zero percent antidumping duty cash deposit rate.

The cash deposit determination from this changed circumstances review will apply to all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this changed circumstances review. *See Granular Polytetrafluoroethylene Resin from Italy; Final Results of Antidumping Duty Changed Circumstances Review,* 68 FR 25327 (May 12, 2003). This deposit rate shall remain in effect until publication of the final results of the next administrative review in which Tyco participates.

Notification

This notice serves as a final reminder to parties to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(5). Failure to timely notify the Department in writing of the return/destruction of APO material is a sanctionable violation.

This notice is in accordance with sections 751(b) and 777(i)(1) of the Act, and section 351.221(c)(3)(i) of the Department's regulations.

Dated: March 19, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–6718 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–853]

Notice of Postponement of Final Antidumping Duty Determination: Wax and Wax/Resin Thermal Transfer Ribbons From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Postponement of final antidumping duty determination.

EFFECTIVE DATE: March 25, 2004.

FOR FURTHER INFORMATION CONTACT: Fred Baker or Robert James, AD/CVD Enforcement Office 8, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482–2924 or (202) 482–0649, respectively.

SUMMARY: The Department of Commerce (the Department) is postponing the final determination in the antidumping duty investigation of wax and wax/resin thermal transfer ribbons from the Republic of Korea from March 22, 2004 to March 29, 2004.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 2003, the Department published its Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Wax and Wax/Resin Thermal Transfer Ribbons From the Republic of Korea (68 FR 71078). The preliminary determination was negative. The notice stated the Department would issue its final determination no later than 75 days after the date of the preliminary determination (December 16, 2003).

Section 19 CFR 351.210(b)(2)(i) allows for a postponement of the final determination until not later than 135 days after the date of publication of the preliminary determination at the request of the petitioner, when the preliminary determination was negative.

On February 12, 2004 the Department postponed the final determination to March 22, 2004 at the request of the petitioner. *See* Notice of Postponement of Final Antidumping Duty Determination: Wax and Wax/Resin Thermal Transfer Ribbons from the Republic of Korea, 69 FR 6941 (February 12, 2004).

Postponement of Final Determination

On March 16, 2004, the Department received a request from the petitioner, International Imaging Materials, Inc. (IIMAK), that the Department postpone the final determination until March 29, 2004. IIMAK made this request under section 19 CFR 351.210(b)(2)(i) which, as noted above, allows the petitioner to request a postponement of the final determination if the preliminary determination was negative. There are no compelling reasons for the Department to deny petitioner's request. Therefore, pursuant to section 19 CFR 351.210(b)(2)(i), the Department is postponing the deadline for issuing the final determination until March 29, 2004.

This notice of postponement is in accordance with section 735(a)(2)(B) of the Tariff Act of 1930, as amended, and 19 CFR 351.210(b)(2).

Dated: March 19, 2004.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 04–6719 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No.: 000616180–4095–08]

RIN 0648–ZA91

NOAA Climate and Global Change Program, FY 2005 Program Announcement

AGENCY: Office of Global Programs, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Climate and Global Change Program represents a National Oceanic and Atmospheric Administration (NOAA) contribution to

evolving national and international programs designed to improve our ability to observe, understand, predict, and respond to changes in the global environment. This program builds on NOAA's mission requirements and long-standing capabilities in global change research and prediction. The NOAA Program is a key contributing element of the U.S. Climate Change Science Program (CCSP), which is coordinated by the interagency Committee on Environmental and Natural Resources. NOAA's program is designed to complement other agencies' contributions to that national effort.

DATES: Letters of Intent should be received by 5 p.m. Eastern Time April 14, 2004. Full proposals must be received at the Office of Global Programs no later than 5 p.m. Eastern Time May 24, 2004.

ADDRESSES: Full Proposals must be submitted to: Grants Manager, Office of Global Programs, National Oceanic and Atmospheric Administration, 1100 Wayne Avenue, Suite 1210, Silver Spring, MD 20910–5603. Letters of Intent should be submitted by e-mail to *ogpgrants@noaa.gov* or may be mailed to the address above.

FOR FURTHER INFORMATION CONTACT: Diane S. Brown, Grants Manager (see **ADDRESSES**), phone at 301–427–2089, ext. 107, fax to 301–427–2082, or e-mail at *ogpgrants@ noaa.gov.*

SUPPLEMENTARY INFORMATION: *Electronic Access:* Applicants should read the full text of the full funding opportunity announcement which can be accessed at the OGP Web site: *http://www.ogp.noaa.gov* or the central NOAA site: *www.ofa.noaa.gov/~amd/SOLINDEX.HTML.* This announcement will also be available through Grants.gov at *http://www.Grants.gov.* The standard NOAA application kit is available on the OGP Web site at: *http://www.opg.noaa.gov/grants/appkit.htm.*

Evaluation and Selection Procedures: NOAA published its first omnibus notice announcing the availability of grant funds for both projects and fellowships/scholarship/internships for Fiscal Year 2004 in the **Federal Register** on June 30, 2003 (68 FR 38678). The evaluation criteria and selection procedures contained in the June 30, 2003 omnibus notice are applicable to this solicitation. For a copy of the June 30, 2003 omnibus notice please go to: *http://www/ofa.noaa.gov/~amd/SOLINDEX.HTML.*

Funding Availability: Please be advised that actual funding levels will depend upon the final FY 2005 budget appropriations. In FY 2003, $8.2M in first year funding was available for 63 new awards; similar funds and number of awards are anticipated in FY 2004 and FY 2005. We anticipate that the annual cost of most funded projects will fall between $50,000 and $200,000 per year. Current plans assume that 100% of the total resources provided through this announcement will support extramural efforts, particularly those involving the broad academic community. Past or current grantees funded under this announcement are eligible to apply for a new award which builds on previous activities or areas of research not covered in the previous award. Current grantees should not request supplementary funding for ongoing research through this announcement. This program will not cover tuition remission for graduate students above $2,500/year or computing and networking services above $1,000/year per grant.

Statutory Authority: 49 U.S.C. 44720 (b); 33 U.S.C. 883d; 15 U.S.C. 2904; 15 U.S.C. 2931–2934.

CFDA: No. 11.431, Climate and Atmospheric Research.

Eligibility: Eligible applicants are institutions of higher education, other nonprofits, commercial organizations, international organizations, state, local and Indian tribal governments. Federal agencies or institutions are not eligible to receive Federal assistance under this notice.

Cost Sharing Requirements: Cost Sharing is not required.

Letters of Intent: The purpose of the LOI process is to provide information to potential applicants on the relevance of their proposed project to the Climate and Global Change Program and the likelihood of it being funded in advance of preparing a full proposal. While it is in the best interest of the applicants and their institutions to submit an LOI explaining the work they propose to carry out and how much it will cost, it is not a requirement; applicants who do not submit an LOI are allowed to submit a full proposal. A panel of program managers will review each LOI to determine its responsiveness to the program goals as advertised in this notice and will provide an e-mail or letter response.

Limitation of Liability: Funding for the programs listed in this notice are contingent upon the availability of Fiscal Year 2005 appropriations. In no event will NOAA or the Department of Commerce be responsible for proposal preparation costs if these programs fail to receive funding or are cancelled because of other agency priorities. Publication of this announcement does not oblige NOAA to award any specific project or to obligate any available funds.

National Environmental Policy Act (NEPA)

NOAA must analyze the potential environmental impacts, as required by the National Environmental Policy Act (NEPA), for applicant projects or proposals which are seeking NOAA federal funding opportunities. Detailed information on NOAA compliance with NEPA can be found at the following NOAA NEPA Web site: *http://www.nepa.noaa.gov/,* including our NOAA Administrative Order 216–6 for NEPA, *http://www.nepa.noaa.gov/NAO216-6-TOC.pdf*, and the Council on Environmental Quality implementation regulations, *http://ceq.eh.doe.gov/nepa/regs/ceq/toc_ceq.htm.* Consequently, as part of an applicant's package, and under their description of their program activities, applicants are required to provide detailed information on the activities to be conducted, locations, sites, species and habitat to be affected, possible construction activities, and any environmental concerns that may exist (*e.g.*, the use and disposal of hazardous or toxic chemicals, introduction of non-indigenous species, impacts to endangered and threatened species, aquaculture projects, and impacts to coral reef systems). In addition to providing specific information that will serve as the basis for any required impact analyses, applicants may also be requested to assist NOAA in drafting of an environmental assessment, if NOAA determines an assessment is required. Applicants will also be required to cooperate with NOAA in identifying and implementing feasible measures to reduce or avoid any identified adverse environmental impacts of their proposal. The failure to do so shall be grounds for the denial of an application.

The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements: The Department of Commerce Pre-Award Notification Requirements for Grants and Cooperative Agreements contained in the **Federal Register** notice of October 1, 2001 (67 FR 49917), as amended by the **Federal Register** notice published on October 30, 2002 (67 FR 66109), are applicable to this solicitation.

Paperwork Reduction Act

This document contains collection-of-information requirements subject to the Paperwork Reduction Act (PRA). The use of Standard Forms 424 and 424A, 424B, SF–LLL, and CD–346 have been approved by OMB under the respective

control numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

Executive Order 12866

This notice has been determined to be not significant for purposes of Executive Order 12866.

Executive Order 13132 (Federalism)

It has been determined that this notice does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

Intergovernmental Review

Applications under this program are not subject to Executive Order 12372, ''Intergovernmental Review of federal programs.''

Administrative Procedure Act/ Regulatory Flexibility Act

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts (5 U.S.C. section 553(a). Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq) are inapplicable. Therefore, a regulatory flexibility analysis has not been prepared.

Dated: March 22, 2004.

Louisa Koch,

Deputy Assistant Administrator, OAR, National Oceanic and Atmospheric Administration.

[FR Doc. 04–6722 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–KB–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 032204A]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its Precious Corals Plan Team (PCPT) meeting in Honolulu, HI.

ADDRESSES: The PCPT meeting will be held at the Western Pacific Fishery Management Council Office, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

DATES: The meeting of the PCPT will be held on April 8, 2004, from 8:30 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808)522–8220.

SUPPLEMENTARY INFORMATION: The PCPT will meet on April 8, 2004 to discuss the following agenda items:

1. Introductions

2. Review of last plan team meeting and recommendations

3. Results of the main Hawaiian islands black coral meeting

4. Overview of black coral research by the State of Hawaii

5. Additional research on Carijoa riisei

6. Discovery of new precious coral beds in the Northwestern Hawaiian Islands

7. Review of essential fish habitat

8. Precious corals annual report

9. Precious corals fishery management plan compliance issue

The order in which agenda items are addressed may change. Public comment periods will be provided throughout the agenda. The Plan Team will meet as late as necessary to complete scheduled business.

Although non-emergency issues not contained in this agenda may come before the Plan Team for discussion, those issues may not be the subject of formal action during this meeting. Plan Team action will be restricted to those issues specifically listed in this document and any issue arising after publication of this document that requires emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council'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 Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

Dated: March 22, 2004.

Bruce C. Morehead,

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

[FR Doc. 04–6724 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Trademark Trial and Appeal Board (TTAB) Actions

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before May 24, 2004.

ADDRESSES: Direct all written comments to Susan K. Brown, Records Officer, Office of the Chief Information Officer, Office of Data Architecture and Services, Data Administration Division, 703–308–7400, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313, Attn: CPK 3 Suite 310; by e-mail at *susan.brown@uspto.gov;* or by facsimile at 703–308–7407.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Mary Frances Bruce, Senior Administrator, Trademark Trial and Appeal Board, United States Patent and Trademark Office (USPTO), P.O. Box 1450, Alexandria, VA 22313–1450; by telephone 703–308–9300; or by e-mail at *maryfrances.bruce@uspto.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This collection of information is required by Sections 13 (15 U.S.C. 1063), 14 (15 U.S.C. 1064), and 20 (15 U.S.C. 1070) of the Trademark Act. The Act provides for the Federal registration of trademarks and service marks. Any individual or entity that adopts a trademark or service mark to identify its goods or services may apply to federally register its mark. Section 14 of the Trademark Act allows individuals and entities to file a petition to cancel a registration of a mark, while Section 13 allows individuals and entities who

believe that they would be damaged by the registration of a mark to file an opposition to the registration of a mark. Section 20 of the Trademark Act allows individuals and entities to file an appeal from any final decision of the examiner in charge of the requested registration of a mark.

The United States Patent and Trademark Office (USPTO) administers the Trademark Act according to 37 CFR Part 2, which contains the rules that implement the Trademark Act. 37 CFR 2.111 and 2.112 govern the filing of a Petition to Cancel and 37 CFR 2.101, 2.102, and 2.104 govern the filing of an opposition to the registration of a trademark. 37 CFR 2.141 and 2.142 govern the filing of appeals. Petitions to cancel a trademark registration, oppositions, and appeals are filed with the Trademark Trial and Appeal Board (TTAB).

Individuals and entities now have the option to file the Request for Extension of Time to File an Opposition, the Notice of Opposition, and certain papers such as motions and briefs, electronically through the Electronic System for Trademark Trials and Appeals (ESTTA). In addition, the USPTO is currently developing forms to collect the Petition to Cancel, the Notice of Appeal, and Miscellaneous Ex Parte Papers such as motions and briefs, electronically through ESTTA as well. The USPTO plans to deploy these forms in FY 2004. These electronic forms, in addition to those already deployed through ESTTA, are being incorporated into this collection at this time for review and approval. The paper equivalent of the Notice of Appeal is also being submitted for review at this time.

There are no paper forms associated with this collection. However, the TTAB has suggested formats for the Petition to Cancel and the Notice of Opposition that individuals and entities can use when submitting these petitions and notices to the TTAB. These are not forms and as such do not have form numbers. If applicants or entities wish to submit the petitions, notices, and additional papers in *inter partes* and *ex parte* cases electronically, they must use the forms provided through ESTTA. Oppositions to extensions of protection under the Madrid Protocol (or requests for extensions of time to oppose) must be filed electronically through ESTTA.

This information collection was reviewed and approved by the Office of Management and Budget (OMB) on May 16, 2001 with 61,572 responses and 17,179 burden hours. On September 17, 2002, a change worksheet, which decreased the total responses by 19,172 responses per year and total burden hours by 5,679 hours per year, was submitted to OMB for review and approval. OMB approved this change worksheet on September 20, 2002, changing the currently approved inventory for this collection to 42,400 responses and 11,500 burden hours per year.

II. Method of Collection

By mail or hand carry when the applicant or agent files a petition to cancel a trademark registration, an opposition to the registration of a trademark, a request to extend the time to file an opposition, or a notice of appeal with the USPTO. These requirements, in addition to papers filed in Inter Partes and Ex Parte cases, can also be submitted electronically to the TTAB through ESTTA. Only Notices of Appeal for ex parte appeals can be submitted by facsimile.

III. Data

OMB Number: 0651–0040.

Form Number(s): Electronic forms for the Petition to Cancel, the Notice of Opposition, the Request for Extension of Time to File an Opposition, Electronic Papers in Inter Partes Cases, and Electronic Miscellaneous Ex Parte Papers.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; business or other for profit; not-for-profit institutions; farms, Federal Government; and state, local or tribal Government.

Estimated Number of Respondents: 46,900 total responses per year. Of this total, the USPTO estimates that 1,520 Petitions to Cancel, 4,400 Notices of Opposition, 21,000 Extensions of Time to File an Opposition, and 2,400 Notices of Appeal will be submitted in paper per year. The USPTO further estimates that 380 Petitions to Cancel, 1,100 Notices of Opposition, 9,000 Requests for Extension of Time to File an Opposition, 5,000 Papers in Inter Partes Cases, 600 Notices of Appeal, and 1,500 Miscellaneous Ex Parte Papers will be submitted electronically per year.

Estimated Time Per Response: The USPTO estimates that it will take the public 45 minutes to complete the Petitions to Cancel and the Notices of Opposition; 10 minutes to complete the Extensions of Time to File an Opposition, the Electronic Papers in Inter Partes Cases, and the Electronic Miscellaneous Ex Parte Papers; and 15 minutes to complete the Notices of Appeal. This includes time to gather the necessary information, create the documents, and submit the completed request. The USPTO believes that it will take the same amount of time to submit the Petitions to Cancel, the Notices of Opposition, the Extensions of Time to File an Opposition, and the Notices of Appeal electronically as it does to submit them in paper.

Estimated Total Annual Respondent Burden Hours: 12,505 hours per year.

Estimated Total Annual Respondent Cost Burden: $2,294,669. The USPTO estimates that it will take a 50/50 level of effort by associate attorneys and paraprofessional/paralegals to complete the requirements in this collection. Using a typical professional hourly rate of $286 for associate attorneys in private firms and the paraprofessional/paralegal rate of $81 for paralegals/legal assistants in private firms and calculating the average of these rates, the USPTO believes that the average hourly rate for those completing the petitions, notices, requests, and other papers in this collection will be $183.50. Therefore, the USPTO estimates that the salary costs for the respondents providing this information will be $2,294,669 per year.

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Petition to Cancel	45 minutes	1,520	1,140
Electronic Petition to Cancel	45 minutes	380	285
Notice of Opposition	45 minutes	4,400	3,300
Electronic Notice of Opposition	45 minutes	1,100	825
Extension of Time to File an Opposition	10 minutes	21,000	3,570
Electronic Request for Extension of Time to File an Opposition	10 minutes	9,000	1,530
Electronic Papers in Inter Partes Cases (file motions, briefs, and other papers in opposition and cancellation proceedings).	10 minutes	5,000	850
Notice of Appeal	15 minutes	2,400	600

Item	Estimated time for response	Estimated annual responses	Estimated annual burden hours
Electronic Notice of Appeal	15 minutes	600	150
Electronic Miscellaneous Ex Parte Papers	10 minutes	1,500	255
Totals		46,900	12,505

Estimated Total Annual Non-Hour Respondent Cost Burden: $2,539,140. There are postage costs, recordkeeping costs, and filing fees associated with this information collection. This collection does not have any capital start-up or maintenance costs.

The USPTO believes that 69% of the Petitions to Cancel, the Notices of Opposition, the Extensions of Time to File an Opposition, and the Notices of Appeal filed with the TTAB will be sent by first-class mail. Using a typical first-class postage rate of 49 cents, the USPTO estimates a total of $15,837 in postage costs for this collection.

For the Petitions to Cancel, Notices of Opposition, the Extensions of Time to File an Opposition, the Notices of Appeal, the Electronic Papers in Inter Partes Cases, and the Electronic Miscellaneous Ex Parte Papers that are filed electronically, the USPTO suggests that the applicant print a copy of the receipt for their records. The USPTO estimates that it will take 5 seconds (0.001) to print out this receipt and that 17,580 petitions, notices, extensions, and other papers will be submitted electronically. Using the average hourly rate of $183.50, the USPTO estimates an approximate recordkeeping cost of $3,303 for this information collection.

There are filing fees associated with the Petitions to Cancel, the Notices of Opposition, and the Notices of Appeal; the Extensions of Time to File an Opposition do not have filing fees. The Electronic Papers in Inter Partes Cases and Electronic Miscellaneous Ex Parte Papers do not add new fees to this information collection. The filing fees for the Petitions to Cancel, the Notices of Opposition, and the Notices of Appeal are per class; therefore the total filing fees can vary depending on the number of classes. The total filing fees of $2,520,000 shown here are the minimum fees associated with this information collection.

Item	Responses (yr) (a)	Filing fees (b)	Total cost (yr) (a) (a x b)
Petition to Cancel	1,520	$300.00	$456,000.00
Electronic Petition to Cancel	380	300.00	114,000.00
Notice of Opposition	4,400	300.00	1,320,000.00
Electronic Notice of Opposition	1,100	300.00	330,000.00
Extension of Time to File an Opposition	21,000	0.00	0.00
Electronic Request for Extension of Time to File an Opposition	9,000	0.00	0.00
Electronic Papers in Inter Partes Cases	5,000	0.00	0.00
Notice of Appeal	2,400	100.00	240,000.00
Electronic Notice of Appeal	600	100.00	60,000.00
Electronic Miscellaneous Ex Parte Papers	1,500	0.00	0.00
Totals	46,900		$2,520,000.00

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) 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, e.g., the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: March 19, 2004.

Susan K. Brown,

Records Officer, United States Patent and Trademark Office, Office of the Chief Information Officer, Office of Data Architecture and Services Data Administration Division.

[FR Doc. 04–6671 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–16–P

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in the Federative Republic of Brazil

March 19, 2004.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner, Bureau of Customs and Border Protection adjusting a limit.

EFFECTIVE DATE: March 25, 2004.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the Bureau of Customs and Border Protection Web site at *http://cbp.gov*. For information on embargoes and quota re-openings, refer to the Office of Textiles and Apparel Web site at *http://otexa.ita.doc.gov*.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854);

Executive Order 11651 of March 3, 1972, as amended.

The current limit for Category 363 is being increased for swing.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 69 FR 4926, published on February 2, 2004). Also see 68 FR 63070, published on November 7, 2003.

D. Michael Hutchinson,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

March 19, 2004.

Commissioner,
Bureau of Customs and Border Protection, Washington, DC 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 3, 2003, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in Brazil and exported during the twelve-month period which began on January 1, 2004 and extends through December 31, 2004.

Effective on March 25, 2004, you are directed to increase the current limit for Category 363 to 47,764,944 numbers [1], as provided for under the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,
D. Michael Hutchinson,
Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E4–680 Filed 3–24–04; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Invention; Available for Licensing

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: The invention listed below is assigned to the United States Government as represented by the Secretary of the Navy and is available for licensing by the Department of the Navy. U.S. Patent No. 6,338,023, ''Autonomous Survey System (Auto Survey),'' Navy Case No. 79,746.

ADDRESSES: Requests for copies of the invention cited should be directed to the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, and must include the Navy Case number.

FOR FURTHER INFORMATION CONTACT: Jane F. Kuhl, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone (202) 767–7230. Due to temporary U.S. Postal Service delays, please fax (202) 404–7920, E-Mail: *kuhl@utopia.nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: March 19, 2004.

S.K. Melancon,

Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.

[FR Doc. 04–6672 Filed 3–24–04; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors to the Superintendent, Naval Postgraduate School

AGENCY: Department of the Navy, DOD.

ACTION: Notice of open meeting.

SUMMARY: The purpose of the meetings is to elicit the advice of the board on the Naval Service's Postgraduate Education Program. The board examines the effectiveness with which the Naval Postgraduate School is accomplishing its mission. To this end, the board will inquire into the curricula, instruction, physical equipment, administration, state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the Naval Postgraduate School as the board considers pertinent. The meetings will be open to the public.

DATES: The meetings will be held on Tuesday, April 20, 2004, from 8 a.m. to 4:30 p.m. and on Wednesday, April 21, 2004, from 8 a.m. to 2 p.m. All written comments regarding these meetings should be received by April 12, 2004, and be directed to Superintendent, Naval Postgraduate School (Attn: Jaye Panza), 1 University Circle, Monterey, CA 93943–5000 or by fax (831) 656–3145.

ADDRESSES: The meetings will be held at the Naval Postgraduate School, Herrmann Hall, 1 University Circle, Monterey, CA.

FOR FURTHER INFORMATION CONTACT: Mrs. Jaye Panza, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5000, telephone number (831) 656–2514.

Dated: March 19, 2004.

S.K. Melancon,

Paralegal Specialist, Office of the Judge Advocate General, Alternate Federal Register Liaison Officer.

[FR Doc. 04–6673 Filed 3–24–04; 8:45 am]

BILLING CODE 3810–FF–U

DEPARTMENT OF EDUCATION

RIN 1865–ZA01

[CFDA No. 84.184.E]

Notice of Proposed Priority

AGENCY: Office of Safe and Drug-Free Schools, Department of Education.

ACTION: Notice of proposed priority and other application requirements.

SUMMARY: We propose a priority and other application requirements under the Emergency Response and Crisis Management Grant program. We may use this priority and the application requirements for competitions in Fiscal Year (FY) 2004 and in later years. We take this action to focus Federal financial assistance on supporting grants to local educational agencies (LEAs) in improving and strengthening emergency response and crisis management plans that address the four phases of crisis planning: Prevention/Mitigation, Preparedness, Response, and Recovery. Plans must include training for school personnel, students, and parents in emergency response procedures and must include coordination with local law enforcement, public safety, health, and mental health agencies.

DATES: We must receive your comments on or before April 26, 2004.

ADDRESSES: Address all comments about this proposed priority and other application requirements to Sara Strizzi, 400 Maryland Avenue, SW., Washington, DC 20202–6450. If you prefer to send your comments through the Internet, use the following address: *Sara.Strizzi@ed.gov*.

FOR FURTHER INFORMATION CONTACT: Sara Strizzi. Telephone: (202) 708–4850 or via Internet: *Sara.Strizzi@ed.gov*.

If you use a telecommunications devise for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–888–877–8339.

[1] The limit has not been adjusted to account for any imports exported after December 31, 2003.

Individuals with disabilities may obtain this document in an alternative format (*e.g.* Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding this proposed priority and other application requirements.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from this proposed priority and other application requirements. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about this proposed priority and other application requirements in 400 Maryland Ave, SW., room 3E320, Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this proposed priority and other application requirements. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

We propose this priority and other application requirements under the Safe and Drug-Free Schools and Communities National Programs to focus on the important need of LEAs to strengthen and improve school crisis plans in coordination with community-based partners.

We will announce the final priority and other application requirements in a notice in the **Federal Register**. We will determine the final priority and other application requirements after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities or other application requirements, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use this proposed priority and other application requirements, we invite applications through a notice in the **Federal Register**. When inviting applications we designate the priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the competitive priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Priority: Improvement and Strengthening of School Emergency Response and Crisis Management Plans

The events of September 11, 2001, made schools and communities aware that in addition to planning for traditional crises and emergencies, schools must now plan to respond to possible terrorist attacks on campus or in the community. The proposed priority supports LEA projects to improve and strengthen emergency response and crisis management plans, at the district and school building level, addressing the four phases of crisis planning: Prevention/Mitigation, Preparedness, Response, and Recovery. Plans must include training for school personnel, students, and parents in emergency response procedures and must include coordination with local law enforcement, public safety, health, and mental health agencies.

Other Application Requirements

In order to develop high-quality emergency response and crisis management plans under this priority, LEAs need to involve community partners in all aspects of planning. We propose establishing the following application requirements:

To be considered for a grant award, we propose that an applicant include in its application an agreement that details the participation of the LEA and the following five community-based partners from the local area: law enforcement, public safety, health, mental health, and the head of the applicant's local government (for example the mayor, city manager, or county executive). The agreement must detail the roles and responsibilities that each of the required partners will have in improving and strengthening the plan. The agreement must also reflect each partner's commitment to sustainability and continuous improvement of the plan. Finally, the agreement must include an authorized signature representing the LEA and each community-based partner.

If one or more of the five partners listed is not present in the applicant's community, or cannot feasibly participate, the agreement must explain the absence of each missing partner. To be considered eligible for funding, however, an application must include signed agreements from at least the LEA and two of the required five partners, and explanations for the absence of any of the remaining required partners.

Applications that fail to include the required agreement, including roles and responsibilities, commitment to sustainability and continuous improvement (with signatures and explanations for missing signatures as specified above), will not be read.

Furthermore, all emergency response and crisis management plans must be coordinated with the Homeland Security Plan of the State in which the LEA is located. All States submitted such a plan to the Department of Homeland Security on January 30, 2004. To ensure that emergency services are coordinated within the State, the LEA must follow the requirements of the State Homeland Security Plan for informing and working with State personnel on emergency services and initiatives.

Although this program requires partnerships with other parties, administrative direction and fiscal control for the project must remain with the local educational agency.

The plan must also take into consideration the communication, transportation, and medical needs of individuals with disabilities within this community.

We also propose that grantees who received funding under this priority in FY 2003 are not eligible applicants for FY 2004.

Executive Order 12866

This notice of proposed priority and other application requirements has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priority and other application requirements are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits both quantitative and qualitative—of this notice of proposed priority and other application requirements, we have determined that the benefits of the proposed priority and other application requirements justify the costs.

We have also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

Summary of potential costs and benefits:

The potential cost associated with this proposed priority and other application requirements is minimal while the benefits are significant. Grantees may anticipate costs with completing the application process in terms of staff and partner time, copying, and mailing or delivery. The use of E-Application technology reduces mailing and copying costs significantly.

The benefit of this proposed priority and other application requirements is that grantees that develop a comprehensive emergency response and crisis management plan that includes training and that is implemented in coordination with community partners may mitigate the financial and human impact of a crisis in their district.

Intergovernmental Review

This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program. *Applicable Program Regulations:* 34 CFR parts 75, 77, 79, 80, 81, 82, 84, 85, 97–99, and 299.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area, at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number 84.184.E—Emergency Response and Crisis Management Grant program)

Program Authority: 20 U.S.C. 7131.

Dated: March 22, 2004.

Deborah A. Price,

Deputy Under Secretary for Safe and Drug-Free Schools.

[FR Doc. 04–6726 Filed 3–24–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

RIN 1820 ZA37

National Institute on Disability and Rehabilitation Research; Notice of Proposed Priorities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priorities for health and function outcomes for individuals with disabilities.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes priorities under the Rehabilitation Research and Training Centers (RRTC) Program for the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2004 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve health and function outcomes for individuals with disabilities.

DATES: We must receive your comments on or before April 27, 2004.

ADDRESSES: Address all comments about these proposed priorities to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880.

If you use a telecommunications device for the deaf (TDD), you may call the TDD number at (202) 205–4475 or via Internet: *donna.nangle@ed.gov.*

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

SUPPLEMENTARY INFORMATION:

Invitation To Comment

We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities in room 3412, Switzer Building, 330 C Street, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after

considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these proposed priorities, we invite applications through a notice published in the **Federal Register**. When inviting applications, we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the competitive priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html.*

These proposed priorities are in concert with NIDRR's 1999–2003 Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support potential research to be conducted under these proposed priorities, a specific reference is included for each priority presented in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Through the implementation of the NFI and the Plan, NIDRR seeks to—(1) improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Rehabilitation Research and Training Centers

RRTCs conduct coordinated and integrated advanced programs of research targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disability conditions, or promote maximum social and economic independence for persons with disabilities. Additional information on the RRTC program can be found at: *http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

General Requirements of Rehabilitation Research and Training Centers

RRTCs must:

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties; and
- Serve as centers for national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the RRTC. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment of approved grant objectives.

Proposed Priorities

The Assistant Secretary proposes to fund three RRTCs that will focus on improved outcomes measures, health status, and rehabilitation of persons with traumatic brain injury to facilitate the ability of individuals with disabilities to live in the community. Under each of these priorities, the RRTC must:

(1) Contribute substantially to the scientific knowledge-base relevant to its respective subject area;

(2) Research, develop, and evaluate interventions or tools to assist with outcomes for its focus area;

(3) Develop, implement, and evaluate a comprehensive plan for training critical stakeholders (*e.g.*, consumers/family members, practitioners, service providers, researchers, and policymakers);

(4) Provide technical assistance, as appropriate, to critical stakeholders, (*e.g.*, consumers/family members, practitioners, and service providers) to facilitate utilization of research findings in its respective area of research; and

(5) Develop a systematic plan for focused dissemination of informational materials based on knowledge gained from the RRTC's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties.

In addition to these activities, we propose that under each of the priorities, the RRTC must:

- Conduct a state-of-the-science conference on its respective area of research in the third year of the grant cycle and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant cycle. This conference must include materials from experts internal and external to the RRTC;
- Coordinate on research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer;
- Involve individuals with disabilities, including those from diverse racial and ethnic backgrounds, in planning and implementing its research, training, and dissemination activities, and in evaluating the RRTC;
- Demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds; and
- Articulate goals, objectives, and expected outcomes for the proposed research activities. It is critical that proposals describe expected public benefits, especially benefits for individuals with disabilities, and propose projects that are designed to demonstrate outcomes that are consistent with the proposed goals. Applicants must include information

describing how they will measure outcomes, including the indicators that will represent the end-result, the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies, including a discussion of measures of effectiveness.

Priorities

Each RRTC must focus research on one of the following priorities:

Proposed Priority 1—Measuring Rehabilitation Outcomes and Effectiveness

Background

In a research environment increasingly driven by the demand for evidence-based practice, it is becoming even more necessary to develop and use measures to evaluate the effectiveness and efficacy of interventions and their value to individuals with disabilities. Despite significant investment in development of measures, there is general agreement that much remains to be done. This changing environment necessitates the development, evaluation, and application of the next generation of rehabilitation outcomes measures. These measures must be valid, reliable, efficiently collected, relevant to the lives of people with disabilities, and easily utilized to drive decisions made by key rehabilitation stakeholders. Changing rehabilitation payment structures and clinical pathways are necessitating the development of outcome measures that can be applied across the spectrum of acute and post-acute care settings. Through their report entitled ''Crossing the Quality Chasm: A New Health System for the 21st Century,'' the Institute of Medicine (IOM) emphasizes the importance of transparency and accountability in the health care delivery system (Institute of Medicine, 2001. Crossing the Quality Chasm: A New Health System for the 21st Century. Washington, DC: National Academy Press).

Collecting rehabilitation outcomes is labor intensive in any setting. Applications of item-response theory and computerized dynamic assessment technologies, which have been successfully applied in the fields of education and psychology, have great potential to increase efficiency and precision of rehabilitation outcomes data collection and measurement (Ware, J. 2003. Conceptualization and Measurement of Health-Related Quality of Life: Comments on an Evolving Field. Archives of Physical Medicine and Rehabilitation, 84(4 Suppl 2): S43–S51). Further application of these state-of-the-art computer-based measurement and analysis methods in medical rehabilitation will complement the Institute of Medicine's recommendations for the development of a national health care information-technology infrastructure (Institute of Medicine (2003a). Patient Safety: Achieving a New Standard for Care. Washington, DC: National Academies Press).

Evolving disability classification frameworks such as the International Classification of Functioning, Disability, and Health (ICF) (World Health Organization. International Classification of Functioning, Disability, and Health; ICF. Geneva: World Health Organization) emphasize the importance of participation in a wide variety of life situations. In order to apply such frameworks to medical rehabilitation services and research, it is necessary to develop measurement tools that can assess participation and link this outcome to interventions in the rehabilitation setting.

Priority: This center must conduct research to advance the field of medical rehabilitation by increasing the utility, efficiency, and relevance of its outcomes measurement tools and processes. The research funded under this priority must be designed to contribute to the following outcomes:

- Improved measurement tools that can be used to track the outcomes of individuals across a wide variety of rehabilitation settings.

- Improved measurement tools that incorporate consumer perspectives to assess long-term community integration outcomes within a comprehensive model for evaluating rehabilitation effectiveness, such as the ICF.

- Increased efficiency of rehabilitation outcomes data collection, through the application of strategies such as item response theory and computer adaptive testing techniques.

- Identification of effective methods for translating outcomes data into information that can be utilized to inform decisions made by key rehabilitation stakeholders, including consumers, payers, provider organizations, and clinicians.

The reference for this topic can be found in the Plan, chapter 4, Health and Function: Research on Rehabilitation Outcomes, pp. 49–50.

Proposed Priority 2—Health and Wellness in Long-Term Disability

Background

Healthy People 2010 reports on the health status disparity between people with disabilities and people without disabilities (U.S. Department of Health and Human Services. Healthy People 2010 Washington, DC: Office of Disease Prevention and Health Promotion, 2001). On average, health status decreases as the severity of one's disability increases. For older people with disabilities, this relationship is even stronger. (U.S. Census Bureau. Americans with Disabilities: Household Economic Status Washington DC: U.S. Census Bureau, 2001).

Despite this established empirical correlation, health and disability are separate and distinct concepts that must be measured on separate scales. Research has demonstrated that concepts of health status are commonly merged with concepts of disability. New measures of health status are needed that are relevant to the experiences of persons with long-term disability to facilitate assessment of health promotion and wellness activities among this population.

NIDRR-funded research on aging, disability and secondary conditions has identified factors associated with health and wellness outcomes for individuals with disabilities. Access to primary (routine) health care is one factor that may affect health status of individuals with disabilities. Pain management, exercise, and nutrition counseling are critical interventions to counteract the results of increasingly sedentary lifestyles of persons with long-term disability (Campbell, ML, Sheets, D, Strong, PS. Secondary Health Conditions Among Middle-Aged Individuals with Chronic Physical Disabilities: Implications for unmet needs for services. Assistive Technology; 11: 105–122, 1999; Motszko M, Preventing osteoporosis. Lifelong nutrition and exercise habits are the most powerful weapons. Advanced Nurse Practitioner; Jul: 10 (7): 41–3, 76, 2002). Rehabilitation researchers have also identified complementary and alternative therapies that may promote or contribute to improved health and wellness for persons with disabilities (Shiffett, SC. Acupuncture and Stroke Rehabilitation. Stroke; 32(8); 1934–6–9, 2001).

Priority: This center must conduct research that will help to overcome the health disparities of individuals with disabilities compared to individuals without disabilities. The research

funded under this priority must be designed to contribute to the following outcomes:

- Identification of strategies to overcome barriers that impede access to routine healthcare for individuals with disabilities.
- Identification of interventions in areas such as exercise, nutrition, pain management, or complementary and alternative therapies, that promote health and wellness and minimize the occurrence of secondary conditions for persons with disabilities.
- Improved health status measurement tool(s) to assess health and well-being of individuals with disability regardless of functional ability.

The reference for this topic can be found in the Plan, chapter 4, Health and Function: Health Care at the Individual Level; Health Care at the Systems Level, pp. 42–43.

Proposed Priority 3—Traumatic Brain Injury (TBI) Interventions

Background

An estimated 5.3 million Americans currently live with disabilities resulting from traumatic brain injury (TBI). As stated in the 1998 National Institutes of Health (NIH) Consensus Conference Proceedings, ''TBI may result in lifelong impairment of an individual's physical, cognitive, and psychosocial functioning.'' Among children up to age 14, TBI results annually in an estimated 3,000 deaths, 29,000 hospitalizations, and 400,000 emergency department visits. A working group convened by the National Center for Injury Prevention and Control at the CDC in October, 2000 called for more research on patterns of recovery, secondary conditions, effectiveness of treatment, and issues of measurement for this population. At the September 2003, NIDRR-funded State of the Science Conference on TBI Interventions, levels of evidence for many interventions in TBI rehabilitation were characterized as inconclusive.

Priority: This center must conduct research to improve long-term outcomes for persons with TBI. The research funded under this priority must be designed to contribute to one of the following outcomes:

- Identification of interventions that demonstrate efficacy, or effectiveness, or both, in promoting improved rehabilitation outcomes for adults with TBI; or
- Identification of interventions that demonstrate either efficacy, or effectiveness, or both, in promoting improved rehabilitation outcomes for children (under age 16) with TBI.

In addition, for either adults or children, the research funded under this priority must be designed to develop and evaluate improved techniques for assessing outcomes associated with TBI.

The reference for this topic can be found in the Plan, chapter 4, Health and Function: Research on Trauma Rehabilitation, p. 47.

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priorities, we have determined that the benefits of the proposed priorities justify the costs.

Summary of potential costs and benefits: The potential costs associated with these proposed priorities are minimal while the benefits are significant. Grantees may anticipate costs associated with completing the application process in terms of staff time, copying, and mailing or delivery. The use of e-Application technology reduces mailing and copying costs significantly.

The benefits of the RRTC Program have been well established over the years. Similar projects have generated new knowledge and technologies.

The benefit of these proposed priorities will be the establishment of new RRTCs, which can be expected to generate new knowledge through research, dissemination, utilization, training, and technical assistance projects that will improve the lives of persons with disabilities and thus improve their ability to live in the community. *Applicable Program Regulations:* 34 CFR part 350.

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Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO access at: *http://www.gpoaccess.gov/nara/index.html.*

(Catalog of Federal Domestic Assistance Number: 84.133B, Rehabilitation Research and Training Centers Program)

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Dated: March 22, 2004.

Troy R. Justesen,

Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 04–6725 Filed 3–24–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

RIN 1820 ZA34

National Institute on Disability and Rehabilitation Research

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice of proposed priorities for Community Integration for Individuals with Disabilities.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services proposes priorities under the National Institute on Disability and Rehabilitation Research (NIDRR) Rehabilitation Research and Training Centers (RRTC) Program. The Assistant Secretary may use one or more of these priorities for competitions in fiscal year (FY) 2004 and later years. We take this action to focus research attention on areas of national need. We intend these priorities to improve community integration outcomes of persons with disabilities who have psychiatric or other mental health conditions.

DATES: We must receive your comments on or before April 27, 2004.

ADDRESSES: Address all comments about these proposed priorities to Donna Nangle, U.S. Department of Education, 400 Maryland Avenue, SW., room 3412, Switzer Building, Washington, DC 20202–2645. If you prefer to send your comments through the Internet, use the following address: *donna.nangle@ed.gov.*

FOR FURTHER INFORMATION CONTACT: Donna Nangle. Telephone: (202) 205–5880.

If you use a telecommunications device for the deaf (TDD), you may call

the TDD number at (202) 205–4475 or via Internet: *donna.nangle@ed.gov.*

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT.**

SUPPLEMENTARY INFORMATION:

Invitation to Comment

We invite you to submit comments regarding these proposed priorities. To ensure that your comments have maximum effect in developing the notice of final priorities, we urge you to identify clearly the specific proposed priority that each comment addresses.

We invite you to assist us in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden that might result from these proposed priorities. Please let us know of any further opportunities we should take to reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about these proposed priorities in room 3412, Switzer Building, 330 C Street SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., eastern time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed priorities. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

We will announce the final priorities in a notice in the **Federal Register**. We will determine the final priorities after considering responses to this notice and other information available to the Department. This notice does not preclude us from proposing or funding additional priorities, subject to meeting applicable rulemaking requirements.

Note: This notice does *not* solicit applications. In any year in which we choose to use these proposed priorities, we invite applications through a notice published in the **Federal Register**. When inviting applications, we designate each priority as absolute, competitive preference, or invitational. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by either (1) awarding additional points, depending on how well or the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the competitive priority over an application of comparable merit that does not meet the competitive priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the invitational priority. However, we do not give an application that meets the invitational priority a competitive or absolute preference over other applications (34 CFR 75.105(c)(1)).

Note: NIDRR supports the goals of President Bush's New Freedom Initiative (NFI). The NFI can be accessed on the Internet at the following site: *http://www.whitehouse.gov/news/freedominitiative/freedominitiative.html.*

These proposed priorities are in concert with NIDRR's Long-Range Plan (Plan). The Plan is comprehensive and integrates many issues relating to disability and rehabilitation research topics. While applicants will find many sections throughout the Plan that support potential research to be conducted under these proposed priorities, a specific reference is included for each priority presented in this notice. The Plan can be accessed on the Internet at the following site: *http://www.ed.gov/rschstat/research/pubs/index.html.*

Through the implementation of the NFI and the Plan, NIDRR seeks to– (1) Improve the quality and utility of disability and rehabilitation research; (2) foster an exchange of expertise, information, and training to facilitate the advancement of knowledge and understanding of the unique needs of traditionally underserved populations; (3) determine best strategies and programs to improve rehabilitation outcomes for underserved populations; (4) identify research gaps; (5) identify mechanisms of integrating research and practice; and (6) disseminate findings.

Rehabilitation Research and Training Centers

RRTCs conduct coordinated and integrated advanced programs of research targeted toward the production of new knowledge to improve rehabilitation methodology and service delivery systems, alleviate or stabilize disability conditions, or promote maximum social and economic independence for persons with disabilities. Additional information on the RRTC program can be found at *http://www.ed.gov/rschstat/research/pubs/res-program.html#RRTC.*

General Requirements of Rehabilitation Research and Training Centers

RRTCs must:

- Carry out coordinated advanced programs of rehabilitation research;
- Provide training, including graduate, pre-service, and in-service training, to help rehabilitation personnel more effectively provide rehabilitation services to individuals with disabilities;
- Provide technical assistance to individuals with disabilities, their representatives, providers, and other interested parties;
- Disseminate informational materials to individuals with disabilities, their representatives, providers, and other interested parties; and
- Serve as centers for national excellence in rehabilitation research for individuals with disabilities, their representatives, providers, and other interested parties.

The Department is particularly interested in ensuring that the expenditure of public funds is justified by the execution of intended activities and the advancement of knowledge and, thus, has built this accountability into the selection criteria. Not later than three years after the establishment of any RRTC, NIDRR will conduct one or more reviews of the activities and achievements of the RRTC. In accordance with the provisions of 34 CFR 75.253(a), continued funding depends at all times on satisfactory performance and accomplishment of approved grant objectives.

Priorities

Background

Community integration (CI) and independent living (IL) are central to NIDRR's mission, which is to develop knowledge that will ''improve substantially the options for disabled individuals to perform regular activities in the community, and the capacity of society to provide full opportunities for its disabled citizens.'' NIDRR's Plan, which articulates this mission, emphasizes that community integration is not just about being located physically in the community; it is about

full participation, independence, empowerment, choice, and control.

The U.S. Supreme Court, in its 1999 *L.C.* v. *Olmstead* decision, held that title II of the Americans with Disabilities Act (ADA) prohibits unjustified isolation or segregation of qualified individuals with disabilities, including individuals with mental disabilities, through institutionalization. The President issued Executive Order 13217, ''Community-based Alternatives for Individuals with Disabilities,'' which requires Federal agencies to implement the *Olmstead* decision.

In April, 2002, President Bush announced the creation of the New Freedom Commission on Mental Health. He charged the Commission with studying the mental health care system in the United States and making recommendations that would enable adults with serious mental illness and children with serious emotional disturbance to live, work, learn, and participate fully in their communities. The ensuing Commission Report, ''Achieving the Promise: Transforming Mental Health Care in America'' (July, 2003), along with reports from the Surgeon General and numerous other public and private entities, offer consensus on a number of findings addressed in the priorities below. These include the importance of enhancing: (1) Recovery as an organizing framework; (2) recovery-oriented, community-based interventions that are consumer and family-driven; (3) integration of care and collaboration across service sectors serving persons with psychiatric disability (*e.g.*, health, mental health, substance abuse, corrections/juvenile justice, education, social services); (4) financial flexibility, workforce development, and accountability across service sectors; (5) access to care by reducing stigma; and culturally competent care and service to rural and other underserved populations; and (6) culturally competent care and service to rural and other underserved populations.

NIDRR, in keeping with its long-standing commitment to CI for people with disabilities, and consistent with findings from the President's Commission and findings from the field, announces its intention to fund three RRTCs related to child, adolescent, and adult mental health. Each of these priorities addresses at least some of the findings previously discussed.

New to this set of priorities is a focus on outcomes rather than activities. The overall outcome for each of these priorities mirrors the President's charge: To work towards enabling adults with serious mental illness and children with serious emotional disturbance to live, work, learn, and participate fully in their communities and to provide supports for their families and caregivers.

Proposed Priorities

The Assistant Secretary for Special Education and Rehabilitative Services proposes to fund three RRTCs that will focus on rehabilitation related to improving the community integration outcomes of persons with disabilities who have psychiatric or other mental health conditions. Under each of these priorities, the RRTC must:

(1) Contribute substantially to the scientific knowledge-base relevant to its respective subject area,

(2) Research, develop, and evaluate interventions and tools to improve outcomes in its focus area,

(3) Develop, implement, and evaluate a comprehensive plan for training critical stakeholders (*e.g.*, consumers, family members, practitioners, service providers, researchers, and policymakers),

(4) Provide technical assistance, as appropriate, to critical stakeholders, (*e.g.*, consumers, family members, practitioners, and service providers) to facilitate utilization of research findings in its respective area of research, and

(5) Develop a systematic plan for widespread dissemination of informational materials based on knowledge gained from the RRTC's research activities, and disseminate the materials to persons with disabilities, their representatives, service providers, and other interested parties.

In addition to the activities proposed by the applicant to carry out these purposes, each RRTC must—

- Conduct a state-of-the-science conference on its respective area of research in the third year of the grant cycle and publish a comprehensive report on the final outcomes of the conference in the fourth year of the grant cycle. This conference must include materials from experts internal and external to the RRTC;
- Coordinate on research projects of mutual interest with relevant NIDRR-funded projects as identified through consultation with the NIDRR project officer;
- Involve individuals with disabilities, including those from diverse racial and ethnic backgrounds, in planning and implementing its research, training, and dissemination activities, and in evaluating the RRTC;
- Demonstrate in its application how it will address, in whole or in part, the needs of individuals with disabilities from minority backgrounds; and
- Articulate goals, objectives, and expected outcomes for the proposed research activities. It is critical that proposals describe expected public benefits, especially benefits for individuals with disabilities, and propose projects that are designed to demonstrate outcomes that are consistent with the proposed goals. Applicants must include information describing how they will measure outcomes, including the indicators that will represent the end-result, the mechanisms that will be used to evaluate outcomes associated with specific problems or issues, and how the proposed activities will support new intervention approaches and strategies, including a discussion of measures of effectiveness.

Each RRTC must focus research on one of the following priorities:

Priority 1—Recovery and Recovery-Oriented Psychiatric Rehabilitation for Persons With Long Term Mental Illness

The purpose of the priority is to establish an RRTC on Recovery and Recovery-Oriented Psychiatric Rehabilitation for Persons with Long Term Mental Illness, in collaboration with the U.S. Department of Health and Human Services, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration. The RRTC must be outcomes-focused, with the aim of enabling adults with serious mental illness to live, work, learn, and participate fully in their communities. Emphasis must be placed on the development and translation into practice of scientific knowledge that is culturally competent and consumer and family centered. To achieve these goals, the RRTC will conduct research, training, technical assistance, and dissemination activities on individual and environmental factors relevant to recovery and recovery-oriented psychiatric rehabilitation. Relevant topic areas may include, but are not limited to—

- The concept and dimensions of recovery as it relates to people with long-term mental illness;
- Factors that inhibit recovery (*e.g.*, stigma and discrimination, fragmentation of the service delivery system, workforce shortages); or
- Factors that enhance recovery, including model interventions and supports (*e.g.*, culturally competent treatment, supported employment, supported education, and alternative and innovative practices such as exercise, peer supports, and personal assistance services).

The reference for this topic can be found in the Plan, chapter 6,

Independent Living and Community Integration.

Priority 2—Developing and Implementing Integrated Systems of Care for Child and Adolescent Mental Health

The purpose of the priority is to establish an RRTC on development and implementation strategies for effective and integrated systems of care for children and adolescents with serious emotional disorders and their families and caregivers, in collaboration with the U.S. Department of Health and Human Services, Center for Mental Health Services, Substance Abuse and Mental Health Services Administration. The RRTC must be outcome-focused, with the aim of developing and implementing effective and integrated systems of care that provide children and families access to the services and supports they need in order to live, learn, work, and thrive in their communities. To achieve this, the RRTC must conduct research, training, technical assistance, and dissemination activities on relevant areas such as, but not limited to—

- Strategies for maximizing collaboration in planning, accountability, financing, and service delivery within and across service sectors (*e.g.*, mental health, juvenile justice, child welfare, education, substance abuse, primary health).
- Strategies for enhancing the child and adolescent mental health workforce so that it is more diverse and has the training, organizational support, and infrastructure necessary to implement family and community-based individualized service plans.
- Strategies for developing culturally competent policies, practices, and procedures, and incorporating them into the service delivery system.
- Performance measurement and quality improvement procedures designed to help systems of care make adjustments and improvements as needed to achieve their goals.
- Strategies for developing and implementing financial policies that are flexible and encourage home and community-based care provided in accordance with individualized service plans.
- Strategies for maximizing translation of evidence-based research into systems of care that permit families' self-determination; maximize partnerships between schools, families, and communities; and provide access to effective family and community-based interventions.

The reference for this topic can be found in the Plan, chapter 6, Independent Living and Community Integration.

Priority 3—Strengthening Family and Youth Participation in Child and Adolescent Mental Health Services

The purpose of the priority is to establish an RRTC on promoting effective family-centered and community-based practices and supports for children and adolescents with serious emotional disorders and their families and other caregivers, in collaboration with the U.S. Department of Health and Human Services, Center for Mental Services, Substance Abuse and Mental Health Services Administration. The work of the RRTC must be outcome-focused with the aim of increasing the extent to which families and youth have awareness of and access to supports and services that effectively promote their participation in family, school, work, and community life and roles. To achieve this, the RRTC will conduct research, training, technical assistance, and dissemination activities on relevant topic areas such as, but not limited to—

- Strategies for reducing stigma as a barrier to service delivery for children, families, and other caregivers.
- Strategies for integrating the concept of recovery (as discussed in the field of psychiatric rehabilitation) in service delivery for children and youth.
- Strategies for developing, delivering, and evaluating culturally competent youth and family-driven individualized service plans that are applicable across a variety of settings and service sectors.
- Strategies for maximizing the translation of evidence-based research into effective community-based practices.
- Strategies to support successful transitions across settings.

The reference for this topic can be found in the Plan, chapter 6, Independent Living and Community Integration.

Executive Order 12866

This notice of proposed priorities has been reviewed in accordance with Executive Order 12866. Under the terms of the order, we have assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the notice of proposed priorities are those resulting from statutory requirements and those we have determined as necessary for administering this program effectively and efficiently.

In assessing the potential costs and benefits—both quantitative and qualitative—of this notice of proposed priorities, we have determined that the benefits of the proposed priorities justify the costs.

Summary of Potential Costs and Benefits

The potential costs associated with these proposed priorities are minimal while the benefits are significant. Grantees may anticipate incurring costs associated with completing the application, including staff time, copying, and mailing or delivery. The use of e-Application technology reduces copying and mailing costs significantly.

The benefits of the RRTC Program have been well established over the years. Similar projects have generated findings that advance the field and improve options for individuals with disabilities.

The benefit of these proposed priorities and project requirements will be the establishment of new RRTCs that generate, disseminate, and promote the use of new information to improve options and participation in the community for individuals with disabilities. *Applicable Program Regulations:* 34 CFR part 350.

Electronic Access to This Document

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To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

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(Catalog of Federal Domestic Assistance Number: 84.133B, Rehabilitation Research and Training Center Program)

Program Authority: 29 U.S.C. 762(g) and 764(b)(2).

Dated: March 22, 2004.

Troy R. Justesen,

Acting Deputy Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 04–6727 Filed 3–24–04; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Energy Technology Laboratory

Notice of Availability of a Funding Opportunity Announcement

AGENCY: National Energy Technology Laboratory, Department of Energy (DOE).

ACTION: Notice of availability of a funding opportunity announcement.

SUMMARY: Notice is hereby given of the intent to issue Funding Opportunity Announcement No. DE–PS26–04NT42113 entitled Waste Heat Recovery and Utilization Research and Development for Passenger Vehicle and Light/Heavy Duty Truck Applications. The Department of Energy (DOE), National Energy Technology Laboratory (NETL), on behalf of the Office of Energy Efficiency and Renewable Energy (EERE), announces that it intends to conduct a competitive funding opportunity announcement. EERE's Office of FreedomCAR and Vehicle Technologies (OFCVT) is seeking applications for cost-shared research and development (R&D) in two topical areas to improve the efficiency of internal combustion engines while meeting emissions regulations. The intent of this solicitation is to fund projects that will take their technology to full scale for characterization and evaluation on multi-cylinder engines or equivalent experimental rigs by the end of the period of performance. Fundamental research will be considered for funding under this solicitation when it is focused on a major impediment to a project's progress.

DATES: The funding opportunity announcement will be available on the ''Industry Interactive Procurement System'' (IIPS) Web page located at *http://e-center.doe.gov* on or about March 26, 2004. Applicants can obtain access to the funding opportunity announcement from the address above or through DOE/NETL's Web site at *http://www.netl.doe.gov/business*.

Questions and comments regarding the content of the announcement should be submitted through the ''Submit Question'' feature of IIPS at *http://e-center.doe.gov.* Locate the announcement on IIPS and then click on the ''Submit Question'' button. You will receive an electronic notification that your question has been answered. Responses to questions may be viewed through the ''View Questions'' feature. If no questions have been answered, a statement to that effect will appear. You should periodically check ''View Questions'' for new questions and answers.

FOR FURTHER INFORMATION CONTACT: Theresa S. Hafer, MS I07, U.S. Department of Energy, National Energy Technology Laboratory, P.O. Box 880, 3610 Collins Ferry Road, E-mail Address: *theresa.hafer@netl.doe.gov*, Telephone Number: (304) 285–4039.

SUPPLEMENTARY INFORMATION: The objective of this funding opportunity announcement is to provide financial support to improve the efficiency of internal combustion engines for light- and heavy-duty engines through technological advances in combustion and waste heat recovery. This funding opportunity announcement will address the following two topical areas: 1) Direct Energy Conversion from Waste Heat Recovery; and 2) Heating/Cooling Devices Based on Waste Heat Recovery. DOE anticipates awarding 3 to 6 cost sharing cooperative agreements across the two topical areas. Approximately $12 million to $17 million of federal funding is anticipated for awards under this program over multiple fiscal years. Awards under both topical areas will require 25% cost share.

Once released, the funding opportunity announcement will be available for downloading from the IIPS Internet page. At this Internet site you will also be able to register with IIPS, enabling you to submit an application. If you need technical assistance in registering or for any other IIPS function, call the IIPS Help Desk at (800) 683–0751 or E-mail the Help Desk personnel at *IIPS_HelpDesk@e-center.doe.gov.* The funding opportunity announcement will only be made available in IIPS, no hard (paper) copies of the funding opportunity announcement and related documents will be made available. Telephone requests, written requests, E-mail requests, or facsimile requests for a copy of the funding opportunity announcement will not be accepted and/or honored. Applications must be prepared and submitted in accordance with the instructions and forms contained in the announcement. The actual funding opportunity announcement document will allow for requests for explanation and/or interpretation.

Issued in Morgantown, WV on March 9, 2004.

Dale A. Siciliano,

Director, Acquisition and Assistance Division.

[FR Doc. 04–6709 Filed 3–24–04; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–108]

ANR Pipeline Company; Notice of Negotiated Rate Filing

March 19, 2004.

Take notice that on March 12, 2004, ANR Pipeline Company (ANR) tendered for filing and approval a negotiated rate letter agreement between ANR and NJR Energy Services. ANR requests that the Commission accept and approve the negotiated rate to be effective April 1, 2004.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–665 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–216–000]

ANR Pipeline Company; Notice of Tariff Filing

March 19, 2004.

Take notice that on March 15, 2004, ANR Pipeline Company, (ANR), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, with an effective date of May 1, 2004.

ANR states that the tariff sheets are being filed in compliance with the Commission's Order issued December 30, 2003, directing ANR to cease and desist from issuing OFO's to effectively implement permanent restrictions on its gas quality tariff standards, in the referenced proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–675 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP04–79–000]

ANR Pipeline Company; Notice of Application

March 19, 2004.

On March 10, 2004, ANR Pipeline Company (ANR), 9 E Greenway Plaza, Houston, Texas 77046, filed an application in the above referenced docket, pursuant to sections 7(b) and 7(c) of the Natural Gas Act (NGA), and Part 157 of the Federal Energy Regulatory Commission's (Commission) Rules and Regulations to perform certain enhancements to its storage system in order to optimize its operations by matching inventory and deliverability to market demands. The ANR Pipeline Storage Realignment Project involves four natural gas storage fields in Otsego, Clare, St. Clair, and Lapeer Counties, Michigan. ANR proposes to perform certain enhancements and convert a total of 4.1 BCF of base gas to working gas at the Lincoln-Freeman, South Chester, and Central Charlton1 storage fields, and abandon by sale the Capac storage field. It is estimated the proposed project will cost $9,771,539. 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 ''e-Library'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676, or for TTY, (202) 502–8659.

Any questions regarding this application should be directed to Dawn McGuire, Attorney, ANR Pipeline Company, Nine E. Greenway Plaza, Suite 1868A, Houston, Texas 77048, phone (832) 676–5503 or fax (832) 676–2251.

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.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

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: April 9, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–679 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR04–8–000]

Arkansas Oklahoma Gas Corporation; Notice of Petition for Rate Approval

March 19, 2004.

Take notice that on February 13, 2004, Arkansas Oklahoma Gas Corporation (AOG), filed pursuant to the Commission's Order, issued June 13, 2001, in Docket No. PR01–8–000, a petition for approval to establish a new maximum transportation rate applicable to all of Applicant's existing and future transportation services provided under its Order No. 63 blanket certificate.

Any person desiring to participate in this rate proceeding must file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed with the Secretary of the Commission on or before the date as indicated below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This petition for rate approval 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 I the docket number field to access the document. For Assistant, call (202) 502–8222 or for TTY, (202) 502–8659. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Comment Date: April 5, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–678 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–219–000]

CenterPoint Energy Gas Transmission Company; Notice of Proposed Changes in Ferc Gas Tariff

March 19, 2004.

Take notice that on March 17, 2004, CenterPoint Energy Gas Transmission Company (CEGT) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following revised tariff sheets to be effective May 1, 2004:

Third Revised Sheet No. 17;
Third Revised Sheet No. 18;
Third Revised Sheet No. 19;
Third Revised Sheet No. 31; and
Third Revised Sheet No. 32.

CEGT states that the purpose of this filing is to adjust CEGT's fuel percentages and Electric Power Costs (EPC) Tracker pursuant to sections 27 and 28 of its General Terms and Conditions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–676 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–625–000]

Chandeleur Pipe Line Company; Notice of Offer of Settlement

March 18, 2004.

Take notice that on March 15, 2004, Chandeleur Pipe Line Company (Chandeleur), pursuant to Rule 602 of the Commission's Rules of Practice and Procedure, 18 CFR 385.602, tendered for filing an Offer of Settlement and Stipulation and Agreement for approval by the Commission in this proceeding.

Chandeleur states that the Settlement Agreement resolves all aspects of Chandeleur's cost of service and applicable rate design. Chandeleur further points out that it will provide rate certainty to Chandeleur and all shippers that utilize Chandeleur's transportation services.

Chandeleur states that copies of the filing have been served upon all participants on the official service list and upon all jurisdictional customers and interested parties.

Any person desiring to make comments in this proceeding the initial comments must be filed with the Commission on or before March 25, 2004 and reply comments due on or before March 30, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–662 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–545–004]

Dominion Cove Point LNG, LP; Notice of Compliance Filing

March 19, 2004.

Take notice that on March 15, 2004, Dominion Cove Point LNG, LP (Cove Point) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 2003:

Third Sub. Second Revised Sheet No. 240
Third Sub. First Revised Sheet No. 241
Second Sub. Second Revised Sheet No. 245

Cove Point states that the purpose of this filing is to comply with the Commission's ''Order on Compliance and Rehearing'' issued on March 5, 2004. Cove Point states it has filed to revise its capacity release provisions

relating to the pre-qualification requirement for potential replacement shippers in section 10 of the General Terms and Conditions of its FERC Gas Tariff consistent with the Commission's March 5, 2004, Order.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed in accordance with section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–671 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–12–000]

Florida Gas Transmission Company; Notice of Informal Settlement Conference

March 19, 2004.

Take notice that an informal settlement conference will be convened in this proceeding starting at 9:30 a.m. on Tuesday, March 30, 2004, and continuing at 9:30 a.m. on Wednesday, March 31, 2004, in a room to be announced at a later date, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring a possible settlement.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Hollis Alpert at 202–502–8783, *hollis.alpert@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E4–673 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR03–18–001]

Katy Storage and Transportation, L.P.; Notice of Compliance Filing

March 19, 2004.

Take notice that on March 1, 2004, Katy Storage and Transportation, L.P. (KST) filed a revised Statement of Operating Conditions to comply with the Commission's February 17, 2004 Order authorizing KST to charge market-based rates for its storage and hub services.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Protest Date: April 5, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–670 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–155–000 and RP03–398–000]

Northern Natural Gas Company; Notice of Informal Settlement Conference

March 18, 2004.

Take notice that an informal settlement conference will be convened in this proceeding commencing at 1 p.m. on Tuesday, March 23, 2004, and continuing if necessary at 9 a.m. on Wednesday, March 24, 2004, and possibly continuing further if necessary at 9 a.m. on Thursday, March 25, 2004 in a room to be announced later, at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced dockets.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Bill Collins (202) 502–8248 *william.collins@ferc.gov*, or Kevin Frank (202) 502–8065 *kevin.frank@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E4–661 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–155–001]

Northern Natural Gas Company; Notice of Compliance Filing

March 19, 2004.

Take notice that on March 15, 2004, Northern Natural Gas Company (Northern) tendered for filing to become part of its FERC Gas Tariff, Fifth Revised Volume No. 1 the following tariff sheets, with an effective date of August 1, 2004:

Substitute Second Revised Sheet 298; and
Substitute Fifth Revised Sheet 299A

Northern states that the revised tariff sheets are being filed to comply with the Commission's February 27, 2004 Order in this docket accepting Northern's FDD ROFR proposal, subject to certain modifications.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–674 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–48–004]

Portland General Electric Company; Notice of Compliance Filing

March 19, 2004.

Take notice that on March 16, 2004, Portland General Electric Company tendered for filing as part of its FERC Gas Tariff, Volume No. 1, Second Revised Sheet No. 4, to become effective on December 3, 2004.

Portland asserts that the purpose of this filing is to comply with the Commission's February 5, 2004 Letter Order in Docket No. RP04–48–003.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See,* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–677 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–218–000]

Trunkline Gas Company, LLC; Notice of Proposed Changes in Ferc Gas Tariff

March 19, 2004.

Take notice that on March 16, 2004, Trunkline Gas Company, LLC (Trunkline) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the revised tariff sheets listed in Appendix A, attached to the filing to become effective April 15, 2004.

Trunkline states that this filing is being made to add an additional discount category to the forms of service agreement for transportation and storage services. Trunkline proposes to offer its shippers a fluctuating index-based or formula rate for discounted transactions.

Trunkline further states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link.

Magalie R. Salas,

Secretary.

[FR Doc. E4–669 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–593–001]

Wyoming Interstate Company, Ltd.; Notice of Refund Report

March 19, 2004.

Take notice that on March 16, 2004, Wyoming Interstate Company, Ltd. (WIC) tendered for filing its Columbia Exit Fee Surcharge Credits (CEF) True-up in Docket No. RP03–593–000.

WIC states that it performed a one-time, final refund true-up of its remaining CEF refund obligation. WIC further states that the remaining refund balance due eligible shippers was distributed pro-rata based upon the total CEF each eligible shipper received in calendar year 2003 as shown in Appendix A to the filing. WIC states that the refunds were issued on March 11, 2004.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before the protest date as shown below. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings.

This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the e-Filing link. *Protest Date:* March 26, 2004.

Magalie R. Salas,

Secretary.

[FR Doc. E4–672 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. EC04–75–000, et al.]

Vineland Energy LLC, et al.; Electric Rate and Corporate Filings

March 17, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. Vineland Energy LLC

[Docket Nos. EC04–75–000 and ER03–1283–004]

Take notice that on March 12, 2004, Vineland Energy LLC (Vineland) filed an application under section 203 of the Federal Power Act requesting Commission authorization for the transfer of a 50% indirect upstream membership interest in Vineland from Vineland Limited, Inc., an indirect wholly-owned subsidiary of Pepco Holdings, Inc., to Delta Power Company, LLC (Delta) or one or more wholly-owned subsidiaries of Delta and/or to certain individuals who may be employed or retained by Delta and not employed or otherwise affiliated with any franchised electric utility (Delta Designees). Vineland has requested confidential treatment of the contents of Exhibit B and Exhibit I to the section 203 application. In addition, Vineland filed a notice of change in status in the above-referenced rate docket.

Comment Date: April 2, 2004.

2. Fresno Cogeneration Partners, L.P.

[Docket No. ER00–2392–001]

Take notice that on March 12, 2004, Fresno Cogeneration Partners L.P. tendered for filing a triennial updated market power analysis and an amendment to its market-based rate tariff to adopt the Commission's new Market Behavior Rules issued on November 17, 2003, in Docket Nos. EL01–118–000 and 001.

Comment Date: April 2, 2004.

3. Duke Energy South Bay, LLC

[Docket No. ER03–117–003]

Take notice that on March 12, 2004, Duke Energy South Bay, LLC (Duke South Bay) submitted a refund report in response to the Commission's Order issued November 24, 2003, in Docket No. ER03–117–000.

Comment Date: April 2, 2004.

4. Entergy Services, Inc.

[Docket No. ER03–1272–002]

Take notice that on March 12, 2004, Entergy Services, Inc., on behalf of the Entergy Operating Companies, Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. submitted a compliance filing in response to the Commission's February 11, 2004, Order in Docket No. ER03–1272–000, 106 FERC ¶ 61,115 (2004).

Comment Date: April 2, 2004.

5. Black Hills Power, Inc., Basin Electric Power Cooperative, Powder River Energy Corporation

[Docket No. ER03–1354–003]

Take notice that on March 12, 2004, Black Hills Power, Inc., Basin Electric Power Cooperative, and Powder River Energy Corporation submitted a compliance filing pursuant to the Commission's Order issued February 12, 2004, in Docket No. ER03–1354–000, 106 FERC ¶ 61,119 (2004).

Comment Date: April 2, 2004.

6. Pacific Gas and Electric Company

[Docket No. ER03–1362–001]

Take notice that on March 12, 2004, Pacific Gas and Electric Company (PG&E) filed a refund report in compliance with the Commission's Order issued on November 13, 2003, in Docket No. ER03–1362–000.

PG&E states that copies of this filing have been served upon the parties of record in Docket Nos. ER03–1362–000 and ER04–377–000, CalPeak Power—Panoche, LLC, CalPeak Power—Midway, LLC, Sunrise Power Company, LLC, the California Independent System Operator Corporation, and the California Public Utilities Commission.

Comment Date: April 2, 2004.

7. New York Independent System Operator, Inc.

[Docket No. ER04–230–003]

Take notice that on March 12, 2004, the New York Independent System Operator, Inc. (NYISO) filed compliance tariff sheets, pursuant to the Commission's Order issued February 11, 2004, in Docket No. ER04–230–000, certain ministerial tariff corrections, and a notice that certain tariff provisions would become effective on May 1, 2004.

The NYISO states that it has served a copy of this filing to all parties on the official service list in this proceeding, including the New York State Public Service Commission, and to the electric utility regulatory agencies in New Jersey and Pennsylvania.

Comment Date: April 2, 2004.

8. First Electric Cooperative Corporation

[Docket No. ER04–524–000]

Take notice that on March 5, 2004, First Electric Cooperative Corporation tendered for filing a Notice of Withdrawal of its Notice of Cancellation of Rate Schedule No. 1, pursuant to rule 216 of the Commission's regulations, 18 CFR 385.216.

Comment Date: March 24, 2004.

9. Duke Energy Lee, LLC

[Docket No. ER04–641–000]

Take notice that on March 12, 2004, Duke Energy Lee, LLC (Duke Lee) tendered for filing its proposed tariff and supporting cost data for its Monthly Revenue Requirement under PJM Interconnection, LLC's (PJM) Schedule 2—Reactive Supply and Voltage Control from Generation Sources Service. Duke Lee requests an effective date of the date Commonwealth Edison Company (ComEd) joins PJM.

Duke Lee has served copies of the filing on the Illinois Commerce Commission, PJM and ComEd.

Comment Date: April 2, 2004.

10. Maine Public Service Company

[Docket No. ER04–642–000]

Take notice that on March 10, 2004, pursuant to the Settlement Agreement accepted by the Commission on April 13, 2001, in Docket No. ER01–1344–000, Maine Public Service Company (MPS), submitted an informational filing setting forth the changed loss factor effective March 1, 2004, together with back-up materials.

MPS states that copies of this filing were served on the parties to the

Settlement Agreement in Docket No. ER01–1344–000, the Northern Maine Independent System Administrator, Inc., the Maine Public Utilities Commission, Commission Trial Staff, the Maine Public Advocate, and current MPS open access transmission tariff customers.

Comment Date: March 31, 2004.

11. Idaho Power Company

[Docket No. ER04–643–000]

Take notice that on March 12, 2004, Idaho Power Company (Idaho Power) submitted for filing First Revised Service Agreement No. 174 under its Open Access Transmission Tariff providing for 75 MW of long-term from transmission service to the Idaho Power Merchant Group.

Comment Date: April 2, 2004.

12. Duke Energy Lee, LLC

[Docket No. ER04–644–000]

Take notice that on March 12, 2004, Duke Energy Lee, LLC (Duke Lee) filed revisions to its FERC Electric Tariff, Original Volume No. 1 (Tariff), specifically (1) enumerating ancillary service products sold into the ancillary service markets operated by PJM Interconnection, L.L.C., (2) providing for the resale of firm transmission rights and other similar congestion-related contracts, and (3) reflecting the Commission's current language preferences with respect to (a) use of an Internet site with respect to the provision of certain ancillary services and (b) obtaining Commission approval for certain affiliate transactions. Duke Lee requested an effective date of March 13, 2004.

Comment Date: April 2, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–660 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER02–2330–025, et al.]

ISO New England Inc., et al.; Electric Rate And Corporate Filings

March 18, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

1. ISO New England Inc.

[Docket No. ER02–2330–025]

Take notice that on March 15, 2004, ISO New England Inc. submitted a compliance filing providing a status report on the implementation of Standard Market Design in New England.

Comment Date: April 5, 2004.

2. Duke Energy South Bay, Inc.

[Docket No. ER03–117–004]

Take notice that on March 15, 2004, Duke Energy South Bay, LLC (Duke South Bay) submitted for filing an errata to the refund report filed on March 12, 2004, in Docket No. ER03–117–003.

Comment Date: April 5, 2004.

3. Southern California Edison Company

[Docket No. ER03–142–005]

Take notice that on March 15, 2004, Southern California Edison Company (SCE) tendered for filing a refund report in compliance with the Order Approving Uncontested Settlement issued by the Commission on February 12, 2004, in Docket No. ER03–142–000 106 FERC ¶ 61,118.

SCE states that copies of this filing were served upon the Public Utilities Commission of the State of California and the California Department of Water Resources.

Comment Date: April 5, 2004.

4. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER03–1312–004]

Take notice that on March 15, 2004, the Midwest Independent Transmission System Operator, Inc. (Midwest ISO) supplemented its March 1, 2004, filing concerning Schedule 20 (Treatment of Station Power) of its Open Access Transmission Tariff, FERC Electric Tariff, Second Revised Volume No. 1.

The Midwest ISO has requested waiver of the service requirements set forth in 18 CFR 385.2010. Midwest ISO states that it has electronically served a copy of this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, as well as all State commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading ''Filings to FERC'' for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: April 5, 2004.

5. Williams Power Company, Inc., Williams Generation Company—Hazelton, Williams Flexible Generation, LLC

[Docket Nos. ER03–1331–003, ER97–4587–004, and ER00–2469–001]

Take notice that on March 12, 2004, Williams Power Company, Inc., (WPC) Williams Generation Company—Hazelton and Williams Flexible Generation, LLC tendered for filing a joint triennial market power update in compliance with the Commission's orders authorizing them to engage in wholesale sales of electric power at market-based rates.

Comment Date: April 2, 2004.

6. American Electric Power Service Corporation

[Docket No. ER04–645–000]

Take notice that on March 12, 2004, the American Electric Power Service Corporation (AEP), as agent for Appalachian Power Company (APCo) tendered for filing as an Initial Rate Schedule, an executed Letter Agreement between APCo Bristol Virginia Utilities. AEP requests an effective date of February 9, 2004.

AEP states that a copy of the filing was served upon Bristol Virginia Utilities and the Virginia State Corporation Commission.

Comment Date: April 5, 2004.

7. Core Equities, Inc.

[Docket No. ER04–646–000]

Take notice that on March 15, 2004, Core Equities, Inc. (Core) petitioned the Commission for acceptance of Core 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.

Core states that it intends to engage in wholesale electric power and energy purchases and sales as a marketer. Core also states that it is not in the business of generating or transmitting electric power and that it is a privately held corporation with no affiliates or subsidiaries.

Comment Date: April 5, 2004.

8. PacifiCorp

[Docket No. ER04–647–000]

Take notice that on March 15, 2004, PacifiCorp tendered for filing in accordance with 18 CFR 35 of the Commission's Rules and Regulations, First Revised Sheet Nos. 45 through 47 (Appendix A) to PacifiCorp's First Revised FERC Rate Schedule No. 297 (Transmission Service and Operating Agreement) with Utah Associated Municipal Power Systems (UAMPS).

PacifiCorp states that copies of this filing were supplied to the Public Utility Commission of Oregon, the Washington Utilities and Transportation Commission, and UAMPS.

Comment Date: April 5, 2004.

9. Public Service Company of New Mexico

[Docket No. ER04–648–000]

Take notice that on March 15, 2004, Public Service Company of New Mexico (PNM) submitted for filing an Interim Invoicing Agreement with respect to invoicing for coal deliveries from San Juan Coal Company among PNM, Tucson Electric Power Company (TEP), and the other owners of interests in the San Juan Generating Station covering the period from January 1, 2004, through December 31, 2004. PNM states that Interim Invoicing Agreement is an appendix to the San Juan Project Participation Agreement (PPA), and effectively modifies the PPA for that same period. PNM request an effective date of January 1, 2004.

PNM states that copies of the filing have been sent to the New Mexico Public Regulation Commission, the New Mexico Attorney General, TEP, and each of the owners of an interest in the San Juan Generating Station.

Comment Date: April 5, 2004.

10. Minnesota Power, Superior Water, Light & Power Company, Rainy River Energy Corporation

[Docket No. ER04–649–000]

Take notice that on March 15, 2004, Minnesota Power and its affiliates, Superior Water, Light & Power Company and Rainy River Energy Corporation (Applicants), filed revised market based rate tariffs to reflect the fact that the Applicants are no longer affiliated with Split Rock Energy LLC.

Comment Date: April 5, 2004.

11. Mirant Kendall, L.L.C.

[Docket No. ER04–650–000]

Take notice that on March 15, 2004, Mirant Kendall, L.L.C. (Mirant Kendall) tendered for filing pursuant to section 205 of the Federal Power Act and part 35 of the Commission's regulations an amended and restated tie agreement (the Tie Agreement) and a substation agreement (the Substation Agreement) by and between Mirant Kendall and Cambridge Electric Light Company (Cambridge Electric). Mirant Kendall states that the proposed Agreements would provide for the construction and operation of a generator tie line within Mirant Kendall's generating station in Cambridge, Massachusetts and the conveyance of certain property rights for the construction and operation of a substation in Cambridge, Massachusetts. Mirant Kendall has requested an effective date for the Tie Agreement of March 16, 2004. Mirant Kendall has requested an effective date for the Substation Agreement coincident with the later of (a) approval of the United States Bankruptcy Court of the Northern District of Texas, Fort Worth Division and (b) approval in writing by Mirant Kendall's debtor-in-possession lender of Mirant Kendall's entry into such Substation Agreement.

Mirant Kendall states that a copy of this filing has been sent to Cambridge Electric.

Comment Date: April 5, 2004.

12. San Manuel Power Co. LLC

[Docket No. ER04–651–000]

Take notice that on March 15, 2004, San Manuel Power Co. LLC (San Manuel) filed a Notice of Cancellation of its Electric Tariff, Original Volume No. 1, effective March 31, 2004.

Comment Date: April 5, 2004.

13. FirstEnergy Solutions Corp.

[Docket No. ER04–652–000]

Take notice that on March 15, 2004, FirstEnergy Solutions Corp. (Solutions) tendered for filing a revised Service Schedule A—Reactive Supply and Voltage Control from Generation Sources Service (Reactive Supply Service) under its Tariff for Sales of Ancillary Services and Interconnected Operations Services. Solutions states that revisions are being made to establish or update charges for Reactive Supply Service that it provides to transmission systems controlled by the Midwest Independent Transmission System Operator, Inc. and PJM Interconnection, LLC. Solutions has proposed to make the revised Service Schedule A effective on May 1, 2004.

Comment Date: April 5, 2004.

14. PJM Interconnection, L.L.C.

[Docket No. ER04–653–000]

Take notice that on March 15, 2004, PJM Interconnection, L.L.C. (PJM) submitted the initial allocation of financial transmission rights (FTRs) for the zone of Commonwealth Edison Company (ComEd), which will come under the PJM tariff and market rules on May 1, 2004. PJM proposes an effective date of May 1, 2004, for the initial FTR allocation in the ComEd zone.

PJM states that copies of the filing were served on all PJM members and the utility regulatory commissions in the PJM region.

Comment Date: April 5, 2004.

15. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04–655–000]

Take notice that on March 15, 2004, Midwest Independent Transmission (Midwest ISO) and the Midwest ISO Transmission Owners and Coordinating Owner submitted for filing proposed revisions to the Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc., a Delaware Non-Stock Corporation (Midwest ISO Agreement), Midwest ISO FERC Electric Tariff, First Revised Rate Schedule No. 1, in order to revise the distribution of revenues collected under Schedule 18 of the Midwest ISO Open Access Transmission Tariff consistent with the Settlement approved in Docket No. ER03–580–000, *et al.*

The Midwest ISO and the Midwest ISO Transmission Owners and Coordinating Owner requested waiver of the notice provisions of section 205 of the Federal Power Act in order to accommodate an effective date of October 1, 2003, the effective date of Schedule 18.

The Midwest ISO and the Midwest ISO Transmission Owners and Coordinating Owner requested waiver of the service requirements set forth in 18 CFR 385.2010. Midwest ISO states that it has electronically served a copy of

this filing, with attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, as well as all State commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at *www.midwestiso.org* under the heading Filings to FERC for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested parties upon request.

Comment Date: April 5, 2004.

Standard Paragraph

Any person desiring to intervene or to protest this filing should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's rules of practice and procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. All such motions or protests should be filed on or before the comment date, and, to the extent applicable, must be served on the applicant and on any other person designated on the official service list. This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''FERRIS'' link. Enter the docket number excluding the last three digits in the docket number filed to access the document. For assistance, call (202) 502–8222 or TTY, (202) 502–8659. Protests and interventions may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E4–664 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Surrender of Exemption and Soliciting Comments, Motions To Intervene, and Protests

March 18, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Surrender of exemption (5 MW or less).

b. *Project No.:* 8486–001.

c. *Date Filed:* March 5, 2004.

d. *Applicant:* The Simeon Company.

e. *Name of Project:* Union Village Dam.

f. *Location:* Located on the Branch River, in Carroll County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Dennis P. Strozzi, The Simeon Company, 76 Westbury Park Road, Watertown, Connecticut 06795–0400, (203) 945–4225.

i. *FERC Contact:* Brittany Schoenen, (202) 502–6097.

j. *Deadline for Filing Responsive Documents:* The Commission directs, pursuant to section 4.34(b) of the Regulations (*see* Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, motions to intervene, protests, and recommendations for terms and conditions concerning the application be filed with the Commission by April 19, 2004.

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.

The Commission's rules of practice and procedure require all interveners filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Proposed Action:* The existing project consists of: (1) A 15-foot-high, 112-foot-long stone masonry and concrete dam; (2) a 2-acre reservoir; (3) an 80-foot-wide uncontrolled spillway with 2-foot-high flashboards; (4) a 4-foot-diameter, 10-foot-long underground steel penstock; (5) a 75–kW turbine-generator; and (6) appurtenant facilities. The licensee would like to surrender its exemption and cease operation of the facility.

l. *Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number, here P–6429, in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title ''COMMENTS,'' ''REPLY 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. An additional copy must be sent to the Director, Division of Hydropower Administration and Compliance, Federal Energy Regulatory Commission, at the above-mentioned address. 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 applications. A copy of the applications may be obtained by agencies directly from the Applicant. If any agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also

be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E4–663 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2004–075]

Holyoke Gas & Electric Department; Notice of Settlement Agreement and Soliciting Comments

March 19, 2004.

Take notice that the following settlement agreement has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Settlement agreement.

b. *Project No.:* 2004–075.

c. *Date Filed:* March 12, 2004.

d. *Applicant:* The City of Holyoke Gas & Electric Department.

e. *Name of Project:* Holyoke Hydroelectric Project.

f. *Location:* Located on the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts. No Federal lands are occupied by the project works or located with the project boundary.

g. *Filed Pursuant to:* Rule 602 of the Commission's rules of practice and procedure, 18 CFR 385.602.

h. *Applicant Contact:* Mr. Paul S. Ducheney, Superintendent of Hydro Operations, City of Holyoke Gas & Electric Department, 99 Suffolk Street, Holyoke, MA 01040; (413) 536–9300.

i. *FERC Contact:* Allan Creamer at (202) 502–8365, or by e-mail at *allan.creamer@ferc.gov*.

j. *Deadline for Filing Comments:* The deadline for filing comments on the Settlement Agreement is 20 days from the date of this notice. The deadline for filing reply comments is 30 days from the date of this notice. 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.

Comments may be filed electronically via the Internet in lieu of paper; *see* 18 CFR 385.2001(a)(1)(iii) and the instructions of 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. The Commission strongly encourages electronic filing.

k. The City of Holyoke Gas & Electric Department filed the Settlement Agreement on behalf of itself and 7 other stakeholders. The purpose of the Settlement Agreement is to resolve, among the settling parties, all issues presented in the pending requests for rehearing of the Federal Energy Regulatory Commission's August 20, 1999, ''Order Issuing New License and Denying Competing Application,'' for the Holyoke Project. The issues resolved through the settlement relate to run-of-river operations, bypass minimum flows and canal system flows, flow prioritization, and upstream and downstream fish passage. The settlement also addresses compliance issues with plans previously filed and approved by the Commission, pursuant to the 1999 license and the revised 2001 water quality certification. The City of Holyoke Gas & Electric Department and the settling parties request that the Commission, pending completion of formal consultation with NOAA Fisheries on the shortnose sturgeon, approve the Settlement Agreement and incorporate various proposed license articles into modified license articles for the project.

l. A copy of the Settlement Agreement is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field (P–2004) 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 e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E4–666 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 906–000]

Dominion Virginia Power; Notice of Scoping Meetings and Soliciting Scoping Comments

March 19, 2004.

a. *Type of Application:* Initial Consultation Document (ICD) for a new major license.

b. *Project No.:* 906–000.

c. *Date Filed:* ICD filed July 11, 2003; license application anticipated June 15, 2006.

d. *Applicant:* Dominion Virginia Power.

e. *Name of Project:* Cushaw Hydroelectric Project.

f. *Location:* On the James River in Amherst and Bedford Counties, Virginia. The project occupies about 4.0 acres of Federal land administered by the U.S. Forest Service.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Mr. James Thornton, Technical Advisor, F & H Operations Support, 5000 Dominion Blvd., 1 N.E., Glen Allen, VA 23060, telephone (804) 273–3257.

i. *FERC Contact:* John Smith, telephone (202) 502–8972, e-mail *john.smith@ferc.gov*.

j. *Deadline for Filing Scoping Comments:* May 24, 2004.

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.

Scoping comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The Cushaw Project consists of the following features: (1) A 1,550-foot-long and 27-foot-high reinforced concrete dam extending diagonally across the James River; (2) a 138-acre reservoir at a surface elevation of 656 feet mean sea level; (3) an integrated powerhouse containing five generating units with a

total installed capacity of 7,500 kilowatts; (4) 2.3-kilovolt (kV) generator leads; (5) a 2.3-kV cable connecting the powerhouse to the Cushaw substation; and (6) appurtenant facilities.

l. A copy of the ICD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, 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/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

m. *Scoping Process:* The Commission staff intends to prepare an Environmental Assessment (EA) on the project in accordance with the National Environmental Policy Act once the final license application is filed. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Scoping Meetings

The Commission staff will conduct a site visit, one agency scoping meeting and one public meeting. The agency scoping meeting will focus on resource agency, Indian tribes, and non-governmental organization concerns, while the public scoping meeting is primarily for public input. All interested individuals, organizations, resource agencies, and Indian tribes are invited to attend one or both of the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Site Visit

When: Thursday, April 22, 2004, 10 a.m. to noon.

Where: Meet at Rocky Row Run Boat Ramp off Routes 501 and 130 between the towns of Glasgow and Big Island, Virginia; RSVP to Applicant Contact (item h) by April 14.

Agency Scoping Meeting

When: Thursday, April 22, 2004, 1:30 p.m. to 4 p.m.

Where: Holiday Inn Express, 850 North Lee Highway, Lexington, VA.

Public Scoping Meeting

When: Thursday, April 22, 2004, 7 p.m. to 9 p.m.

Where: Big Island Elementary School, 1114 Schooldays Road, Big Island, VA.

Copies of the Scoping Document (SD1) outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of the SD1 will be available at the scoping meeting or may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link (*see* item l above).

Objectives

At the scoping meetings, the staff will: (1) Summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resources at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views; (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings are recorded by a stenographer and become part of the formal record of the Commission proceeding on the project.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Magalie R. Salas,

Secretary.

[FR Doc. E4–668 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2030–036]

Portland General Electric and the Confederated Tribes of the Warm Springs Reservation of Oregon; Notice of Meeting To Discuss the Pelton Round Butte Hydroelectric Project Collaborative Settlement Process and Procedural Schedule

March 19, 2004.

a. *Date and Time of Meeting:* Tuesday, April 6, 2004, from 1 p.m. to 3 p.m., eastern daylight saving time.

b. *Place:* Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC.

c. *FERC Contact:* Nicholas Jayjack.

d. *Purpose of Meeting:* Portland General Electric has requested a meeting with Commission staff to discuss both an agreement in principle that has been reached in ongoing settlement negotiations and a procedural schedule for concluding the Pelton Round Butte Hydroelectric Project relicensing proceeding. The project is located on the Deschutes River in north central Oregon.

e. *Proposed Agenda:* (1) Introduction of participants; (2) Portland General Electric presentation on the purpose of the meeting; (3) discussion; and (4) conclusion.

f. Commission staff will not issue a Final Environmental Impact Statement for the project prior to this meeting.

g. All local, State, and Federal agencies, Indian tribes, and other interested parties are invited to participate either in person or by phone. Please call Nicholas Jayjack at (202) 502–6073 by April 2, 2004, to RSVP and to receive specific instructions on how to participate.

Magalie R. Salas,

Secretary.

[FR Doc. E4–667 Filed 3–24–04; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–2004–0092; FRL–7351–8]

Pesticide Registration Fee Waivers; New Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44

U.S.C. 3501 *et seq.*) this document announces that EPA is seeking public comment on the following Information Collection Request (ICR): Pesticide Registration Fee Waivers (EPA ICR No. 2147.02, OMB Control No. 2070–0167). This is a request to renew an existing collection activity approved under the emergency processing procedures in section 3507(j) of the PRA, as implemented in OMB regulations at 5 CFR 1320.13, through September 30, 2004. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket ID number OPP–2004–0092, must be received on or before May 24, 2004.

ADDRESSES: Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Nancy Vogel, Field and External Affairs Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 305–6475; fax number: (703) 305–5884; e-mail address: *vogel.nancy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you register pesticide products for food or feed uses, or submit petitions for pesticide tolerances. Additionally, this action may be of interest to agricultural producers, food manufacturers, or other pesticide manufacturers. Potentially affected categories and entities may include, but are not limited to:

- Crop production (NAICS 111), e.g., Establishments growing crops mainly for food and fiber.
- Animal production (NAICS 112), e.g., Establishments primarily engaged in keeping, grazing, breeding, or feeding animals.
- Food processing (NAICS 311), e.g., Establishments engaged in transforming livestock and agricultural products into products for intermediate or final consumption.
- Pesticide and other agricultural chemical manufacturing (NAICS 325320), e.g., Pesticide registrants who sell and distribute pesticide products to the general public in the United States.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed above could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in the Information Collection Request document. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Copies of this Document and Other Related Information?

A. Docket

EPA has established an official public docket for this action under docket identification (ID) number OPP–2004–0092. 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.

B. Electronic Access

You may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in ''OPP–2004–0092.''

Certain types of information will not be placed in the EPA Dockets. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EPA Dockets, the system will identify whether the document is available for viewing in EPA's electronic public docket. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified in Unit II.A. EPA intends to work towards providing electronic access to all of the publicly available docket materials through EPA's electronic public docket.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket ID number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments. If you wish to submit CBI or information that is otherwise protected by statute, please follow the instructions in Unit III.B. Do not use EPA Dockets or e-mail to submit CBI or information protected by statute.

1. *Electronically*. If you submit an electronic comment as prescribed in this unit, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. *EPA Dockets*. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EPA Dockets at *http://www.epa.gov/edocket/*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in docket ID number OPP–2004–0092. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. *E-mail*. Comments may be sent by e-mail to *opp-docket@epa.gov*, Attention: Docket ID Number OPP–2004–0092. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. *Disk or CD ROM*. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit III.A. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. *By mail*. Send your comments to: Public Information and Records Integrity Branch (PIRIB) (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001, Attention: Docket ID Number OPP–2004–0092.

3. *By hand delivery or courier*. Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, Attention: Docket ID Number OPP–2004–0092. Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit II.A.

B. How Should I Submit CBI to the Agency?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider When I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket ID number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information Is EPA Particularly Interested In?

Pursuant to section 3506(c)(2)(A) of the PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does This Action Apply To?

EPA is seeking comments on the following ICR:

Title: Pesticide Registration Fee Waivers.

ICR numbers: EPA ICR No. 2147.02, OMB Control No. 2070–0167.

ICR status: This ICR is a renewal of an existing ICR that is currently approved by OMB and is due to expire on September 30, 2004.

Abstract: OMB approved the information collection activities described in this ICR under OMB Control No. 2070–0167 on March 16, 2004 in response to EPA's emergency processing request. EPA requested emergency processing under section 3507(j) of the PRA (44 U.S.C. 3501 *et seq.*), as implemented in OMB regulations at 5 CFR 1320.13, of the collection of information necessary for waiving pesticide registration fees as prescribed in the newly enacted Pesticide Registration Improvement Act of 2003 (PRIA). A copy of the emergency request submitted to OMB (EPA ICR No. 2147.01) and the related OMB action notice approving that request has been placed in the docket identified under Docket ID Number OPP–2004–0092.

EPA sought emergency processing of the existing approval because the collection of information necessary for processing the fee waiver requests was needed prior to the expiration of the time periods established under the PRA. The collection of this information at the time the waiver is requested is necessary for the Agency to be able to waive the fees, and proceed with making a decision on the related application. The statute was enacted on January 23, 2004, with a statutory effective date of March 23, 2004, at which time the fee waiver requests can be submitted to the Agency. The statutory implementation time frame does not allow the Agency to follow the regular process for ICRs under the PRA, which includes two comment periods with 60 day and 30 day time frames. EPA asked OMB to take action on the emergency request within 2 work days of receipt, and asked that OMB approve the collection for the full 180 days permitted by the regulations.

The collection activities covered by this ICR will allow the Agency to process requests for waivers of fees under the PRIA by ensuring that those requesting the waivers provide EPA with appropriate documentation demonstrating that they meet the waiver criteria established in the PRIA. The ICR covers the collection activities associated with requesting a fee waiver and involves requesters submitting a waiver request, information to demonstrate eligibility for the waiver, and certification of eligibility. Waivers are available for small businesses, for minor uses, and for actions solely associated with the Inter-Regional Research Project Number 4 (IR–4). State and Federal Agencies are exempt from the payment of fees.

V. What are EPA's Burden and Cost Estimates for This ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this ICR is estimated to be 21,600 hours for the first year of implementation, and 18,720 hours in subsequent years. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Applicants for pesticide registration actions.

Estimated total number of potential respondents: 360 annually.

Frequency of response: On occasion.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 21,600 hours.

Estimated total annual burden costs: $1,879,200.

VI. Does the Proposed Renewal ICR Include Any Changes Over the Emergency Approval?

The burden and costs estimates are the same, but the detailed description is new.

VII. What Is the Next Step in the Process for This ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: March 18, 2004.

Susan B. Hazen,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 04–6699 Filed 3–24–04; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[CA116–NOA; FRL–7639–8]

Adequacy Status of the South Coast and Coachella Valley, CA; Attainment and Maintenance Plans for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy determination.

SUMMARY: In this notice, EPA is notifying the public that we have found that the motor vehicle emissions budgets contained in California plans for attainment of the 1-hour ozone, PM10, and carbon monoxide (CO) National Ambient Air Quality Standards (NAAQS) and maintenance of the nitrogen dioxide (NO2) NAAQS in the South Coast, and attainment of the PM10 NAAQS in the Coachella Valley, are adequate for transportation conformity purposes. As a result of our finding, the Southern California Association of Governments, the Federal Highway Administration, and the Federal Transit Authority must use the motor vehicle emissions budgets from the submitted plan for future conformity determinations.

DATES: This determination is effective April 9, 2004.

FOR FURTHER INFORMATION CONTACT: The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/transp/conform/reg9sips.htm.* You may also contact Dave Jesson, U.S. EPA, Region IX, Air Division, AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901; (415) 972–3957 or *jesson.david@epa.gov.*

SUPPLEMENTARY INFORMATION: This notice announces our finding that the following emissions budgets contained in the *2003 South Coast Air Quality Management Plan* and the *2003 Coachella Valley PM10 State*

Implementation Plan, submitted by the California Air Resources Board (CARB) on January 9, 2004, are adequate for transportation conformity purposes: 1-hour ozone budgets for volatile organic compounds (VOC) and nitrogen oxides (NO_X) for the years 2005, 2008, and 2010, as part of the 1-hour ozone attainment plan for the South Coast Air Basin; PM10 budgets for VOC, NO_X, and PM10 for the years 2003 and 2006, as part of the PM10 attainment plan for the South Coast; CO budget for CO for the year 2002, as part of the CO attainment plan for the South Coast; NO2 budget for NO_X for the year 2003, as part of the NO2 maintenance plan for the South Coast Air Basin; and PM10 budgets for PM10 for the years 2003 and 2006, as part of the PM10 attainment plan for the Coachella Valley. EPA Region IX made these findings in letters to CARB on March 11, 2004. We are also announcing these findings on our conformity Web site: *http://www.epa.gov/otaq/transp/conform/reg9sips.htm.*

The methodology for estimating paved road dust emissions in the South Coast and Coachella Valley PM10 plans and budgets is consistent with EPA's AP–42 emissions factors, with one exception: California did not use correction factor C in the current version of AP–42, which subtracts out MOBILE6.2 1980's fleet exhaust emissions, brake wear, and tire wear. California-specific roadway silt loading inputs to the emission factor equation were derived from measurements by Midwest Research Institute. The unpaved road dust emissions factor was based on measurements performed by the University of California, Davis, and the Desert Research Institute. We are specifically approving the State's reentrained dust methodologies for paved and unpaved roads for use in future conformity analyses.

Transportation conformity is required by section 176(c) of the Clean Air Act. Our conformity rule requires that transportation plans, programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they conform. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emissions budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). One of these criteria is that the plan provide for attainment or maintenance (as appropriate) of the relevant ambient air quality standard. We have preliminarily determined that the South Coast SIP submittal provides for progress and attainment of the 1-hour ozone, PM10, and CO NAAQS, and maintenance of the nitrogen dioxide (NO2) NAAQS, and that the budgets associated with the plans are consistent with the plan and, therefore, can be found adequate. Similarly, we have preliminarily determined that the Coachella Valley SIP submittal provides for progress and attainment of the PM10 NAAQS, and that the budgets associated with the plan are consistent with the plan and, therefore, can be found adequate.

We have described our process for determining the adequacy of submitted SIP budgets in guidance (May 14, 1999 memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision''). We followed this guidance in making our adequacy determination on the budgets in the South Coast and Coachella Valley SIP submittals.

Authority: 42 U.S.C. 7401–7671q.

Dated: March 12, 2004.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 04–6696 Filed 3–24–04; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7640–2]

Notice of Availability of and Opportunity To Provide Comment on Issues in the Staff Paper: An Examination of EPA Risk Assessment Principles and Practices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and opportunity to comment.

SUMMARY: Today, the EPA is announcing the availability of and an opportunity to comment on issues in an EPA staff paper titled ''An Examination of EPA Risk Assessment Principles and Practices.''

The paper is a product of an EPA staff review of how risk assessment is conducted at EPA. It also presents staff recommendations for EPA and interested parties to consider how EPA can strengthen and, where appropriate, improve its risk assessment practices. The EPA Science Advisor and other senior EPA officials requested this review to further the discussion and examination of some broad questions about risk assessment. The staff paper also discusses public comments relevant to EPA that were submitted to the Office of Management and Budget (OMB) in response to OMB's request for public comment on risk assessment procedures in the Federal government (68 FR 5492–5527, February 3, 2003). EPA assembled a group of risk assessment professionals from across EPA to examine EPA's risk assessment principles and practices, and to prepare this paper. This paper does not represent official EPA policy.

The staff paper will not be revised further. EPA is releasing the staff paper as the first step in a multi-step process by which EPA intends to engage interested parties in a dialogue about risk assessment principles and practices to improve the practice of risk assessment. Accordingly, EPA is requesting public comment on the risk assessment principles and practices described in the paper with the objective of identifying particular issues for future dialogue. Future dialogue on particular issues may come, for example, in discussions under the auspices of EPA's Science Advisory Board, other consultative groups, and professional societies with a focus on risk assessment and with states, non-governmental organizations, and tribal groups. EPA is interested in suggestions for other avenues for dialogue as well.

DATES: Comments must be received by June 23, 2004.

ADDRESSES:

Document Availability

The staff paper, ''An Examination of EPA Risk Assessment Principles and Practices,'' is available via the Internet from *http://www.epa.gov/osa.*

Submitting Comments

Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit II.A. of the **SUPPLEMENTARY INFORMATION** section.

Viewing Public Comments

Comments may be viewed electronically. Follow the detailed instructions as provided in Unit II.B. of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: For information only, contact Dr. Kerry Dearfield, Office of the Science Advisor (8105R), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460, telephone 202–564–4499, or send electronic mail inquiries to *science.advisor@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background Information

The staff paper, ''An Examination of EPA Risk Assessment Principles and

Practices,'' represents an effort by EPA to examine how risk assessment is conducted at EPA. The staff paper presents the perspectives of EPA risk assessors on how they understand risk assessment to be conducted at EPA. It also presents staff recommendations for EPA and interested parties to consider how EPA can strengthen and, where appropriate, improve its risk assessment practices. This staff paper does not represent official EPA policy.

The EPA Science Advisor and other senior EPA officials requested this report to further the discussion and examination of some broad questions about risk assessment. EPA assembled a group of risk assessment professionals from across EPA to examine EPA's principles and practices, and to prepare this paper. As part of its examination, the group examined the public comments submitted to OMB in response to OMB's request for public comment on risk assessment procedures in the Federal government (68 FR 5492–5527, February 3, 2003). The comments to OMB were used to help identify practices that the staff paper could address.

The EPA staff review is supplementary to other activities, such as revisions to EPA's risk assessment guidelines. Instead of addressing the specific issues covered by other activities, the staff was charged with taking a broader look across EPA's risk assessment principles and practices, and with considering several issues as they relate to EPA risk assessment in general. Further, the staff developed a set of recommendations from this review. The recommendations will help EPA update its agenda for further discussion on risk assessment practices.

EPA is releasing this staff paper as a vehicle for opening up a broader dialogue among EPA staff, EPA managers, and external parties about the practice of risk assessment at EPA. Several activities may take place as a part of this dialogue, including possible workshops with EPA's Science Advisory Board or other external groups on promising areas for further development of EPA risk assessment practices. Also, meetings may be held with states, non-governmental organizations, tribal groups, professional societies, and other interested parties to seek their input and suggestions. Releasing this staff paper is an important step in an ongoing process to help advance risk assessment principles and practices at EPA. As the dialog proceeds, newer and better approaches for risk assessment may emerge.

To promote this dialogue, EPA is making this staff paper available and requests comments on the principles and practices discussed in the paper. The objective is not to revise the staff paper, but to use it to focus an active dialogue on risk assessment issues. There will be no formal response to the comments EPA receives. Rather, the comments will be used to help EPA focus on particular risk assessment issues to pursue within EPA and with the interested public. EPA is interested in suggestions for other avenues for dialogue as well.

II. General Information

A. How and to Whom Do I Submit Comments?

You may submit comments electronically, by mail, or through hand delivery/courier. To ensure proper receipt by EPA, identify the appropriate docket identification number in the subject line on the first page of your comment. Please ensure that your comments are submitted within the specified comment period. Comments received after the close of the comment period will be marked ''late.'' EPA is not required to consider these late comments; however, late comments may be considered since the staff paper represents the first step of a multi-step process.

1. *Electronically.* If you submit an electronic comment as prescribed below, EPA recommends that you include your name, mailing address, and an e-mail address or other contact information in the body of your comment. Also include this contact information on the outside of any disk or CD ROM you submit, and in any cover letter accompanying the disk or CD ROM. This ensures that you can be identified as the submitter of the comment and allows EPA to contact you in case EPA cannot read your comment due to technical difficulties or needs further information on the substance of your comment. EPA's policy is that EPA will not edit your comment, and any identifying or contact information provided in the body of a comment will be included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

i. EDOCKET. Your use of EPA's electronic public docket to submit comments to EPA electronically is EPA's preferred method for receiving comments. Go directly to EDOCKET at *http://www.epa.gov/edocket*, and follow the online instructions for submitting comments. Once in the system, select ''search,'' and then key in Docket ID No. ORD–2004–0004. The system is an ''anonymous access'' system, which means EPA will not know your identity, e-mail address, or other contact information unless you provide it in the body of your comment.

ii. E-mail. Comments may be sent by electronic mail (e-mail) to *ORD.Docket@epa.gov*, Attention Docket ID No. ORD–2004–0004. In contrast to EPA's electronic public docket, EPA's e-mail system is not an ''anonymous access'' system. If you send an e-mail comment directly to the Docket without going through EPA's electronic public docket, EPA's e-mail system automatically captures your e-mail address. E-mail addresses that are automatically captured by EPA's e-mail system are included as part of the comment that is placed in the official public docket, and made available in EPA's electronic public docket.

iii. Disk or CD ROM. You may submit comments on a disk or CD ROM that you mail to the mailing address identified in Unit II.A.2. These electronic submissions will be accepted in WordPerfect or ASCII file format. Avoid the use of special characters and any form of encryption.

2. By Mail. Send your comments to: U.S. Environmental Protection Agency, ORD Docket, EPA Docket Center (EPA/DC), Mail Code: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, Attention Docket ID No. ORD–2004–0004.

3. By Hand Delivery or Courier. Deliver your comments to: EPA Docket Center (EPA/DC), Room B–102, EPA West Building, 1301 Constitution Ave., NW., Washington DC, Attention Docket ID No. ORD–2004–0004; (note: this is not a mailing address). Such deliveries are only accepted during the Docket's normal hours of operation as identified in unit II.B.

B. How Should I Submit Confidential Business Information (CBI) to the Agency, If Necessary?

Do not submit information that you consider to be CBI electronically through EPA's electronic public docket or by e-mail. You may claim information that you submit to EPA as CBI by marking any part or all of that information as CBI (if you submit CBI on disk or CD ROM, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is CBI). Information so marked will not be

disclosed except in accordance with procedures set forth in 40 CFR part 2.

In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket and EPA's electronic public docket. If you submit the copy that does not contain CBI on disk or CD ROM, mark the outside of the disk or CD ROM clearly that it does not contain CBI. Information not marked as CBI will be included in the public docket and EPA's electronic public docket without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the person identified in the **FOR FURTHER INFORMATION CONTACT** section.

C. How Can I Get or View Copies of Related Information?

EPA has established an official public docket for this action under Docket ID No. ORD–2004–0004. The official public docket consists of 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 Office of Environmental Information (OEI) Docket in the Headquarters EPA Docket Center, (EPA/DC) EPA West Building, Room B102, 1301 Constitution Avenue, NW., Washington, DC 20460. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752; facsimile: (202) 566–1753; or e-mail: *ORD.Docket@epa.gov*.

An electronic version of the public docket is available through EDOCKET. You may use EDOCKET at *http://www.epa.gov/edocket/* to submit or view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Once in the system, select ''search,'' then key in the appropriate docket identification number.

Certain types of information will not be placed in the EDOCKET. Information claimed as CBI and other information whose disclosure is restricted by statute, which is not included in the official public docket, will not be available for public viewing in EPA's electronic public docket. EPA's policy is that copyrighted material will not be placed in EPA's electronic public docket but will be available only in printed, paper form in the official public docket. To the extent feasible, publicly available docket materials will be made available in EPA's electronic public docket. When a document is selected from the index list in EDOCKET, the system will identify whether the document is available for viewing in EPA's electronic public docket. Publicly available docket materials that are not available electronically may be viewed at the docket facility identified above.

For public commenters, it is important to note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing in EPA's electronic public docket as EPA receives them and without change, unless the comment contains copyrighted material, CBI, or other information whose disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in EPA's electronic public docket. The entire printed comment, including the copyrighted material, will be available in the public docket.

Public comments submitted on computer disks that are mailed or delivered to the docket will be transferred to EPA's electronic public docket. Public comments that are mailed or delivered to the Docket will be scanned and placed in EPA's electronic public docket. Where practical, physical objects will be photographed, and the photograph will be placed in EPA's electronic public docket along with a brief description written by the docket staff.

Dated: March 19, 2004.

Paul Gilman,

EPA Science Advisor, Office of the Science Advisor.

[FR Doc. 04–6695 Filed 3–24–04; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–7640–1]

Underground Injection Control Program Hazardous Waste Disposal Injection Restrictions Petition for Exemption—Class I Hazardous Waste Injection Environmental Disposal Systems, Inc., Romulus, MI

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance of exemption from land disposal restrictions.

SUMMARY: EPA is giving the public notice that the Agency has granted an exemption under the Resource Conservation and Recovery Act, as amended by the 1984 Hazardous and Solid Waste Amendments, (RCRA) and its implementing regulations from the land disposal restrictions (LDR) on underground injection for wells No. 1–12 and 2–12 drilled by Environmental Disposal Systems, Inc. (EDS) in Romulus, Michigan. As required by 40 CFR part 148, subpart C, EDS has demonstrated that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. Among other things, the EPA reviewed the petition, including information on the geology of the injection zone, the confining zone, and the formations between the confining zone and the lowermost underground source of drinking water (USDW), the conceptual model of the geology, simulations of the results of the proposed injection of hazardous wastes into the injection zone, and the mechanical integrity of each well; evaluated the conclusions and data; determined that conclusions are based on valid interpretations of measured data and show that the model used to simulate waste migration is conservative; and found that EDS's petition meets the requirements of 40 CFR part 148, subpart C. This decision constitutes a final Agency action. There is no further administrative process to appeal this decision.

DATES: This action is effective as of March 16, 2004.

FOR FURTHER INFORMATION CONTACT: Harlan Gerrish, Lead Petition Reviewer, EPA, Region 5, Water Division (WU–16J), 77 W. Jackson Blvd., Chicago, Illinois 60604,telephone (312) 886–2939,e-mail address *gerrish.harlan@epa.gov.* Copies of the petition and all pertinent information relating thereto are on file and are part of the Administrative Record. It is

recommended that you contact the lead reviewer prior to reviewing the Administrative Record.

SUPPLEMENTARY INFORMATION:

Introduction

As discussed below, EPA has decided to grant EDS an exemption from the RCRA land disposal restrictions for deep injection of hazardous wastes through two wells in Romulus, Michigan because it has determined that EDS's petition for the exemption meets the requirements for an exemption set forth in 40 CFR part 148, subpart C, and accordingly that the injection will be protective of human health and the environment. This notice discusses the requirements for obtaining such an exemption, and explains how the EDS petition meets those requirements and demonstrates that the proposed injection will be protective of human health and the environment. This decision also discusses the Agency's consideration of public comments and events and changes that have occurred since the Agency published its notice of intent to grant the petition in December of 2002, and sets forth the conditions on the exemption.

Background

RCRA provides for the prohibition of land disposal of certain hazardous wastes by a number of methods, among them underground injection by deep wells. RCRA also provides for exceptions from these prohibitions when methods of land disposal are determined to be protective of human health and the environment for as long as the waste remains hazardous. (*See* RCRA sections 3004(d)(1), (e)(1), (f)(2), and (g)(5), 42 U.S.C. 6924, (d)(1), (e)(1), (f)(2), and (g)(5)). Under RCRA section 3004(g)(5), a method of land disposal may not be determined to be protective of human health and the environment (except with respect to a hazardous waste which has complied with the pretreatment regulations promulgated under subsection (m)) unless, upon application by an interested person, it has been demonstrated to a reasonable degree of certainty, that there will be no migration of hazardous constituents from the disposal unit or injection zone for as long as the wastes remain hazardous.

The EPA previously determined that underground injection of hazardous waste could meet the RCRA ''protectiveness'' standard provided that the EPA could review and approve injection facilities on a case-by-case basis. Accordingly, the EPA promulgated UIC regulations in 1988 establishing criteria and procedures for no migration petitions to demonstrate compliance with this standard, 40 CFR 148.20–148.24. As discussed below, the regulations allow a petitioner to make this demonstration by showing, among other things, that conditions at the site and the nature of the waste are such that reliable predictions can be made that injected fluids will not migrate within 10,000 years vertically upward out of the injection zone or laterally within the injection zone to a point of discharge or interface with a USDW. The United States Court of Appeals for the District of Columbia Circuit upheld the regulations in *Natural Resources Defense Council, Inc.* v. *EPA*, 907 F.2d 1146 (D.C. Cir. 1990).

EDS submitted a petition on January 21, 2000, as amended on October 3, 6, 27, and 31, 2000; January 12, April 24, and October 16, 2001; and January 31, August 22, September 25, and October 23, 2002, requesting an exemption from the LDR for injection of all land ban-restricted hazardous wastes into Well No. 1–12 and Well No. 2–12, located on Citrin Drive in Romulus, Michigan. EDS's petition is based, among other things, on a showing under 40 CFR 148.20(a)(i) that the hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream(s) are such that reliable predictions can be made that fluid movement conditions are such that the injected fluids will not migrate within 10,000 years (A) vertically upward out of the injection zone; or (B) laterally within the injection zone to a point of discharge or interface with a USDW.

The EPA issued a notice of intent to grant this petition on November 19, 2002, publishing this notice in the **Federal Register** (67 FR 77981, December 20, 2002) (Notice of Intent). The EPA accepted public comments on this Notice of Intent from December 6, 2002, until October 6, 2003, holding two public hearings (on January 8, 2003 and on April 21, 2003).

Exemption Determination

After reviewing the petition and additional submissions of information, and considering public comments, the EPA has determined that EDS has met the requirements of 40 CFR part 148, subpart C. The EPA finds EDS has demonstrated that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous, by showing that the hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream(s) are such that reliable predictions can be made that fluid movement conditions are such that the injected fluids will not migrate within 10,000 years (A) vertically upward out of the injection zone; or (B) laterally within the injection zone to a point of discharge or interface with a USDW and meets other applicable requirements of 40 CFR part 148, subpart C. Accordingly, the EPA has determined that EDS's proposed injection is protective of human health and the environment.

No Migration Standard

A petition submitted under 40 CFR 148.20(a)(1)(i) must show that the hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream(s) are such that reliable predictions can be made that fluid movement conditions are such that the injected fluids will not migrate within 10,000 years (A) vertically upward out of the injection zone; or (B) laterally within the injection zone to a point of discharge or interface with a USDW.

A determination under 40 CFR 148.20(a)(1)(i) is based on the interpretation of data and the use of conservative assumptions to characterize the injection zone and to predict waste movement. The plume modeling detailed in the petition document is not intended to predict the actual plume behavior for 10,000 years, but to ''bound'' the area of potential plume migration as discussed in the preamble to the 40 CFR part 148 regulations (*see* 53 FR 28117, at 28126–28127, July 26, 1988). As discussed in the preamble, the EPA believes that the 10,000 year demonstration strikes an appropriate balance between the need to demonstrate ''no migration with a reasonable degree of certainty'' and the limits of the technological means available to make such a demonstration. The EPA believes that a site which could demonstrate no migration throughout a 10,000 year time period would provide containment for a substantially longer time frame, and allow for geochemical transformations or attenuation which would render the waste non-hazardous or immobile. As set forth in the preamble to the part 148 regulations and noted in the Notice of Intent:

> The EPA's standard does not imply that leakage will occur at some time after 10,000 years. It requires a demonstration that leakage will not occur within that time frame.

(53 FR 28117, at 28126, July 26, 1988; 67 FR 77981, at 77982, December 20, 2002).

Considerable weight should be accorded to an executive department's

construction of a statutory scheme it is entrusted to administer. *Chevron U.S.A. Inc.* v. *Natural Resources Defense Council, Inc.*, 467 U.S. 837, 844 (1984). (*Chevron*) If the Agency's choice represents a reasonable accommodation of conflicting policies that were committed to the agency's care by the statute, it should not be disturbed unless it appears from the statute or its legislative history that the accommodation is not one that Congress would have sanctioned. (*See Chevron*, at 845, citing *United States* v. *Shimer*, 367 U.S. 374, 382, 383 (1961)).

The EPA interprets the ''reasonable degree of certainty'' standard to require that the petitioner provide:

> Reasonably trustworthy information and data such that the totality of the facts and circumstances within the Agency's knowledge be sufficient, in light of its scientific and technical expertise, to warrant a firm belief that no migration of hazardous constituents from the injection zone will occur in 10,000 years.

(*Kay* v. *EPA* No. 6:90 CV 582, slip op. at 5 (E.D. Tex. Aug 3, 1993). EPA does not interpret the standard to require proof beyond a reasonable doubt, or to require that facts be proven to be extremely likely. The regulations at 40 CFR 148.20(a)(1), which govern this demonstration, require a showing that reliable predictions can be made based on conditions at the site.

As discussed below, EPA staff with appropriate technical expertise reviewed the EDS petition and determined that the requirements of the no migration standard were satisfied. Information to be submitted in support of a no migration petition is detailed in 40 CFR 148.20–148.22. Additional information required for a Class I hazardous waste injection well permit is detailed in 40 CFR 146.66 and 146.70. A geological review of a no migration petition includes evaluation of local and area geology, seismic, and hydrogeologic conditions. Data evaluated in the geologic review process included, among other things, open hole and cased hole logs of the injection wells and other area wells, such as temperature, neutron, electrical, and radioactive tracer logs; confining and injection zone core data; geological cross sections based on area wells; well location, structure, and net formation thickness maps; geological reports from consultants; regional hydrogeological reports; USDW base maps; injection zone water samples; drilling and completion reports, scout tickets, plugging and abandonment reports, and state completion reports for area wells; well injection data; seismicity reports; and USDW ground water sample data.

During drilling and construction, EDS collected numerous samples, conducted in situ tests, and completed analyses. These activities were conducted by experienced service companies and consultants who used standard methods. EDS repeated many procedures and conducted different tests that returned complementary results. Results were compared to demonstrate that any new testing performed by the petitioner was accurate and reproducible. EDS petitioned to inject all restricted waste identified under 40 CFR part 261, subparts C and D. While no specific waste sources have been identified yet, the EPA reviewed the waste analysis plan, which complies with 40 CFR 146.68(a).

Model Validation and Verification

In the context of the no migration demonstration, validation is a demonstration by the petitioner that the mathematical simulator for the model is an appropriate surrogate for the actual geological reservoir into which waste will be injected. This means that the simulators must be capable of accurately calculating the effects of injection. Verification is a demonstration that the mathematical equations which the simulator uses to emulate the geological factors which govern the movement of wastes and distribution of pressure increase in the injection zone give accurate results when the parameter values upon which the calculation is based are representative of the characteristics of the injection zone.

EDS used mathematical simulators which are based on standard analysis of radial, laminar flow of a single fluid phase which has a constant viscosity and constant, small compressibility from a well which is perpendicular to the geological formations and is open through the entire thickness of a bounded, near flat-lying reservoir of uniform thickness and permeability to calculate pressurization due to injection. The solutions have been thoroughly tested and long accepted as accurate means of estimating the pressurization which will occur in geologic reservoirs similar to that which exists at the EDS site. The equations used to estimate the distances of vertical and horizontal movement of the waste plume and its attenuation are similarly accepted. To meet the requirements of 40 CFR 148.21(a)(3), EDS provided information which allowed the EPA to validate and verify the simulators. The EPA consulted with the Lawrence Berkeley National Laboratory (LBNL)to confirm the validation and verification of the simulators. EDS demonstrated that reliable predictions can be made by using a mathematical simulator to generate a pressure history which closely matched pressure changes measured in one of the wells while water was injected into the second well. Through EPA Regional staff, LBNL requested that EDS benchmark its solution against a popular numerical simulator which uses a different approach for calculating plume spread. The distance of migration calculated using this simulator was somewhat greater than the distance calculated using EDS's analytic method. To ensure that the results are conservative, the distances which were calculated using the analytic method were increased by an appropriate amount.

Quality Assurance and Quality Control

As required by 40 CFR 148.21(a)(4), EDS has demonstrated that adequate quality assurance and quality control plans were followed in preparing the petition. The EPA approved a quality assurance project plan for the construction and testing of the wells and preparation of the demonstration on November 1, 2001. Some changes were made subsequently to accommodate changes in plans. These were reviewed and given informal approval as necessary. EDS followed an appropriate protocol for locating records of penetrations in the area of review (AOR), for collecting and analyzing geologic and hydrogeologic data, for characterizing waste, and for conducting all tasks associated with the modeling demonstration.

Conservative Assumptions

The demonstration is based on direct measurements of the geological properties of the injection zone made during the construction and subsequent testing of the wells at the EDS facility on Citrin Drive or on values measured at similar locations where conditions can be expected to be near equivalents. The measurements are used to create a conceptual model of the geological framework into which waste would be injected. Many properties were determined by direct measurements. In-place geophysical measurements and tests of core material recovered from the injection and confining zones during well construction provided independent information about the thickness, porosity and permeability of the rocks making up these zones. The permeabilities for the receptive intervals of the Eau Claire and Mt. Simon formations, as wholes were calculated by analyzing the pressure changes occurring during injection tests. The formation fluid properties were

determined through analysis of samples of the fluid removed from the well. However, the model encompasses regions which are larger than can be reached by sampling techniques employed along and between the well bores. As required by 40 CFR 148.21(a)(5), the demonstration allows for uncertainty by using values which are more conservative than those which the petitioner believes are most appropriate. Many instances of the use of conservative values are described below.

Sensitivity Analysis

As required by 40 CFR 148.21(a)(6), the demonstration includes a sensitivity analysis. This analysis showed the effects of variations in the values characterizing the various parameters and confirmed that where there is uncertainty, conservative values were used.

Regional Geology

Geological characteristics common to southeastern Michigan include: sedimentary formations overlying Precambrian igneous and metamorphic rocks found at a depth of about 4,500 feet below the surface; simple structure in the sedimentary formations, including no known transmissive faults or fractures, with a low rate of dip toward the center of the Michigan Basin to the northwest; and deep reservoir zones in a formation containing sandstones, shales, and carbonate rocks overlain by mostly dense carbonate rock which also includes several sequences of more and less permeable zones. The formations into which the waste will be injected do not contain salt dome formations, salt formations or underground mines or caves. Southeastern Michigan lies in a stable continental area where there is little risk of new faulting, and any seismic events experienced in Michigan have been minor. The well siting meets the requirements of 40 CFR 146.62.

Injection Zone

The injection zone must have reservoir strata with sufficient permeability, porosity, thickness, and areal extent to allow the injected fluid to be distributed through a large volume of rock so that there is no long term increase in pressure in the injection zone. Above the reservoir zone, the injection zone must have strata which have low vertical permeability and are continuous across the area within which the reservoir strata will be affected by injection. These are called arresting strata and make up the arrestment interval. They prevent upward movement of wastes from the injection zone to USDWs or the surface.

The injection zone for the EDS facility is between 3,369 and 4,550 feet below the surface. It consists of 1,099 feet of reservoir and overlying arresting strata, and includes upper Precambrian rocks at the base and the Mt. Simon, Eau Claire, Franconia-Dresbach, Trempealeau, Glenwood, and lower Black River Formations. EDS has subdivided the injection zone into an injection interval and an arrestment interval. The Mt. Simon, Eau Claire, and Franconia-Dresbach Formations at depths from 3,937 to 4,468 feet below the surface will actually contain the injected wastes. They make up the injection interval. The Trempealeau, Glenwood, and Black River Formations between 3,369 and 3,937 feet below the surface are the strata within the injection zone which will confine fluid movement above the injection interval. They make up the arrestment interval. These formations are tabular and each extends far beyond the vicinity of the EDS facility. The Mt. Simon and Eau Claire Formations reach the surface in Wisconsin and thin to the east so that the porous zones at the EDS site may pinch out and may not be hydraulically connected to porous zones in the Mt. Simon Formation beyond Lake Erie. Approaching Chicago, where the Mt. Simon is much shallower, the salinity of the water in the Mt. Simon decreases, and west and north of Chicago the Mt. Simon is a USDW. These changes occur hundreds of miles from the EDS facility. As a result, the effects of injection by EDS will be negligible.

Waste will be injected directly into the injection interval from the open-hole portion of the waste disposal wells. The Mt. Simon and Eau Claire Formations are composed of sandstones interbedded with siltstone, limestone, dolomite, and shale. These formations contain a number of zones which appear capable of accepting injected waste. The porosity of strata which seems to accept injected liquids tends to be greater than 12%. The open-hole geophysical logs identified a total of 255 feet of section with porosity greater than 12%. The portion of this injection zone which will receive injected wastes, the active injection zone, is found almost entirely in the Mt. Simon Sandstone.

The arresting interval is the portion of the injection zone above the injection interval, and contains dense carbonates and shale units with low permeability and porous carbonates and sandstones which are pressure bleed-off units. EDS calculated an average permeability for the arresting interval by calculating the harmonic average of vertical permeability measurements from the core samples having less than 12% porosity. That analysis concluded that the effective vertical permeability of the arresting interval is less than 0.005 millidarcies (md).

Fracture logging of the three wells drilled by EDS indicated several sub-vertical fractures in the arresting interval. These fractures have limited height and appear to be filled by mineral deposits. Based on the information, the logging company's analysts concluded that these fractures did not compromise the integrity of the arresting interval. Because there are no known transmissive fractures or faults in the arresting interval, it is suitable for long term waste retention.

Confining Zone

In addition to the arresting strata within the injection zone, the injection zone must be overlain by a second series of strata which are sufficient to prevent upward fluid movement. These strata are known as the confining zone. Like the arresting interval, the confining zone must be (1) laterally continuous; (2) free of transecting, transmissive faults or fractures over an area sufficient to prevent fluid movement; and (3) of sufficient thickness, lithologic, and stress characteristics to prevent vertical propagation of fractures. The immediate confining zone above the injection zone at EDS is made up of the upper Black River Limestone, the Trenton Formation, and the Utica and Cincinnatian Shales which are found between 2,364 and 3,369 feet. This confining zone is 1,000 feet in thickness, and the top is at an elevation almost 2,000 feet below the lowermost USDW. No fractures were detected in the well bores and no transmissive faults or fractures are otherwise known to exist in the confining zone within the AOR. The confining zone will resist vertical migration of fluids because of its low natural permeability.

Bleed-Off Zone

The confining zone must be separated from the lowermost USDW by at least one sequence of permeable and less permeable strata that will provide added layers of protection by either providing additional confinement (low permeability units) or allowing pressure bleed-off (high permeability units). Overlying the confining zone, the Clinton Formation is made up of shales and dolomite having low porosity and permeability. The White Niagaran between 2,133 and 2,227 feet is a dolomite which the well site geologist described as ''a new disposal formation'' in a letter mailed to the EPA on

December 27, 2001. The Salina Formation contains thick beds of dense, plastic anhydrite and salt separated by dolomite, some of which is porous and permeable, and shale between 1,300 and 2,100 feet. The anhydrite and salt offer very effective barriers to fracturing and flow because they deform plastically under the weight of the overlying formations to reseal any void space. In addition, the Sylvania Sandstone between the depths of 400 and 550 feet is a thick, porous, and permeable formation which has been used extensively as an injection zone in the area. It is capable of accepting large amounts of fluid without developing hydrostatic pressures which would be high enough to either fracture it or cause formation water to flow through an open conduit into the USDWs. The layers are continuous for hundreds of square miles. They provide the added layers of protection required by the regulations.

Geochemical Conditions and Waste Streams

The petitioner must adequately characterize the injection and confining zone fluids and rock types to determine the waste stream's compatibility with these zones. EDS's petition sought permission to inject listed or hazardous wastes identified under 40 CFR part 261, subparts C and D. Because each waste code contained in 40 CFR part 261 identifies a specific waste with specific chemical and physical properties, the EPA already has extensive data on the chemical and physical properties of listed and characteristic wastes for which EDS requested exemption from the LDR.

The injection zone is composed mainly of quartz sandstone, with lesser amounts of shale, siltstone, and dolomite. These rock types are known to be resistant to most chemical attack. These Mt. Simon rock types are found in all wells which inject into the Mt. Simon. Periodic measurements in other wells injecting corrosive wastes into the Mt. Simon do not show changes in the size and shape of the well bores. Because these rocks generally are very resistant to chemical degradation, EDS anticipates little, if any, compatibility problems. To alleviate any problems that may arise from reactions between the native formation fluids and the injected wastes, EDS may inject brine or fresh water to serve as a buffer between the formation water and the injectate before it begins to inject wastes and between batches of waste containing constituents which may react with each other. The water buffers will prevent the formation of solids due to reactions in the near well-bore region, and will dilute the mixtures when they do come into contact as a result of mixing due to dispersion so that the possibility of reactions will be reduced. The confining zone is composed of silty shale and shaley dolomite. The injected fluid should have little effect on the dolomitic layers because dolomite does not react with dilute acids at the temperatures which will exist in the injection zone. The shale layers are very stable and will be essentially unaffected by contact with the injectate.

Conceptual Model

The model includes an assumption that chemical reactions between the formation and the injectate will not have a significant effect on the receptiveness of the injection zone to injection.

The permeability for the receptive intervals of the Eau Claire and Mt. Simon formations, as a whole, has been calculated by analyzing the pressure changes occurring during injection tests using fresh water. A two-layer model was required to closely match the pressures actually recorded. The properties of the two layers are actually a summation of the effects of numerous layers, some with higher permeability and some with lower. The simulation matched the pressure record by allowing one half of the injected liquid to flow into each of the two zones. The zone with higher permeability can be described as 33 feet in thickness with an average permeability of 400 md. The zone with lower permeability can be described as 190 feet thick with an average permeability of 63.43 md. The average porosity of the 33-foot zone is 11% so the porosity-thickness product is 363 porosity-feet.

Results of Simulation

Two simulation time periods were considered in the demonstration: A 20-year operational period and a 10,000-year post-operational period. The EDS demonstration also assumes that the injection rate will be continuous at 166 gallons per minute (gpm) for the first 19 years and 11 months of the operational period, and would then increase to 270 gpm for the final month. These rates are, respectively, the maximum allowable long-term average rate and the maximum allowable instantaneous injection rate. These high rates maximize both the lateral extent of the waste plume and pressurization in the injection zone during the operational phase.

The demonstration of no migration of hazardous wastes out of the injection zone is based on physical containment of the wastes by multiple barriers. Detailed knowledge of the chemical makeup of the injectate was not required because only the final physical characteristics of the waste plume such as density and viscosity are factors in modeling. The demonstration assumes that the injectate will be a single chemical which does not react to form solids, is not attracted to the mineral grains of the injection zone, and has the highest coefficient of diffusion of any molecule. The only factors tending to reduce concentration are dispersive and diffusive mixing. The waste is assumed to be toxic at a concentration of one part in one trillion. Fewer than 10 chemicals which might be injected are toxic at that level. Concentrations of these few chemicals will be limited to ensure that their concentrations are reduced to health-based limits at the same point as the concentration of the theoretical constituent. The location of this concentration is considered to be at the plume edge. The EDS lateral waste plume demonstrations included assumptions that the plume was made up of the least dense and, alternatively, of the most dense liquids which can be injected. These alternative scenarios bound the lateral movement of the waste due to buoyancy. By gathering conservative assumptions and applying them as discussed, EDS demonstrated that the concentrations of the most mobile constituents will not migrate out of the injection zone in concentrations which would be hazardous if the migrating constituents are the most toxic which might be injected.

A. Vertical Migration

The starting point for calculating upward vertical movement from the injection zone is at 3,937 feet, the top of the injection interval. This is shallower than the termination of the corrosion-resistant steel well casing through which the waste is injected into the injection interval. To simplify computation of vertical migration and make the assumptions more conservative, the increase in pore pressure of 1,178 pounds per square inch (psi), which was predicted to occur only at the end of the operational period as a result of increasing the injection rate to 270 gpm during the final month of injection, was assumed to exist for twice the length of the entire operational period. Analytical solutions used to predict vertical distance of waste migration showed that the edge of the waste plume will advance through 10.1 feet of the arresting strata. Therefore, at the end of the operational period, the waste front will be located at a depth of 3,927 feet below the surface.

At the start of the post-operational period, pressure in the injection zone will decrease and cease to cause movement. Molecular diffusion, which is random motion of individual molecules through the watery fluid which permeates even dense, essentially non-porous rock, becomes the primary mechanism causing upward vertical migration. EDS used an integrating method, taking into account lithologic differences for each foot of movement, to calculate vertical diffusion distance above the level reached by injectate during the operational period. The diffusion rate of cesium was used to maximize the predicted distance which waste constituents might migrate upward as a result of diffusion. The no migration demonstration assumed a source which remained at 100% concentration at the farthest extent of pressure-driven migration for 10,000 years. The distance which waste in hazardous concentration migrates is the distance at which concentration has been reduced to one one-trillionth (1:1,000,000,000,000) of the starting concentration. For constituents which are still toxic at concentrations of one in a trillion, the EPA will impose limits on starting concentrations in the injectate to ensure that no constituent will migrate beyond the resulting distance in hazardous concentrations. The EPA plans to modify the EDS UIC permits to incorporate these limits. These are very conservative assumptions. The true concentrations will be small fractions of 100% and diffusion rates for most hazardous molecules are very low. Diffusion results in movement over significant distances only because the time over which it operates is very long. For example, the distance of travel during the operational period includes both pressure-driven and diffusive transport; however, this value is within a foot of that calculated for pressure-driven transport alone. By using conservative assumptions such as this, the demonstration defines limits beyond which waste constituents, in hazardous concentrations, will not migrate.

The maximum vertical movement of the waste front during the post-operational period is 227 feet from the assumed starting point at 3,925 feet upward to 3,698 feet, 329 feet below the top of the injection zone. Therefore, the waste will be contained within the vertical limits of the permitted injection zone throughout the post-operational period. However, the top of the injection zone itself is inclined so that its depth decreases by about 1,050 feet at the farthest extent of the updip plume. Continuing in the same direction, the inclination reverses and the injection zone formations do not come to the surface.

B. Lateral Migration

The extent of migration within each zone depends on the product of porosity and thickness. As discussed above, the calculation of lateral migration assumed that one half of the waste is injected into a single 33-foot zone which has a porosity of 11%. This flow split was determined by matching simulation results with actual test results. The product of the thickness and the average permeability of a zone relative to other available zones determines the fraction of flow which the zone will accept. For spreading to extend farther in any zone, including portions of the 33-foot zone, other than in the 33-foot zone as a whole, the porosity would have to be less than the average porosity of the 33-foot zone, or the permeability would have to be higher. Sandstones with porosity less than 10% rarely have sufficient permeability to allow significant flow while permeability in ancient, well-lithified, sandstones is rarely as great as 400 md. Therefore, it is unlikely that such a zone exists within the injection interval, and assuming injection at one half of the maximum rate into this portion of the injection zone leads to conservative results.

Lateral migration of the waste plume during the operational period is driven almost exclusively by injection pressure. The rates of movement due to buoyancy and diffusion are negligible in comparison. If we assume 100% displacement of formation waters from a cylinder of rock 33 feet thick with an effective porosity of 11%, so that the liquid within the cylinder would be 100% waste and the liquid outside the cylinder would be 100% formation water, the plume edge would be 3,199 feet from a single well at the end of the 20-year simulation period.

This distance is increased as a result of a failure to displace 100% of native formation waters from the cylinder surrounding the wells. The effect of this failure and of diversion of waste from straight-line movement as a result of diversion around sand grains is called dispersion. The effects of dispersion can be calculated. EDS's demonstration used a reasonably conservative estimate of 300 feet for longitudinal dispersivity and 25% of that value, 75 feet, for transverse dispersivity.

In addition to considering the effects of injection by EDS, the demonstration also calculates the effects of injection at the proposed location of the permitted Sunoco Partners Marketing and Terminals, LLC (SPMT) injection well by displacing the plume 2,870 feet to the southwest. This assumption causes increases in the final distances of migration for most directions, with resulting decreases being small. This is generally a conservative assumption because the SPMT well may not be constructed. At the end of the projected 20-year operational period, the total distance from the center of the plume to the southwest edge of the plume, determined at the 10^{-12} concentration ratio (initial concentration/final concentration), is 19,677 feet. Therefore, the plume could extend more than 3½ miles southwest from the EDS wells at the end of the projected 20-year operational period. This distance is within the AOR. In all other directions, the distance would be less.

The simulation of plume-flow distance and direction during the post-operational period considered buoyancy and the natural flow within the Mt. Simon and Eau Claire Formations in addition to the movement which occurs during the operation of the wells. Buoyancy flow occurs because the strata into which waste will be injected dip slightly northwest into the Michigan Basin and the specific gravity of the injected waste will be different from that of the native water now filling the pores in the injection zone. Buoyancy resulting from either lighter waste being injected into a more dense native brine or a more dense waste being injected into a less dense natural formation water results in a substantial movement of the waste front. Because of the conservative assumptions concerning the specific gravity of the injected waste, the amount of movement due to the effects of buoyancy exceeds the movement which will actually occur. Movement of a waste plume caused by buoyancy differences, regional groundwater flow, or injection from a nearby well is calculated based on the effect on a volume of fluid near the center of the plume. This volume is called the centroid, and it is originally found near the wells. While this volume may move about nearly intact, the edges of the plume travel greater distances and the plume becomes diluted.

The direction of buoyancy flow is 42 degrees west of north (northwest) for a heavier waste and 166 degrees east of north (south southeast) for a lighter waste. The dip to the south southeast is 1.14 degrees, and the dip to the northwest is about 0.68 degrees. To be conservative, the greater angle of dip was used to calculate the distances in both directions. EDS assumed that 100% of the waste to be injected will be a brine with a specific gravity of 1.22

(the heaviest fluid which might be injected) when calculating the distance of flow down into the Basin. When calculating the distance of movement up-dip it assumed 100% of the waste will be methanol (the lightest fluid which might be injected) with a specific gravity of 0.88. Because the difference between the specific gravities of the native brine (1.153) and methanol is greater than the difference between that of a heavy waste, 1.22, and the native brine, the distance of movement due to buoyancy will be greater up-dip (to the south southeast). If we assume that the entire plume has the density of methanol, buoyancy might cause the centroid of the plume to move up dip a distance of 14,792 feet to the south southeast. If we assume that the plume is as dense as a heavy brine, buoyancy might cause the centroid of the plume to move 6,550 feet to the northwest.

Regional pressure gradients are very small. Calculations based on pressure measurements made at well #2–12 and at several other wells indicated that the rate of flow due to regional pressure gradients could be as high as 0.4 ft/year, possibly in a northeasterly direction. In 10,000 years, the effect of regional flow could result in an additional 4,000 feet of drift of the plume centroid plus associated dispersion. Because EPA wishes to use conservative assumptions, the 4,000 feet of possible movement due to regional flow was added to the total distance of the movement regardless of which direction it was calculated. The net up-dip movement of the plume centroid is calculated by adding the effects of each force individually as vectors. Vectors are directed line segments. A distance and direction of movement caused by each force is calculated. The result of each calculation is a vector. Then the vectors can be added, tail to head. The location of the final head represents the location of the centroid at the end of the process. Because the forces are acting simultaneously, rather than consecutively, the centroid does not follow the path of the vectors, but the end result is the same. In this case, vectors representing each distance and its direction were added, resulting in a total 20,672 feet of movement to the south southeast.

From that point, an analytical method was used to account for dispersive spread and to project plume movement to the health-based limits. For this calculation, the distance the center of the plume is displaced by regional flow (4,000 feet), the distance it is displaced by buoyancy (14,792 feet), and the distance it might be displaced by the proposed SPMT injection (2,870 feet), each acting alone, are added, for a total distance of 21,662 feet, and the dispersion is based on this distance. Dispersion will move the health-based limit 27,539 feet beyond the end of the undispersed plume edge. At this distance, all hazardous constituents will be below the health-based levels or detection limits. To calculate the total distance of movement in the up-dip direction, one should add the original radius of the plume (3,199 feet), the vector-summed distances which the centroid is displaced by regional flow, buoyancy, and injection through the SPMT well (20,672 feet), the distance added by dispersion (27,539 feet), and an additional 1,580 feet which SWIFT modeling indicates should be added to the results obtained using the analytical method. Based on these calculations, the maximum predicted lateral migration of waste at the EDS site is 52,990 feet (≈ 10 miles) in the up-dip, or south southeast, direction. The petition describes a similar process, resulting in a total distance of 36,158 feet, for movement in the down-dip direction.

The no migration demonstration addressed vertical and lateral waste movement as required in 40 CFR 148.20(a)(1)(i). The maximum vertical movement of the waste at the end of 10,000 years was conservatively estimated at 239 feet above the top of the injection interval located at 3,937 feet. At the site of the injection wells, the waste will remain 3,298 feet below the lowermost USDW, which is located at depths of less than 400 feet. The maximum predicted lateral waste plume movement within the injection interval was approximately 10 miles in the up-dip or south-southeasterly direction. The maximum predicted lateral waste plume movement in the down-dip or northwesterly direction was 6.85 miles from the injection wells. The nearest point of discharge to a USDW is over two hundred miles away. EDS's demonstration has shown that the hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste stream(s) are such that reliable predictions can be made that fluid movement conditions are such that the injected fluids will not migrate within 10,000 years (A) vertically upward out of the injection zone; or (B) laterally within the injection zone to a point of discharge or interface with a USDW.

Well Construction and Integrity

The EDS wells were constructed using four strings of steel casing for each well. As the wells were drilled, increasingly smaller diameter casings were placed in the well and cemented to the surface. The first cemented casings are 20 inches (in well #1–12) and 16 inches (in well #2–12) in diameter and were set at 119 feet and 177 feet, respectively, to stabilize the well bores through the unconsolidated glacial drift. The second strings of casing are 13⅜ inches in diameter and were set at 396 and 598 feet, respectively, to prevent loss of drilling fluid into cavernous zones in the shallow bedrock. The third strings of casing were designed to add another layer of protection through the USDWs, and to establish a separation of the annulus behind the long string casing from the USDWs. These casings are 9⅝ inches in diameter and were set at 824 and 1,444 feet, respectively. The final casing was set from the surface to within the top of the formations which will be used as the waste reservoir. These casings are 7 inches in diameter and were set at 4,080 and 3,983 feet, respectively. The space around each of the casings was sealed with cement from the base of the casing to the surface. Cementing eliminates potential avenues for either the injected fluid or fluid from other, shallower zones to flow outside the casings and into USDWs.

EDS will inject the waste through a tubing set on a packer just above the end of the casing and isolated from the casing by a fluid-filled annulus, which will be continuously monitored for pressure change. The monitoring system is designed to trigger alarms and shut off injection before the injection pressure exceeds the maximum permitted levels, or if the difference between the injection and annulus pressures falls below the minimum permitted level.

Thus, the integrity of the construction will be monitored constantly by measuring the pressure within the annulus between the casings and tubing, and tracking the amounts of liquid added to or removed from the annulus system. Even a small leak should be detected. More rigorous annual testing ensures that even very small leaks are discovered. The pressure in the annulus will be maintained at a higher level than the pressures in either the formations outside the casing or within the injection tubing. Therefore, even if a leak in the tubing occurs, the waste will not leak into the annulus. Instead, annulus fluid will leak into the injection tubing through which waste would be injected and be carried downward into the waste disposal reservoir. If there is a casing leak, annulus fluid, not waste, will leak into the formations surrounding the well.

As described above, the construction provides for a replaceable tubing and a

system to detect when replacement of the tubing is necessary. The tubing prevents the waste from contacting all except the lowermost few tens of feet of casing, which are made of a corrosion resistant alloy. The three casing strings and layers of cement through the fresh water-bearing formations provide extra protection from contamination.

The UIC program regulates injection pressure, injection rate, waste properties, and the concentration of hazardous constituents to ensure, among other things, that the actual conditions under which injection occurs are less likely to cause increased migration of hazardous constituents than those proposed and simulated. The injection pressure is important because injection pressure drives fluid movement through both the reservoir rock and the overlying confining rock. Because the confining rock is usually less than one one-thousandth as permeable as reservoir rock, the distance of vertical movement through the confining rock is less than one one-thousandth as great as the horizontal movement through the reservoir rock. If excessive, the injection pressure can fracture the reservoir rock and, at higher pressures, the confining rock. EDS conducted tests during well construction to measure the resistance of the rock of the injection and confining zones to fracturing. These tests showed that injecting at pressures below 903 psi measured at the surface will not create fractures in the injection zone. The EPA plans to modify EDS's UIC permits to limit the injection pressure at the surface to 903 psi. The current permits limit injection pressure to 521 psi.

The mechanical integrity of the wells has been demonstrated several times, most recently on November 13, 2003. Well No. 1–12 recorded a pressure drop from 1,081.06 to 1,077.48 psi, a total of 3.6 psi, in one hour and Well No. 2–12 recorded a pressure change from 1,045.39 to 1,025.43 psi, a total of 19.95 psi in one hour. The failure criterion for the test is a pressure change greater than 3% in one hour. For these wells, a 3% change in an original pressures of 1,050 psi would be 31.5 psi. Therefore, EDS has demonstrated that there are no leaks in the casing, tubing, or packer in either well. The reason for pressure drop in this case is that the pressure in the annulus had been maintained at about 250 psi. Increasing the pressure to the test level causes the fiberglass tubing to slowly contract. As the tubing contracts, the annulus space is enlarged and pressure decreases. The radioactive tracer surveys required under 40 CFR 148.20(a)(2)(4) were conducted on June 20, 2003. EPA found no evidence to indicate upward movement of the radioactive tracer.

Absence of Known Transmissive Faults

As discussed below, the AOR around the EDS wells has a radius of more than six miles centered at the point midway between the two wells at the Citrin Drive site. The regulations at 40 CFR 148.20(b) require a showing that the strata which will confine fluid movement above the injection interval are free of known transmissive faults or fractures. There are no known transmissive faults in the Glenwood, Trempealeau, and Franconia Formations, the strata within the injection zone that will confine fluid movement within the AOR. During construction of the wells, a geophysical tool which produces images of the walls of the well bore was used to search for fractures. The few fractures which were detected appear to be sealed with mineral deposits. Moreover, the interference test conducted on June 12–15, 2002, indicates that there are no transmissive fractures cutting the injection interval within a distance of 800 feet of either well. That test, which evaluates an area outlined by two contiguous squares of equal size centered on the wells, supported the conclusion, based on log review, that there are no transmissive fractures cutting the well bores.

Seismic Activity

An analysis of seismic risk occurring at the EDS facility is presented in section III.D of the no migration petition. The potential for seismic activity which might affect the injection wells was also considered by the EPA prior to approving EDS's UIC permits in accordance with 40 CFR 146.62(b)(1). Michigan is an area of low seismic risk. The EPA reviewed information from the National Earthquake Information Center (NEIC) in Boulder, Colorado regarding earthquakes in the area of the injection wells. The NEIC reported that the nearest earthquake was 41 kilometers, about 25 miles, away and occurred in 1980. Two other earthquakes have occurred within 100 km, about 61 miles, of the wells. Moreover, the steel casings of deep injection and production wells are more flexible and resilient than the rock through which they pass. As a result, they are not damaged as a result of earthquakes unless actually sheared as a result of movement along a fault which they penetrate. Because Midwestern earthquakes are widely scattered, with none reported in the immediate vicinity of the EDS location, there is almost no possibility of damage as a result of seismic activity.

As discussed above, no faults cutting the well bores were identified. Thus, there is a reasonable degree of certainty that the wells' casings will not be sheared. The EPA additionally notes that the well will be continuously monitored throughout the operational life under the UIC permit. Among other things, annual mechanical integrity tests are required to demonstrate the mechanical integrity of the casing, tubing and packer. Other mechanical integrity tests are used at five-year intervals to demonstrate there is no significant fluid movement into a USDW through vertical channels adjacent to the injection well bore.

Where critically oriented faults exist near injection wells, pore pressure increases may induce seismic activity. Injection-induced earthquakes cease as soon as the pore pressure declines below a critical level. Because the Mt. Simon in this area is porous and permeable, the pressure drop would occur within a few days. Therefore, if the EDS wells were to induce any earthquakes, such earthquakes could be stopped simply by stopping injection.

In regard to ground water contamination, EDS has met the no migration standard of 40 CFR 148.20(a)(1)(i). The no migration demonstration shows that there will be little upward migration of hazardous materials if there are no conduits for flow. There are many layers of rock in the salt-bearing formation between the injection zone and the USDWs which deform under pressure to fill all voids. Any conduit which is not artificially protected from closure in such a zone will be closed by this deformation. This minimizes the potential for any conduit to penetrate the Salina Group, located between 766 feet and 2,002 feet below ground surface.

Area of Review (AOR)

Under 40 CFR 146.63, the AOR of Class I hazardous waste wells is minimally a two-mile radius around the well bore or a larger area specified by the EPA based on the calculated zone of endangering influence of the well. The zone of endangering influence is the area within which the pressure induced in the injection interval as a result of injection can raise a column of formation fluid or injected fluid sufficiently to cause contamination of a USDW. 40 CFR 148.20(a)(2) requires a petition to demonstrate that the injection well's AOR complies with the substantive requirements of 40 CFR 146.63. The petitioner used refined parameter values and more conservative

assumptions agreed upon with EPA reviewers to determine a new and larger AOR radius under 40 CFR 146.63. The petitioner considered the measured pressure in the injection zone, a pressure in the lowermost USDW consistent with the level of Lake Erie, and the density of the brine found in the injection zone to find that an additional pressure of 89.6 psi in the injection zone is sufficient to cause flow.

Analytical models were also used to simulate the maximum pressure buildup in the injection interval. When calculated using reasonably conservative values for geological parameters representative of actual conditions, the zone of endangering influence for the EDS injection wells has a radius of 23,275 feet, or 4.4 miles from the center of the line between the two wells. However, because this did not represent a worst-case scenario, EDS used more conservative values and calculated an enlarged zone of endangering influence which, at the end of the twenty-year operational period, reaches 32,280 feet, or 6.1 miles, from the center of the line connecting the two wells. EDS showed that there are no USDWs in the injection zone within this distance. The EPA determined that this 6.1 mile area was sufficiently conservative because most of the values used to calculate this distance are less favorable than those which actually exist. Nor are there any natural or man-made features which might allow increased vertical movement out of the injection zone. Considering injection at a single point is appropriate because the distance between the wells is small in relation to the radius of the AOR and the sparsity of wells which reach the confining zone in the region. Although the density of the brine is greater than the density of many potential wastes which might be injected, it is appropriate to use the brine density because injected waste will not reach the limits of the AOR during the operational period.

Wells in the Area of Review

Under 40 CFR 148.20(a)(2)(ii), a petitioner must locate, identify, and ascertain the condition of all wells within the injection well's AOR that penetrate the injection zone or the confining zone. EDS conducted a well search over the larger zone of endangering influence consistent with the requirements of 40 CFR 148.20(a)(2)(ii) and 146.64, and identified two wells penetrating the confining zone and/or injection zone. As discussed below, both of these wells have been properly plugged, completed and/or abandoned, so no corrective action is required under 40 CFR 148.20(a)(iii) and 146.64.

The McClure Oil Co. Fritsch *et al.* #1 is located about 4.5 miles south of the EDS site. That well was drilled to a depth of 2,885 feet in 1955 and then plugged with heavy mud with a bridge which is firmly fixed in place 1,750 feet from the surface to provide a seal within the well bore. The plugging was approved on July 21, 1955, by the Michigan Department of Conservation. This well has been properly abandoned, and there is no potential for fluids to move through the well to the USDWs. Moreover, the maximum depth of this well is almost 800 feet above the reach of the predicted upward migration of waste from the EDS well.

The second well, well #1–20, was drilled by EDS in 1993 at a site which was to be used for the facility under review. This well, which was properly completed pursuant to an EPA UIC permit, penetrates the entire injection zone. The lower portion of the well has been plugged using a cast iron bridge plug above the injection zone with 50 feet of cement on top of the bridge plug. This meets Region 5's standards for plugging wells within the AOR, and will prevent the well's casing from serving as a conduit for the movement of fluids from the injection zone. Moreover, on January 12, 1999, EDS entered into a Stipulation and Consent Agreement with the Michigan Department of Environmental Quality (MDEQ). This agreement authorizes EDS #1–20 to remain inactive and not be considered abandoned, so long as all applicable requirements are met, until 30 days after EDS's receipt of all MDEQ approvals for the Citrin Drive facility. The agreement requires EDS to permanently plug and abandon the well within that 30-day period. When the well is abandoned, the EPA UIC permit for well #1–20 requires that the well must be properly plugged and abandoned under a plan approved by the EPA. Well #1–20 is properly completed, is not abandoned, and will be permanently plugged and abandoned pursuant to the UIC requirements.

Injection Well Proposed for Construction

It is possible that SPMT will drill at least one injection well for the injection of non-hazardous salt brine about 2,800 feet northeast of the nearer EDS well. Both the EPA and the MDEQ have issued permits for the construction of this proposed well. Any injection wells which SPMT drills will be constructed to standards approved by Region 5 for the protection of USDWs and the construction will be overseen by Region 5's contract inspectors.

Operation of the EDS Wells

The EPA also considered EDS's operation of two wells at Citrin Drive. Because the EDS wells are closed in at the surface when not operating and no liquid can enter from the bottom of the well bore, wastes will not be pushed into an idle well. As required by 40 CFR 146.68, the EDS UIC permits require continuous monitoring of the injection rate and injection pressure. In addition, the operator must maintain a positive pressure differential within the tubing-casing annulus in respect to the injection tubing pressure and this annulus pressure must be continuously monitored. The UIC permits also require automatic alarms designed to sound before pressures, flow rates, or other parameters exceed permitted values. The continuous monitoring of the injection wells occurs whether or not the well is operating. EDS is currently in compliance with its permits and all applicable requirements of the UIC program.

Because no wells penetrating the confining zone or injection zone are improperly plugged, completed, or abandoned, a corrective action plan is not required under 40 CFR 146.64 and 148.20(a)(2)(iii).

Consideration of MDEQ Permit for an Extraction Well

The only changes in circumstance that have occurred since the EPA issued its Notice of Intent that might affect the determination are the issuance by the State of Michigan of an extraction well permit to SPMT on May 29, 2003, allowing SPMT to extract brine from several formations, including the Mt. Simon Formation, within ½ mile of the EDS wells subject to certain conditions; and the subsequent State litigation and direction on that permit. The EPA has reviewed and considered that permit and comments on that permit, and has decided that issuance of such a permit should not bar granting of the exemption. Based on the evidence in the record, the EPA finds that neither the permit nor the drilling of such a well will affect EDS's demonstration. It is the operation of an extraction well drilled into the injection zone within the plume of hazardous waste that would be problematic. Based on the current record, EPA can make a reliable prediction that the proposed extraction well, if ever drilled, would not be drilled and operated in formations that form the injection zone of the EDS injection wells. The State permit, as qualified by the State circuit court, requires an investigation and evaluation of the brine recovery capacity of the

Lockport Dolomite and further approval before an extraction well can be drilled to the depth of the confining or injection zone. An extraction well drilled and operated in the shallower Lockport Dolomite would not impact EDS's demonstration. The EPA, however, has decided to retain the condition proposed in its Notice of Intent that would terminate the exemption if an extraction well is both drilled and operated within the injection zone in the area of review. Under current conditions, EDS's demonstration meets the criteria at 40 CFR 148.20.

SPMT's description of its proposed use of the brine extracted from the Mt. Simon has been sketchy. By letter dated March 28, 2003, SPMT indicates that SPMT can support a multi-year 1 million barrel cavern expansion effort utilizing only a single injection well with a target rate below 200 gpm and that in subsequent years, SPMT can operate the expanded cavern system with brine injection and production rates below 200 gpm and that the rates can be achieved at injection pressures below the fracture point of the formation. The May 29, 2003 State permit requires SPMT to obtain approval of a plan to test the Lockport Formation for brine production between the approximate depths of 2,120 and 2,140 feet prior to commencing to drill the well. Under the permit, the plan must specify the methods, materials, and procedures used to test the Lockport Formation; identify criteria for determining whether to continue the test at various key points; and establish the criteria for determining if the Lockport Formation is suitable for commercial brine production. In the November 19, 2003 proceedings before the Circuit Court of Ingham County on the May 29, 2003 State permit, the court made it clear that SPMT has to complete its testing and obtain the court's approval before it can drill below the Lockport Formation. Moreover, the State's November 20, 2003 approval of SPMT's plan to test the Niagara Group (the Lockport Formation) for brine concludes that if the step-rate injectivity test shows the well capable of receiving brine at a rate of at least 175 gallons per minute, SPMT will complete the well in the Niagara Group interval and utilize it for both brine supply and injection, and will not drill to or utilize the Munising Group or Mt. Simon formation for these purposes. The plan submitted to the State on behalf of SPMT for evaluating the Niagran indicates that brine production is possible from the White Niagran, and references the Michigan Mineral Resource supply well production of 135 gpm from 3 porosity stringers which have a maximum of 28% porosity. On May 16, 2003, EDS sent EPA the results of an analysis of the native Mt. Simon Formation water which indicates that the Mt. Simon has a salt saturation level of approximately 60% and the White Niagaran would be a better choice for balancing in salt caverns utilized for liquid petroleum gas (LPG) storage.

Furthermore, injection by EDS would make SPMT's brine extraction proposal impractical. The May 29, 2003 State permit also provides that if SPMT's extraction well is completed in one or more Cambrian geologic horizons below 3,900 feet and EDS begins hazardous waste disposal at its Citrin Drive facility, SPMT must immediately begin a program of testing the produced brine for specific chemical components present in the EDS wastes or a marker compound approved by MDEQ for injection with the EDS wastes, conduct testing every 15 days, and manage all produced brine as a hazardous waste until results of the required testing demonstrate to MDEQ's satisfaction that it is not hazardous waste. EPA has a reasonable degree of certainty that SPMT will not extract if EDS injects hazardous waste. It is SPMT's extraction that will draw up injected wastes; SPMT noted in its October 6, 2003 comments that injected hazardous waste would render the brine unsuitable for production; and extraction after EDS injects will require SPMT to comply with expensive requirements under its State permit. If SPMT has to treat their extracted brine as hazardous they will have to pay increased costs for handling the brine pursuant to hazardous waste requirements. In addition, if the brine actually is hazardous, SPMT would not be able to place it back on the land without an exemption from or treatment to LDR levels, much less use it for cavern expansion. Since EDS will be injecting listed hazardous waste, the presence of any of the waste in the extracted brine would render the brine subject to regulation as a hazardous waste under the contained in principle (unless SPMT were to obtain a contained out determination). As such, it would have to be treated to LDR levels and, even after such treatment, would remain a listed hazardous waste. This raises the question of whether SPMT would be able to use the material for the intended commercial purposes—essentially a question of whether any use would be viewed as legitimate or sham recycling. Hence, in addition to the increased costs to SPMT, the extraction of brine from the Mount Simon formation following injection of hazardous waste by EDS would engender significant regulatory complexities, which might bar SPMT's intended use of the brine. Indeed, in proceedings before the Circuit Court of Ingham County on June 16, 2003, the State indicated that SPMT would be prohibited from pumping out because they would, in fact, be creating a situation where there was hazardous waste, that they would be a hazardous waste generator at that point in time, so they would probably be the entity that would be required to shut down. While SPMT noted that the permit does not explicitly say that they have to shut down, it admitted that it does not want to become a party that is in the business of generating hazardous waste, and that the permit says that would be the effect. (Transcript of 6/16/03 proceedings at pp. 17–18) Moreover, if SPMT ever does extract, the Agency might consider taking appropriate action to address such extraction.

The State permit, as qualified by the State circuit court, requires an investigation and evaluation of the brine recovery capacity of the Lockport Dolomite and further approval before an extraction well can be drilled to the depth of the confining or injection zone. The State's approval of SPMT's plan to evaluate the brine capacity of the Lockport formation specifies that if the step-rate injectivity test shows the well capable of receiving brine at a rate of at least 175 gallons per minute, SPMT cannot drill into the Mt. Simon, and the plan suggests that the Lockport has the capacity for brine production. Under the terms of the State permit and as admitted by SPMT, injection by EDS will make extraction from the injection zone impracticable for SPMT. An extraction well drilled and operated in the shallower Lockport Dolomite would not impact EDS's demonstration. The EPA, however, has decided to retain and clarify the condition proposed in its Notice of Intent to terminate the exemption if an extraction well is drilled within the AOR into the injection zone, penetrated by well #2–12 at a depth of 3,369 feet, and is used for extraction from any strata within the injection zone. Under current conditions, EDS's demonstration meets the criteria at 40 CFR 148.20.

Comments

The EPA received several hundred comments on this petition. The EPA offered an extended public comment period between December 6, 2002, and May 16, 2003, holding two public hearings; and took additional public comment until October 6, 2003, on the

May 29, 2003 extraction well permit issued by MDEQ to SPMT. The EPA also considered some comments that previously had been submitted during the public comment period for the SPMT injection wells in relation to the EDS wells. The EPA has also taken into consideration more recent State court limitations and other developments on the May 29, 2003 State extraction well permit.

Comments submitted raised concerns about hazardous waste management in Romulus; the potential for harm from waste injection; the land ban process; local ordinances; modeling and simulation; the EPA's review of the no migration demonstration; the geological basis for the modeling; geological concerns; the method of simulation; the results of simulation; the well search within the AOR; the quality assurance project plan; the results of the EPA's review; the extent of the effects of injection by EDS; seismic events; other injection well operations; well construction; waste disposal operations; alternative waste management options; the State of Michigan's role; EDS and its funding; the EPA's decision making process; politics; community concerns; Canadian waste; civil rights; Michigan waste management capacity; the effects of EDS's operations on business and property; public opinion; environmental justice; and the State permit to SPMT for an extraction well. A number of comments pertained to issues outside the scope of the determination on the exemption, and the EPA stressed that this is a determination on an exemption from the RCRA LDR for deep well injection under 40 CFR part 148, subpart C. The granting of an exemption from the LDR for EDS's injection does not preclude other permits, licenses, approvals or requirements that might govern activities at the site or in the area. It is limited to granting an exemption from the LDR for restricted waste for this method of land disposal. Moreover, the regulations require specific showings and do not consider such factors as community acceptance, politics, violations history, if any, and above-ground transportation. Some of the comments related to issues such as the State construction permit and civil rights which belong in a different forum. The EPA has prepared a response to comments, which can be viewed at the following URL: *www.epa.gov/region5/water/uic/pubpdf/eds_rtc.pdf.* In its response, the EPA discusses underground injection, the geology of the site, its search for transmissive faults, the construction of the wells consistent with 40 CFR part 146 requirements, its review of wells in the area, its inquiry into other underground injection well sites and releases near those locations, its decision-making process and the factors it considered, the modeling, the use of buffers, the EPA's authorities under the Statutes, the land disposal prohibition with its exemptions, the quality assurance project plan, and the permit issued by MDEQ to SPMT for an extraction well in the area.

After considering comments, the State extraction well permit and its litigation, and current conditions, the EPA has determined that its reasons for granting the exemption as set forth in the Notice of Intent remain valid. Accordingly, the exemption is issued with specific conditions listed in this notice. As discussed above, EPA has prepared a response to comments, which can be viewed on its website.

EPA Review

The injection zone for the EDS disposal operation consists of 1,099 feet of reservoir and overlying arresting strata including the upper Precambrian rocks at the base and the Mt. Simon, Eau Claire, Franconia-Dresbach, Trempealeau, Glenwood, and lower Black River Formations from 3,369 to 4,468 feet below the surface where penetrated by EDS's well No. 2–12. As required by 40 CFR 148.20(b), EDS has delineated an arrestment zone within the injection zone consisting of the Trempealeau, Glenwood, and Black River Formations between 3,369 and 3,937 feet below the surface which will confine fluid movement above the injection interval. EDS has presented evidence that these strata are free of known transmissive faults or fractures, and the EPA's investigations found no evidence of known transmissive faults or fractures affecting these strata. EDS has shown that there is a confining zone overlying the injection zone. As required by 40 CFR 148.20(a)(2)(i), EDS calculated an AOR extending 32,280 feet from the center of a line connecting the two wells based on measurements of hydrogeological properties at the site and meeting the substantive requirements of 40 CFR 146.63. As required by 40 CFR 148.20(a)(2)(ii), EDS has located, identified, and ascertained the conditions of all wells within the injection wells' AOR that penetrate the injection zone or the confining zone by use of a protocol acceptable to the Director and meeting the substantive requirements of 40 CFR 146.64. As required by 40 CFR 148.20(a)(2)(iii), EDS has submitted the results of pressure and radioactive tracer tests performed within one year prior to submission of the petition demonstrating the mechanical integrity of the well's long string casing, injection tube, annular seal, and bottom hole cement.

After reviewing the petition and other information in the record, and considering public comments, the EPA determined that EDS has shown that the hydrogeological and geochemical conditions at the site and the physiochemical nature of the waste streams are such that reliable predictions can be made that fluid movement conditions are such that the injected fluids will not migrate within 10,000 years: (A) vertically upward out of the injection zone; or (B) laterally within the injection zone to a point of discharge or interface with a USDW pursuant to 40 CFR 148.20(a)(1)(i); and has met the other applicable requirements of 40 CFR part 148, subpart C.

Changes to Conditions of the Exemption

In response to public comments noting that the State and UIC permits do not allow injection of wastes with the codes D001 and D003, the EPA is removing wastes carrying the hazardous waste codes D001 and D003 from the list of wastes approved for possible injection by EDS. This makes the limitations under the petition decision identical to those of the permits. Accordingly, this exemption allows injection of wastes bearing the following RCRA waste codes:

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The method of calculating the average injection rate has been changed as described in condition #3 below. The Notice of Intent proposed a 7,275,780 gallon limit on the volume of wastes injected in any month. Condition 3 imposes a limit of a lifetime average of 166 gallons per minute. This condition was changed because the petitioner commented that the demonstration was based on an assumption that the injection rate through the first 20 years of the life of the wells will not exceed 166 gallons per minute, and requested that the condition be made consistent with the no migration demonstration.

Additionally, the example of a circumstance under condition 7 in which EDS would be required to submit a new demonstration of no migration has been modified for clarity and elevated to become condition #9, in light of the May 29, 2003, extraction well permit MDEQ issued to SPMT.

Conditions

This exemption is issued subject to the following conditions: (1) The permitted injection zone must be comprised of the Precambrian, Mt. Simon and Eau Claire, Franconia-Dresbach, Trempealeau, and Glenwood Formations from 3,369 to 4,550 feet below the surface; (2) Injection shall occur only into that part of the Franconia-Dresbach, Eau Claire, Mt. Simon, and Precambrian Formations which is more than 3,900 feet and less than 4,550 feet, true vertical depths, below the surface; (3) The volume of wastes injected through both wells at the site must not exceed an average of 166 gallons per minute. This average rate will be calculated at the end of each month based on the cumulative injected volume, the total number of months elapsed since initiation of injection through either well, and the number of minutes in an average month (30.44 days/month × 1440 minutes/day); (4) Maximum concentrations of chemical contaminants which are hazardous at less than one part in a trillion (1:1,000,000,000,000) shall have limits for maximum concentration at the well head set through the permits; (5) The injection pressure at the well head shall be limited to fracture opening pressure at the casing shoe. Tests during construction of well #2–12 determined that the fracture opening pressure while injecting waste of the highest density to

be allowed is 903 psi (gauge) at the well head; (6) The petitioner shall fully comply with all requirements set forth in Underground Injection Control Permits #MI–163–1W–C007 and #MI–163–1W–C008 issued by the EPA; (7) This exemption is granted only while the underlying assumptions are valid; (8) The exemption will become invalid 20 years after injection commences. EDS must halt operations at that time unless Region 5 has approved a new, valid demonstration of no migration from the injection zone. (9) In the event that a brine extraction well is drilled within the AOR into the injection zone, penetrated by well #2–12 at a depth of 3,369 feet, and is used for extraction from any strata within the injection zone, the exemption will terminate. In order to resume injection, EDS must prepare a new demonstration of no migration including consideration of the extraction activity, and a new exemption must be issued by the EPA. Operation must be in full compliance with all conditions of its permits and other conditions relating to the exemption found in 40 CFR 148.23 and 148.24.

Dated: March 16, 2004.

Jo Lynn Traub,

Director, Water Division.

[FR Doc. 04–6697 Filed 3–24–04; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority

March 16, 2004.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction (PRA) comments should be submitted on or before May 24, 2004. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all Paperwork Reduction Act (PRA) comments to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554 or via the Internet to *Judith-B.Herman@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s), contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov*.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0977.

Title: Procedures for Reviewing Requests for Relief From State and Local Regulations Pursuant to Section 332(c)(7)(B)(v) of the Communications Act of 1934.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit, not-for-profit institutions, and State, local or tribal government.

Number of Respondents: 10.

Estimated Time per Response: .50 hours.

Frequency of Response: Third party disclosure requirement.

Total Annual Burden: 5 hours.

Total Annual Cost: N/A.

Needs and Uses: On November 17, 2000, the FCC released a Report and Order in WT Docket No. 97–192 regarding its review of requests for relief from impermissible State and local regulation of personal wireless service facilities based on the environmental effects of radio-frequency emissions. The Report and Order amends Note 1 to paragraph (a) of 47 CFR 1.1206 of the Commission's rules so that the expanded service requirements set forth in that note apply to petitions filed pursuant 47 U.S.C. 332(c)(7)(B)(v). The service requirement instructs petitioners to serve a copy of such petitions on those State and local governments that are subject of the petitions, as well as those State and local governments otherwise specifically identified in the petitions whose actions petitioners argue are inconsistent with Federal law.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 04–6721 Filed 3–24–04; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, March 30, 2004 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, April 1, 2004 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 DISCUSSED:

Correction and Approval of Minutes.

Legislative Recommendations 2004.

Draft Advisory Opinion 2004–07: Viacom/MTV by counsel, Elizabeth Kingsley.

Draft Advisory Opinion 2004–08: American Sugar Cane League by counsel, Paul G. Borron, III.

Draft Advisory Opinion 2004–09: Green-Rainbow Party by Grace Ross and David Ebony Allen Barkley, Co-Chairs.

Notice of Proposed Rulemaking on Inaugural Committees.

Notice of Proposed Rulemaking on Contributions and Donations by Minors.

Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Robert W. Biersack, Acting Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 04–6866 Filed 3–23–04; 3:01 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Announcement of Board Approval Under Delegated Authority and Submission to OMB

AGENCY: Board of Governors of the Federal Reserve System

SUMMARY: Background.

Notice is hereby given of the final approval of proposed information collections by the Board of Governors of the Federal Reserve System (Board) under OMB delegated authority, as per 5 CFR 1320.16 (OMB Regulations on Controlling Paperwork Burdens on the Public). Board–approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the OMB 83–I's and supporting statements and approved collection of information instrument(s) are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

FOR FURTHER INFORMATION CONTACT: Federal Reserve Clearance Officer – Cindy Ayouch–Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202–452–3829).

OMB Desk Officer–Joseph Lackey–Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Final approval under OMB delegated authority of the extension for three years, with revision, of the following reports:

1. Report title: Weekly Report of Assets and Liabilities for Large Banks; Weekly Report of Selected Assets.

Agency form number: FR 2416; FR 2644

OMB Control number: 7100–0075

Effective Date: June 2, 2004

Frequency: Weekly

Reporters: U.S.–chartered commercial banks

Annual reporting hours: FR 2416: 23,400 hours; FR 2644: 80,080 hours

Estimated average hours per response: FR 2416: 9.00 hours; FR 2644: 1.40 hours

Number of respondents: FR 2416: 50; FR 2644: 1,100

General description of report: These information collections are voluntary (12 U.S.C. § 225(a) and 248(a)(2)). Individual respondent data are regarded as confidential under the Freedom of Information Act (5 U.S.C. § 552(b)(4)).

2. Report title: Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks.

Agency form number: FR 2069

OMB Control number: 7100–0030

Effective Date: June 2, 2004

Frequency: Weekly

Reporters: U.S. branches and agencies of foreign banks

Annual reporting hours: 14,560 hours

Estimated average hours per response: 4.00 hours

Number of respondents: 70

General description of report: This information collection is voluntary (12 U.S.C. § 248(a)(2) and 3105(a)(2)). Individual respondent data are regarded as confidential under the Freedom of Information Act (5 U.S.C. § 552(b)(4)).

Abstract: The FR 2416, FR 2644, and the Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks (FR 2069; OMB No. 7100–0030) are referred to collectively as the bank credit reports. The FR 2416 is a detailed balance sheet that covers domestic offices of large U.S.–chartered commercial banks. The FR 2644 collects less–detailed information on investments, loans, total assets, and several memoranda items, covering domestic offices of small U.S.–chartered commercial banks. The FR 2069 is a detailed balance sheet that covers large U.S. branches and agencies of foreign banks. The bank credit reports are collected as of each Wednesday.

These three voluntary reports are mainstays of the Federal Reserve's reporting system from which data for analysis of current banking developments are derived. The FR 2416 is used on a stand–alone basis as the ''large domestic bank series.'' The FR 2644 collects sample data, which are used to estimate universe levels using data from the quarterly commercial bank Consolidated Reports of Condition and Income (FFIEC 031 and 041; OMB No. 7100–0036) (Call Report). Data from the bank credit reports, together with data from other sources, are used for constructing weekly estimates of bank credit, of sources and uses of bank funds, and of a balance sheet for the banking system as a whole.

The Federal Reserve publishes the data in aggregate form in the weekly H.8 statistical release, Assets and Liabilities of Commercial Banks in the United States, which is followed closely by other government agencies, the banking industry, the financial press, and other users. This release provides a balance sheet for the banking industry as a whole and data disaggregated by its large domestic, small domestic, and foreign–related components.

Current actions: Federal Reserve has approved the proposed changes to the FR 2416: (1) Split other assets into two items, (2) split other liabilities into two items, and (3) combine three memoranda items breaking out U.S. Treasury securities. The Federal Reserve has approved the proposed changes to the FR 2644: (1) Split other loans secured by real estate into two items, (2) add an item for net due from own foreign offices, and (3) add an item for net due to own foreign offices. The Federal Reserve has approved the proposed changes to the FR 2069: (1) Combine items for federal funds purchased with banks and other borrowed money owed to banks and (2) combine items for federal funds purchased with others and other borrowed money owed to others.

These proposed changes to the FR 2416, FR 2644, and FR 2069 will be effective with the reports for June 2, 2004.

Board of Governors of the Federal Reserve System, March 19, 2004.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 04–6693 Filed 3–24–04; 8:45 am]

BILLING CODE 6210–01–S

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 April 8, 2004.

A. Federal Reserve Bank of Chicago (Patrick Wilder, Managing Examiner) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Thomas M. Johannesen, Elgin, Illinois; Claire C. Johannesen, Elgin, Illinois; Mary Johannesen–Schmidt, Palatine, Illinois; Timothy P. Schmidt,

Palatine, Illinois; Kathleen E. Tomei, Lake Bluff, Illinois; Richard Tomei, Lake Bluff, Illinois; Thomas M. Johannesen, Jr., Chicago, Illinois; Jennifer Johannesen, Chicago, Illinois; James Johannesen, Hinsdale, Illinois; Barbara Johannesen, Hinsdale, Illinois; Thomas P. Callahan, Houston, Texas; and Fran Callahan, Houston, Texas; to retain control of the outstanding voting shares of First Community Financial Corporation, Elgin, Illinois, and thereby indirectly retain voting shares of First Community Bank, Elgin, Illinois.

Board of Governors of the Federal Reserve System, March 19, 2004.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 04–6661 Filed 3–24–04; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 04082]

Communication and Technical Assistance Support for HIV/AIDS Prevention Programs; Notice of Intent To Fund Single Eligibility Award

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the intent to fund fiscal year (FY) 2004 funds for a cooperative agreement program for support of CDC HIV related policies and programs by facilitating communication and problem solving with State and territorial health department HIV/AIDS Directors and providing technical assistance (TA) to them. The Catalog of Federal Domestic Assistance number for this program is 93.941.

B. Eligible Applicant

Assistance will be provided only to the National Alliance of State and Territorial AIDS Directors (NASTAD). No other applications are solicited or will be accepted.

NASTAD is the appropriate and only qualified agency to provide the services specified under this cooperative agreement because:

- The activities supported under this cooperative agreement can only be provided by an organization that formally represents the interests of the HIV/AIDS Program Directors of State and territorial health departments.
- NASTAD is the only officially established organization that represents the State and Territorial AIDS Directors in all 50 States and all U.S. Territories. NASTAD was formed by the States to represent their interests to other government agencies.
- NASTAD draws upon its membership to provide input on the development and implementation of HIV policies and programs. It is able to facilitate multi-jurisdictional involvement on these issues. NASTAD regularly keeps its members informed about relevant issues.
- NASTAD members provide peer-to-peer assistance on the implementation of new policies and programs. These members share their experience so other State programs can benefit.

C. Funding

Approximately $1,368,662 is available in FY 2004 to fund this award. It is expected that the award will begin on or before April 1, 2004, and will be made for a 12-month budget period within a project period of up to 5 years. Funding estimates may change.

D. Where to Obtain Additional Information

For general comments or questions about this announcement, contact: Technical Information Management, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341–4146, Telephone: 770–488–2700.

For technical questions about this program, contact:

Bob Kohmescher, Project Officer, Centers for Disease Control and Prevention, National Center for HIV, STD and TB Prevention (NCHSTP), Division for HIV/AIDS Prevention, 1600 Clifton Road, Mailstop E–35, Telephone: 404–639–1614, E-mail: *rnk1@cdc.gov.*

Dated: March 19, 2004.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 04–6676 Filed 3–24–04; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control and Prevention) of the Statement of Organization, Functions, and Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 69 FR 11444–11445, dated February 10, 2004) is amended to reflect the establishment of the Office of Genomics and Disease Prevention within the Office of the Director, Centers for Disease Control and Prevention.

Section C–B, Organization and Functions, is hereby amended as follows: Add the following item to the mission statement for the *Office of the Director (CA):*

(15) provides leadership, policy guidance, coordination, technical expertise, and services to promote the development and implementation of the Agency's Genomics Program.

After the mission statement for the Information Technology and Services Office (CAJ9), insert the following:

Office of Genomics and Disease Prevention (CAK). The Office of Genomics and Disease Prevention (OGDP) provides leadership, policy guidance, coordination, technical expertise, and services to promote the development and implementation of the agency's genomics and public health initiatives. In carrying out this mission, OGDP: (1) Advises the CDC Director on the integration of genomics into health research and practice issues relevant to the agency; (2) assesses evolving research advances in genomics with emphasis on their relevance to public health issues and, in cooperation with federal and national institutions, identifies and develops activities for applying CDC's technical expertise for maximum public health benefit; (3) collaborates with CDC Centers/Institute/Offices (CIOs), other federal agencies, countries, and organizations, as appropriate, to assist CIOs in the development of appropriate policy for the use of genomics within health research and practice initiatives for which they have responsibility; (4) coordinates plans for the allocation of genomics health resources and assists in the development of external funding sources for programs and projects; (5) coordinates cross-cutting CDC genomics and public health enterprises; (6) provides leadership in the development and implementation of strategic planning that extends the CDC Genomics and Disease Prevention Strategic Plan—Integrating Advances in Human Genetics into Public Health Action (1997) in the development of institutional capacity; (7) coordinates collaborations with external agencies, academia, and private industry partners, including administration, budgets, and technical assistance to assure that agency obligations are met; (8) guides and coordinates activities to integrate genomics competency into national

health workforce development with emphasis on recruitment and career enhancement of CDC assignees; (9) promotes a continuum of public health research for translation and application of the basic research achievements of the Human prevention program development; and (11) provides genomics and disease prevention expertise to CIO projects, as appropriate and requested by CIOs.

Dated: March 8, 2004.

William H. Gimson,

Chief Operating Officer, Centers for Disease Control and Prevention.

[FR Doc. 04–6728 Filed 3–24–04; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Order to Withhold Income for Child Support and Notice of an Order to Withhold Income for Child Support.

OMB No.: 0970–0154.

Description: Public Law 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, section 324 requires the Federal Office of Child Support Enforcement (OCSE) to develop a standardized form to collect child support payments from an obligor's employer.

The form, which promotes standardization, is used for IV–D and non-IV–D cases that require income withholding. We are revising the form to make it more universal for tribal governments and other uses. This two-page form provides a detailed legal description of established child support orders, support amounts, and remittance information that an employer needs to withhold payments from an obligor who owes child support.

Respondents: States and territories.

Annual Burden Estimates:

Instrument	Number of respondents	Average number of responses per respondent	Average burden hours per response	Total burden hours
Order to Withhold Income for Child Support and Notice to Withhold Income for Child Support	54	216,100	.084	980,230
Estimated Total Annual Burden Hours:				980,230

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *grjohnson@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF; e-mail address: *katherine_t._astrich@omb.eop.gov.*

Dated: March 18, 2004.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 04–6670 Filed 3–24–04; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 2004N–0077]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Animal Drug User Fee Cover Sheet

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Animal Drug User Fee Cover Sheet,'' has been approved by the Office of Management and Budget (OMB) under the emergency processing provisions of the Paperwork Reduction Act of 1995.

FOR FURTHER INFORMATION CONTACT: Denver Presley, Office of Management Programs (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1472.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of February 26, 2004 (69 FR 8980), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under 44 U.S.C. 3507. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. OMB has now approved the information collection and has assigned OMB control number 0910–0539. The approval expires on September 30, 2004. A copy of the supporting statement for this information collection is available on the Internet at *http://www.fda.gov/ohrms/dockets.*

Dated: March 18, 2004.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 04–6632 Filed 3–24–04; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Public Law 104–13), the Health Resources and Services Administration (HRSA) publishes periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft

instruments, call the HRSA Reports Clearance Officer on (301) 443–1129. 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.

Proposed Project: Impact of Accreditation on BPHC-Supported Health Centers—NEW

The Bureau of Primary Health Care (BPHC) will conduct an evaluation of the impact of JCAHO accreditation on BPHC-supported health centers. This study will assess the impact in health centers that are accredited by the Joint Commission and those that are not, including migrant health centers, school-based health centers, health centers for the homeless and public housing health centers. This study aims to address a key purpose of the BPHC/JCAHO Accreditation initiative: How effective is accreditation in providing a structure for health centers to integrate ongoing quality improvement into their daily operations. The assessment will be conducted by administering a mailed questionnaire to all health centers that were funded by HRSA/BPHC as of September 30, 2002.

ESTIMATED BURDEN HOURS

Survey	Number of respondents	Responses per respondents	Total responses	Hours per responses	Total burden hours
Assessment of Quality Structure in Health Centers	843	1	843	.45	380

Send comments to Susan G. Queen, Ph.D., HRSA Reports Clearance Officer, Room 14–33, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: March 18, 2004.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04–6635 Filed 3–24–04; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Recruitment of Clinicians To Become Commissioned Officers; Recruitment of Sites for Assignment of Commissioned Officers; Correction

AGENCY: Health Resources and Services Administration, HHS.

ACTION: General notice; correction.

SUMMARY: The Health Resources and Services Administration published a document in the **Federal Register** of February 26, 2004, containing an incorrect deadline for clinicians to submit applications.

In FR Doc. 04–4204, in the **Federal Register** of February 26, 2004, on page 8982, in the third column, lines 8 and 9 under the section ''Application Requests, Dates and Addresses'' are corrected to read: ''or delivered no later than September 30, 2004 to: Division of Commissioned.''

Dated: March 17, 2004.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. 04–6633 Filed 3–24–04; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; Comment Request; The Cardiovascular Health Study (CHS)

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Heart, Lung, and Blood Institute (NHLBI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: The Cardiovascular Health Study. *Type of Information Request:* Revision. (OMB No. 0925–0334). *Need and Use of Information Collection:* This study will quantify associations between conventional and hypothetical risk factors and coronary heart disease (CHD) and stroke in people age 65 years and older. The primary objectives include quantifying associations of risk factors with subclinical disease; characterize the natural history of CHD and stroke; and identify factors associated with clinical course. The findings will provide important information on cardiovascular disease in an older U.S. population and lead to early treatment of risk factors associated with disease and identification of factors which may be important in disease prevention. *Frequency of response:* twice a year (participants) or once per cardiovascular disease event (proxies and physicians); *Affected public:* Individuals. *Types of Respondents:* Individuals recruited for CHS and their selected proxies and physicians. The annual reporting burden is as follows: *Estimated Number of Respondents:* 3,330; *Estimated Number of Responses per respondent:* 3.76; and *Estimated Total Annual Burden Hours Requested:* 1,029. *The annualized cost to respondents is estimated at:* $55,633.

There are no capital, operating, or maintenance costs to report.

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent *	Average burden hours per response	Estimated total annual burden hours requested
Participants	2,196	5.8	0.25	992
Physicians	343	1.0	0.10	11

Type of respondents	Estimated number of respondents	Estimated number of responses per respondent *	Average burden hours per response	Estimated total annual burden hours requested
Participant proxies	102	1.0	0.25	26
Total	3,330	3.76	0.246	1,029

* Total for 3 years.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information will have practical utility; (2) The accuracy of the agency's estimate of 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 collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of data collection plans and instruments, contact Dr. Jean Olson, Epidemiology and Biometry Program, Division of Clinical Applications, NHLBI, NIH, II Rockledge Centre, 6701 Rockledge Drive, MSC #7934, Bethesda, MD 20892–7934, or call non-toll-free number (301) 435–0707, or e-mail your request, including your address to: *OlsonJ@nhlbi.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

Dated: March 16, 2004.

Peter Savage,

Director, DECA.

[FR Doc. 04–6732 Filed 3–24–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Proposed Collection; Comment Request; the Drug Accountability Record

SUMMARY: In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, for opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI), the National Institutes of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

Proposed Collection: Title: The Drug Accountability Record. *Type of Information Collection Request:* Revision. *Need and Use of Information Collection:* FDA regulations require *investigators:* To maintain adequate records of the disposition of all investigational drugs received from the sponsor; to prepare and maintain adequate case histories of treated patients and controls; and to furnish reports to the drug sponsor who is responsible for evaluating the results of the investigation. Similarly, 21 CFR 312.1 includes requirements for *sponsors* to maintain adequate records on the shipment of drugs to investigators; to make individual patient records available to the FDA for inspection; and to submit accurate progress reports of the drug investigation to the FDA. The NCI, as an IND sponsor has developed the ''Drug Accountability Record'' form (DARF: NIH 2564) to help investigators using NCI sponsored drugs under NCI protocols to meet FDA requirements. *Frequency of Response:* Daily. *Affected Public:* Individuals or households; businesses or other for-profit; not-for-profit institutions; Federal Government; State, local or tribal government. *Type of Respondents:* Pharmacists, nurses and investigators or their designee at medical institutions to keep track of the dispensing of investigational anticancer drugs to patients use the information entered onto the DARF. NCI uses the data from the DARF to ensure compliance with NCI's responsibilities as an IND sponsor. NCI Management request copies of the DARF at any time for audit and review and DARFs are reviewed at least once every 3 years during site audits. The information contained in the DARF is compared to PMB–IMS Inventory Module histories for each investigator and clinical site to ensure no diversion of investigational drug supplies to inappropriate protocol or patient use. The accountability information is also compared to patient flow sheets (protocol reporting forms) during site visits conducted for each investigator. All comparisons are completed with the intention of ensuring protocol integrity, patient safety, and compliance with FDA regulations. Record keeping of drug accountability information in a standard format is required to allow an investigator to receive, and continue to receive NCI-sponsored drugs. This information is reviewed at the time of site visit audits, which currently occur at least once every 3 years. The IND sponsor may also request the DARF at any time. This requirement is an essential part of investigational agent accountability process and motivates the investigator to maintain accurate, appropriate records. The record keeping retention period is specified by FDA regulation, and the NCI does not deviate from that requirement. As noted above, the FDA requires IND sponsors to maintain adequate records on the shipment and disposition of drugs to investigators. Permitting intra-institutional transfer of drugs to other NCI sponsored protocols and other approved investigators necessitates that NCI be notified of these transfers. It is for this purpose and use that the Transfer of Investigational Drug form (TID: NIH 2564–1) was developed. The annual reporting burden is as follows: *Estimated Number of Respondents:* 7,371; *Estimated Number of Responses per Respondent:* 8; *Average Burden Hours Per Response:* 0.67; and *Estimated Total Annual Burden Hours Requested:* 3,378. The annualized respondent's burden for record keeping is estimated to require 3,298 hours for the DARF and 80 hours for the TID form. The annualized cost to the respondents is estimated at $84,450.00. There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

A.12–1 ESTIMATES OF HOUR BURDEN

Type of respondents	Number of respondents	Frequency of response	Average time per response	Annual hour burden
Drug Accountability Form				
Investigators, or Designees	6,171	8	0.0668 hours	3,298
Drug Transfer Form				
Investigators and/or their Designees	1,200	1	0.0668	80
Total Annual Hours for Investigators and/or their Designees				3,378

Estimate of Other Total Annual Cost Burden To Respondents or Record keepers: None.

Annualized Cost to the Federal Government: The annualized cost to the Federal government for printing is estimated at $4,000. The annualized cost to the Federal government for distributing the forms is estimated at $2,000.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Charles, Hall, R.PH., M.S., Chief, Pharmaceutical Management Branch, Cancer Therapy Evaluation Program, National Cancer Institute, Executive Plaza North, Room 7149, 9000 Rockville Pike, Bethesda, Maryland 20891. Or call non-toll-free number 301–496–5725 or e-mail your request, include your address to *hallch@mail.nci.nih.gov.*

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60-days of the date of this publication.

Dated: March 18, 2004.

Rachelle Ragland-Greene,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 04–6733 Filed 3–24–04; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Request for Applications for SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse (PA 04–001)

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice of request for applications for SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse (PA 04–001).

Authority: Section 501(d)(8) of the Public Health Service Act.

SUMMARY: The Substance Abuse and Mental Health Services Administration (SAMHSA), Office of Applied Studies, is accepting applications for Fiscal Year 2004 grants to support dissertation research on involving data analysis on substance abuse services issues. The purpose of the program is to expand the number of researchers who conduct high-quality substance abuse services research, the study of how various factors (social, financial, organizational, and personal) affect the need for and access to substance abuse treatment, the quality and cost of substance abuse treatment, and, ultimately, health and well being. Students registered and in good standing at an accredited academic doctoral degree program (*e.g.,* Ph.D., Sc.D., or Dr.P.H.), which requires a dissertation based on original research, may apply. Students in such fields as sociology, psychology, social work, biostatistics, epidemiology, economics, policy, management, medicine, nursing, public health or health services research are especially encouraged to apply. The student must apply through a public or private nonprofit U.S. institution that will administer the grant on his or her behalf.

DATES: Applications are due on June 1, 2004.

FOR FURTHER INFORMATION CONTACT: For questions on program issues, contact: Sara Q. Duffy, Ph.D., Senior Economist, SAMHSA/Office of Applied Studies, 5600 Fishers Lane, Room 16–105, Rockville, MD 20857, Phone: (301) 443–8565; e-mail: *sduffy@samhsa.gov.*

For questions on grants management issues, contact: Gwendolyn Simpson, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Room 13–103, Rockville, MD 20857, Phone: (301) 443–4456; e-mail: *gsimpson@samhsa.gov.*

SUPPLEMENTARY INFORMATION:

Department of Health and Human Services

Substance Abuse and Mental Health Services Administration

SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse (PA 04–001)

(Initial Announcement)

Catalogue of Federal Domestic Assistance (CFDA) No.: 93.243.

Key Dates

Application Deadline—Applications for FY2004 grants are due by June 1, 2004. The annual application receipt date for subsequent fiscal years will be May 1, or, if May 1 is a Saturday or Sunday, the following Monday.

Intergovernmental Review (E.O. 12372)—Letters from State Single Point of Contact (SPOC) are due no later than 60 days after application deadline.

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I. Funding Opportunity Description

1. Introduction

The Substance Abuse and Mental Health Services Administration (SAMHSA), Office of Applied Studies, is accepting applications for Fiscal Year 2004 grants to support dissertation research on involving data analysis on substance abuse services issues. Students registered and in good standing at an accredited academic doctoral degree program (*e.g.,* Ph.D., Sc.D., or Dr.P.H.), which requires a dissertation based on original research, may apply. Students in such fields as sociology, psychology, social work, biostatistics, epidemiology, economics, policy, management, medicine, nursing, public health or health services research are especially encouraged to apply. The student must apply through a public or private nonprofit U.S. institution that will administer the grant on his or her behalf.

SAMHSA Dissertation Grants are authorized under section 501(d)(8) of the Public Health Service Act.

2. Expectations

The purpose of the program is to expand the number of researchers who conduct high-quality substance abuse services research, the study of how various factors (social, financial, organizational, and personal) affect the need for and access to substance abuse treatment, the quality and cost of substance abuse treatment, and, ultimately, health and well being. The research domains are individuals, families, organizations, institutions, communities and populations. Funded projects may address topics including the organization, financing and delivery of substance abuse prevention and treatment services, and the need for such services, as well as methodological advances in health services research methods applicable to the study of substance abuse issues. In addition, attention to substance abuse issues in racial/ethnic minority populations, women, children and families, older adults, low income groups, the homeless, those in rural settings, and persons with mental illness is encouraged. Topics of special interest include the factors affecting the supply of services, the cost effectiveness of prevention and treatment services, barriers to access to care, and alternative sources of treatment such as the criminal justice system and faith-based organizations. Given the program's focus, submission of proposals involving secondary analyses of existing data sources is encouraged, while submission of clinical research proposals is discouraged. In addition to developing a cadre of researchers capable of producing high-quality substance abuse services research, one of the goals of the program is to promote secondary analyses of data collected by SAMHSA, although secondary analyses of other relevant data sets is acceptable.

2.1 Allowable Activities

- The Principal Investigator's salary.
- Direct project expenses such as travel, data purchasing, data processing, and supplies.
- Fees for maintaining matriculation or other fees imposed on those preparing dissertations, providing the fees are required of all students of similar standing, regardless of the source of funding.
- Consultant fees when use of consultants conforms to university policy.

2.2 Data and Performance Measurement

The Government Performance and Results Act of 1993 (P.L. 103–62, or ''GPRA'') requires all Federal agencies to:

- Develop strategic plans that specify what they will accomplish over a 3 to 5-year period;
- set performance targets annually related to their strategic plan; and
- report annually on the degree to which the previous year's targets were met.

The law further requires agencies to link their performance to their budgets. Agencies are expected to evaluate their programs regularly and to use results of these evaluations to explain their successes and failures.

To meet these requirements, SAMHSA must collect performance data (*i.e.*, ''GPRA data'') from grantees. You are required to report these GPRA data to SAMHSA on a timely basis so that performance results are available to support budgetary decisions.

Appendix A provides the performance indicators for SAMHSA's Dissertation Grant Program. You can obtain more detailed information on these measures by contacting the Government Project Officer at *sduffy@samhsa.gov.*

The information used to compile GPRA measures for the Dissertation Grant Program comes from the annual reports and completed dissertations, which are required to be reported under the terms and conditions of the grant award. Therefore, no additional data reporting by grantees will be required.

II. Award Information

1. Award Amount

It is expected that up to $150,000 will be available to fund up to five awards in FY2004. Awards are expected to be $20,000 to $30,000 per year in total costs (direct and indirect). Applicants may request a project period of up to 2 years.

Proposed budgets cannot exceed $30,000 in any year of the proposed project. Annual continuation awards will depend on the availability of funds, grantee progress in meeting project goals and objectives, and timely submission of required data and reports.

2. Funding Mechanism

Awards will be made as grants.

III. Eligibility Information

1. Eligible Applicants

Eligible applicants are domestic public or private, nonprofit entities. The statutory authority for this program precludes grants to for-profit organizations and any non-domestic entity.

Students registered and in good standing at an accredited academic doctoral degree program (*e.g.*, Ph.D., Sc.D., or Dr.P.H.), which requires a dissertation based on original research, may apply. The student must apply through an eligible institution that will administer the grant on his or her behalf. The dissertation must examine in a quantitative way a problem or issue in the area of substance abuse. Students in such fields as sociology, psychology, social work, biostatistics, epidemiology, economics, policy, management, medicine, nursing, public health or

health services research are especially encouraged to apply.

The student is the Principal Investigator and the institution is the applicant/grantee. In accordance with the Appropriations Act Ban, the doctoral student must be a citizen or a non-citizen national of the United States or an individual who has been lawfully admitted for permanent residence (*i.e.*, in possession of an Alien Registration Receipt Card) at the time of application. To be eligible, given the goals of the program, the dissertation must be a major part of the training program and be in an area of interest to SAMHSA with demonstrated relevance to the issues pertaining to substance abuse services in the United States. Requirements for the doctoral degree, other than the dissertation and any other contemporaneous requirements, must be completed before the funds provided can be spent. Confirmation that all requirements other than the dissertation have been completed and notification that the dissertation proposal has been accepted must be made in writing by the chairperson of the committee and submitted before initiation of the grant. SAMHSA will make the final determination of eligibility for support. Restrictions on eligibility are based on the program's goals and the desire to assure a successful outcome for the student.

2. Cost-Sharing

Cost-sharing is not required in this program, and applications will not be screened out on the basis of cost-sharing.

3. Other

Applications must comply with the following requirements or they will be screened out and not reviewed:

- Documentation of nonprofit status: If an applicant has evidence of current nonprofit status on file with an agency of PHS, it will not be necessary to file similar papers again. Simply specify the place (Federal Agency) and date of filing. Otherwise, private, nonprofit organizations must include evidence of nonprofit status with the application. Any of the following is acceptable evidence.

—A reference to the organization'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

—A copy of a currently valid Internal Revenue Service Tax exemption certificate; or

—A statement from a State taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals; or

—A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization; or

—Any of the above proof for a State or national parent organization, and a statement signed by the parent organization that the applicant organization is a local nonprofit affiliate.

- Use of the PHS 398 [revised May 2001—updated 9/10/2003].
- Application submission requirements in Section IV–3 of this document.
- Formatting requirements provided in Section IV–2.3 of this document.

IV. Application and Submission Information

(To ensure that you have met all submission requirements, a checklist is provided for your use in Appendix B of this document.)

1. Address to Request Application Package

You may request a complete application kit by:

- Calling or emailing Jane Feldmann, (301) 443–5628, *jfeldman@samhsa.gov;* or
- This Program Announcement, PHS 398 Instructions and Forms, List of Offices Negotiating Indirect Cost Rates, State Single Point of Contact (SPOC) List, and Survey on Ensuring Equal Opportunity for Applicants are also available on *http://www.SAMHSA.gov.* Click on ''Grant Opportunities''.

Additional materials available on this Web site include:

- Standard terms and conditions for SAMHSA grants; and
- Guidelines and policies that relate to SAMHSA grants (*e.g.*, guidelines on cultural competence, consumer and family participation, and evaluation).

2. Content and Form of Application Submission

2.1 Required Documents

The application kit for the Dissertation Grant program contains the following documents:

- PHS 398 (REVISED May 2001)—Updated: 09/09/2003. Required sections include the Instructions; Face Page; Description, Performance Sites and Key Personnel; Research Grant Table of Contents; Modular Budget Form; Biographical Sketch; Resources; Research Plan; Checklist Form Page; and Personal Data Form Page. The Appendix is optional, unless you plan to collect data (please see section IV–2.4, below). Applications that are not submitted on the specified version of the PHS 398 will be screened out and will not be reviewed.
- Program Announcement (PA)—Provides specific information about the availability of funds along with instructions for completing the grant application. This document is the PA. The PA will be available on the SAMHSA Web site (*http://www.samhsa.gov*) and on the Federal grants Web site (*http://www.grants.gov*). A Notice of Funding Availability summarizing the PA will be published in the **Federal Register**. **Note:** In case of conflict between the PHS 398 Instructions and the instructions in this PA, please follow the instructions in this PA. Please contact the Government Project Officer if you have any questions.

You must use all of the above documents in completing your application.

2.2 Order of Sections

Applications must be complete and contain all information needed for review. In order for your application to be complete, it must include the following sections in the order listed.

- *Face Page*—Use the PHS 398 Form Page 1, Face Page. Please see Section I.C. of the PHS 398 Instructions, for guidance. In signing the face page of the application, you are agreeing that the information is accurate and complete. [**Note:** Beginning October 1, 2003, applicants will need to provide a Dun and Bradstreet (DUNS) number to apply for a grant from the Federal Government. SAMHSA applicants are required to provide their DUNS number on the face page of the application. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access the Dun and Bradstreet Web site at *http://www.dunandbradstreet.com* or call 1–866–705–5711. To expedite the process, let Dun and Bradstreet know that you are a public/private nonprofit organization getting ready to submit a Federal grant application.]
- *Description, Performance Sites, and Key Personnel*—Your description must fit in the space provided on Form Page 2 of the PHS 398. Please see Section C of the PHS 398 Instructions for guidance. In the *first 5 lines or less* of your description, write a summary of your project that can be used, if your project is funded, in publications, reporting to Congress, or press releases.
- *Research Grant Table of Contents*—Using Form Page 3, please include page

numbers for each required item as indicated on the PHS 398.

• *Modular Budget Form*—Since these projects are to be funded at less than $250,000, please use the ''Modular Budget Format Page'' in the PHS 398 to report the budget. You do not need to submit PHS 398 Form 4 or 5.

• *Biographical Sketch*—Please follow the instructions on the ''Biographical Sketch Format Page'' and section ''6. BIOGRAPHICAL SKETCH'' of the PHS 398 Instructions. This section must contain the biographical sketch of the Principal Investigator.

• *Resources*—Please use the ''Resources Format Page'' and consult section ''7. RESOURCES'' of the PHS 398 Instructions for guidance.

• *Research Plan*—The Research Plan describes your proposed project. It consists of Sections a through i. Please consult ''8. RESEARCH PLAN'' in the PHS 398 Instructions. Sections a–d may not be longer than 25 pages combined. If a specific section does not apply, please include it in the application and state that it is not applicable. More detailed information about Sections a through i, including the recommended number of pages for each section is available in the PHS 398 Instructions. The required sections are:

• Section a—Specific Aims.

• Section b—Background and Significance.

• Section c—Preliminary Studies/Progress Report.

• Section d—Research Design and Methods.

• Section e—Human Subjects Research. The projects SAMHSA expects to fund under this grant program are secondary analyses of existing data sources. As such, applicants will check ''No'' on item 4 of the Face Page, claim exemption 4 from Human Subjects Regulation (please see page 21 of the PHS 398 Instructions), and will not have to discuss these issues in their applications.

Instead, applicants conducting secondary analysis of these types of data are expected to discuss in this section how they will keep secure data that may be confidential. Pursuant to section 501(n) of the Public Health Service Act (42 U.S.C. 290aa), information obtained in the course of any SAMHSA-sponsored study that identifies an individual or entity must be treated as confidential in accordance with any promises made or implied regarding the use and purposes of the data collection. Applicants using SAMHSA-collected data must describe in the Human Subjects section of the application procedures for ensuring the confidentiality of information where disclosure of individuals who supplied the data or might be identified in the data are possible. The description of the procedures should include a discussion of where the data are to be stored, who will and who will not be permitted access to them, both raw data and machine readable files, and how personal identifiers and other identifying or identifiable data will be safeguarded. Applicants using data collected by other organizations are expected to describe and show how they will uphold the provisions of the data use agreements they have with the providers of those data. Applicants using data from organizations that do not require a data use agreement should discuss any confidentiality concerns of the data they are using and how they will address them.

Applicants proposing to collect data (which is not encouraged under this grant announcement) are expected to describe how they will implement SAMHSA's Confidentiality Requirements and Protection of Human Subjects Regulations. Please see Section IV–2.4 of this Program Announcement.

• Section f—Vertebrate Animals. This program is not intended to fund research using vertebrate animals. Applicants should state ''not applicable'' in this section.

• Section g—Literature Citations.

• Section h—Consortium/Contractual Arrangements. We expect that most applications will not involve consortia or contractual arrangements. However, if your application does, please consult page 29 of the PHS 398 Instructions.

• Section i—Consultants.

• Checklist Form Page—Please consult Section C.10 of the PHS 398 Instructions for guidance.

• Personal Data Form Page—Self-explanatory.

• Letter From Faculty Committee Or University Official—A letter, on University letterhead, from the faculty committee or the university official directly responsible for supervising the dissertation research must be submitted with the grant application. The letter must certify that:

• The grant application represents the dissertation proposal on which the proposed Principal Investigator is working;

• A collaborative process was established between the proposed Principal Investigator and advisors in the development, review, and editing of the research application;

• The proposed Principal Investigator has completed all requirements for the doctoral degree, except the dissertation proposal and any other contemporaneous requirements, prior to submission of the application;

• Prior to initiation of the grant, the dissertation committee will send a letter to OAS indicating that it has approved the dissertation proposal and all other requirements for the degree, except the dissertation, have been fulfilled satisfactorily.

• Statement of Data Availability—If you have the data you plan to use in your analysis in hand, a simple statement to that effect will suffice. If you do not yet have the data in hand, please describe how you will gain access to the data, including a description of the approval process required by the data provider for you to gain access to the data and use it for your intended research.

• Assurances And Certifications—The signature of the Official Signing for Applicant Organization on the Face Page of the application verifies a number of assurances and certifications, which are described in Section III.G of the PHS 398 Instructions. These assurances and certifications must be verified regardless of whether the application is exempt from Human Subjects Regulation. These assurances and certifications include:

• Human Subjects.

• Research on Transplantation of Human Fetal Tissue.

• Women and Minority Inclusion in Clinical Research Policy.

• Inclusion of Children Policy.

• Research Using Human Embryonic Stem Cells.

• Vertebrate Animals.

• Debarment and Suspension.

• Drug-Free Workplace.

• Lobbying.

• Nondelinquency on Federal Debt.

• Research Misconduct.

• Compliance (Civil Rights, Handicapped Individuals, Sex Discrimination, Age Discrimination).

• Financial Conflict of Interest.

• Documentation of Nonprofit Status—Please see Section III–3 of this PA, above.

• Appendix—The appendix is optional, unless you propose to collect data. In that case you must provide copies of *all* available data collection instruments, interview protocols, and consent forms that you plan to use (please see Section IV–2.4 of this PA, below). The appendix may be used for supplemental material such as publications, or survey questionnaires that may support the application. Please pay careful attention to Section C.9 of the PHS 398 Instructions. Do not use appendices to extend or replace any of the sections of this PA (reviewers will not consider them if you do).

2.3 Application Formatting Requirements.

Applicants also must comply with the following basic application requirements. Applications that do not comply with these requirements will be screened out and will not be reviewed. Where a conflict exists, the instructions in this Program Announcement supersede those in the PHS 398 Instructions.

- Information provided must be sufficient for review.
- Text must be legible.
- Type size in the Research Plan cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Text in the Research Plan cannot exceed 6 lines per vertical inch.
- Paper must be white paper and 8.5 inches by 11.0 inches in size.
- To ensure equity among applications, the amount of space allowed for the Research plan cannot be exceeded.
- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least ½ inch each, and adhering to the 25-page limit for the Research Plan.
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Research Plan (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 75 square inches multiplied by 25. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Research Plan (excluding margins) is considered part of the Research Plan, in determining compliance.

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, following these guidelines will help reviewers to consider your application.

- Pages should be typed single-spaced with one column per page.
- Pages should not have printing on both sides.
- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The Face Page should be page 1, the Description, Performance Sites, and Personnel page, should be page 2, the table of contents page should be page 3, etc. Appendices should be labeled and placed at the end of the application, and the pages should be numbered to continue the sequence.
- Send the original application and two copies to the mailing address in Section IV–6.1 of this document. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

2.4 SAMHSA Confidentiality and Participant Protection Requirements and Protection of Human Subjects Regulations

If you plan to collect data as part of your research or otherwise conduct human subjects research (neither of which are priorities under this program), you must describe your procedures relating to confidentiality, participant protection and the protection of human subjects regulations in Section e of your Research Plan, using the guidelines provided below. Problems with confidentiality, participant protection, and protection of human subjects identified during the review of your application may result in the delay of funding.

Confidentiality and Participant Protection:

All applicants not using existing data sources *must* address each of the following elements relating to confidentiality and participant protection. You must document how you will address these requirements or why they do not apply.

1. Protect Clients and Staff From Potential Risks

- Identify and describe any foreseeable physical, medical, psychological, social, legal, or other risks or adverse affects.
- Discuss risks that are due either to participation in the project itself or to the evaluation activities.
- Describe the procedures you will follow to minimize or protect participants against potential risks, including risks to confidentiality.
- Identify plans to provide help if there are adverse effects to participants.
- Where appropriate, describe alternative treatments and procedures that may be beneficial to the participants. If you choose not to use these other beneficial treatments, provide the reasons for not using them.

2. Fair Selection of Participants

- Describe the target population(s) for the proposed project. Include age, gender, and racial/ethnic background and note if the population includes homeless youth, foster children, children of substance abusers, pregnant women, or other groups.
- Explain the reasons for including groups of pregnant women, children, people with mental disabilities, people in institutions, prisoners, or others who are likely to be vulnerable to HIV/AIDS.
- Explain the reasons for *including or excluding* participants.
- Explain how you will recruit and select participants. Identify who will select participants.

3. Absence of Coercion

- Explain if participation in the project is voluntary or required. Identify possible reasons why it is required, for example, court orders requiring people to participate in a program.
- If you plan to pay participants, state how participants will be awarded money or gifts (**Note:** Dissertation Grant funds may not be used to pay participants).
- State how volunteer participants will be told that they may receive services even if they do not participate in the project.

4. Data Collection

- Identify from whom you will collect data (*e.g.*, from participants themselves, family members, teachers, others). Describe the data collection procedures and specify the sources for obtaining data (*e.g.*, school records, interviews, psychological assessments, questionnaires, observation, or other sources). Where data are to be collected through observational techniques, questionnaires, interviews, or other direct means, describe the data collection setting.
- Identify what type of specimens (*e.g.*, urine, blood) will be used, if any. State if the material will be used just for evaluation or if other use(s) will be made. Also, if needed, describe how the material will be monitored to ensure the safety of participants.
- Provide an appendix, entitled ''Data Collection Instruments/Interview Protocols,'' copies of *all* available data collection instruments and interview protocols that you plan to use.

5. Privacy and Confidentiality

- Explain how you will ensure privacy and confidentiality. Include

who will collect data and how it will be collected.

- Describe:

—How you will use data collection instruments.
—Where data will be stored.
—Who will or will not have access to information.
—How the identity of participants will be kept private, for example, through the use of a coding system on data records, limiting access to records, or storing identifiers separately from data.

Note: If applicable, grantees must agree to maintain the confidentiality of alcohol and drug abuse client records according to the provisions of Title 42 of the Code of Federal Regulations, Part 2.

6. Adequate Consent Procedures

- List what information will be given to people who participate in the project. Include the type and purpose of their participation. Identify the data that will be collected, how the data will be used and how you will keep the data private.
- State:

—Whether or not their participation is voluntary.
—Their right to leave the project at any time without problems.
—Possible risks from participation in the project.
—Plans to protect clients from these risks.

- Explain how you will get consent for youth, the elderly, people with limited reading skills, and people who do not use English as their first language.

Note: If the project poses potential physical, medical, psychological, legal, social or other risks, you must get *written* informed consent.

- Indicate if you will get informed consent from participants or from their parents or legal guardians. Describe how the consent will be documented. For example: Will you read the consent forms? Will you ask prospective participants questions to be sure they understand the forms? Will you give them copies of what they sign?
- Include sample consent forms in an appendix entitled, ''Sample Consent Forms.'' If needed, give English translations.

Note: Never imply that the participant waives or appears to waive any legal rights, may not end involvement with the project, or releases your project or its agents from liability for negligence.

- Describe if separate consents will be obtained for different stages or parts of the project. For example, will they be needed for both participant protection in treatment intervention and for the collection and use of data.
- Additionally, if other consents (*e.g.,* consents to release information to others or gather information from others) will be used in your project, provide a description of the consents. Will individuals who do not consent to having individually identifiable data collected for evaluation purposes be allowed to participate in the project?

7. Risk/Benefit Discussion

Discuss why the risks are reasonable compared to expected benefits and importance of the knowledge from the project.

Protection of Human Subjects Regulations

Depending on your proposed research design, you may have to comply with the Protection of Human Subjects Regulations (45 CFR 46).

Applicants whose projects must comply with the Protection of Human Subjects Regulations must describe the process for obtaining Institutional Review Board (IRB) approval fully in their applications. While IRB approval is not required at the time of grant award, these applicants will be required, as a condition of award, to provide the documentation that an Assurance of Compliance is on file with the Office for Human Research Protections (OHRP) and that IRB approval has been received prior to enrolling any clients in the proposed project.

Additional information about Protection of Human Subjects Regulations can be obtained on the web at *http://ohrp.osophs.dhhs.gov.* You may also contact OHRP by e-mail (*ohrp@osophs.dhhs.gov*) or by phone (301–496–7005).

3. Submission Dates and Times

Applications for FY 2004 funding are due by close of business on June 1, 2004. Your application must be received by the application deadline. Applications sent through postal mail and received after this date must have a proof-of-mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing.

The Annual application receipt date for subsequent fiscal years will be May 1, or, if May 1 is a Saturday or Sunday, the following Monday.

You will be notified by postal mail that your application has been received.

Applications not received by the application deadline or not postmarked by a week prior to the application deadline will be screened out and will not be reviewed.

4. Intergovernmental Review (E.O. 12372) Requirements

Executive Order 12372, as implemented through Department of Health and Human Services (DHHS) regulation at 45 CFR part 100, sets up a system for State and local review of applications for Federal financial assistance. A current listing of State Single Points of Contact (SPOCs) is included in the application kit and can be downloaded from the Office of Management and Budget (OMB) Web site at *http://www.whitehouse.gov/omb/grants/spoc.html.*

- Check the list to determine whether your State participates in this program. You do not need to do this if you are a federally recognized Indian tribal government.
- If your State participates, contact your SPOC as early as possible to alert him/her to the prospective application(s) and to receive any necessary instructions on the State's review process.
- For proposed projects serving more than one State, you are advised to contact the SPOC of each affiliated State.
- The SPOC should send any State review process recommendations to the following address within 60 days of the application deadline: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857, ATTN: SPOC—Funding Announcement No. PA 04–001.

5. Funding Limitations/Restrictions

Cost principles describing allowable and unallowable expenditures for Federal grantees, including SAMHSA grantees, are provided in the following documents:

- Institutions of Higher Education: OMB Circular A–21.
- State and Local Governments: OMB Circular A–87.
- Nonprofit Organizations: OMB Circular A–122.
- Appendix E Hospitals: 45 CFR Part 74.

In addition, SAMHSA Dissertation Grant recipients must comply with the following funding restrictions. Grant funds may not be used to:

- Provide salary support for the dissertation committee.
- Buy, build, alter or renovate a facility to house any part of the project.
- Provide services to incarcerated populations (defined as those persons in jail, prison, detention facilities or in

custody where they are not free to move about in the community.)

Also, the indirect cost rate for this project will be either 8% or the applicant organization's cost rate, whichever is lower.

6. Other Submission Requirements

6.1 Where To Send Applications

Send applications to the following address: Substance Abuse and Mental Health Services Administration, Office of Program Services, Review Branch, 5600 Fishers Lane, Room 17–89, Rockville, Maryland 20857.

Be sure to include the program announcement title, ''SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse'', and number, ''PA 04–001,'' in item number 2 on the face page of the application. If you require a phone number for delivery, you may use (301) 443–4266.

6.2 How To Send Applications

Mail an original application and 2 copies (including appendices) to the mailing address provided above. The original and copies must not be bound. Do not use staples, paper clips, or fasteners. Nothing should be attached, stapled, folded, or pasted.

You must use a recognized commercial or governmental carrier. Hand carried applications will not be accepted. Faxed or e-mailed applications will not be accepted.

V. Application Review Information

1. Evaluation Criteria

- A review committee will assign a single score for each scored application, based on the criteria listed below.
- In evaluating these criteria, strong emphasis is placed on the reviewers' assessment of the quality and relevance of the written proposal, and on the degree of guidance and support to be provided to the student by the dissertation committee.
- In determining the strengths and weaknesses of the application, reviewers will evaluate the merits of the following 8 components: Biographical Sketch, Resources, Research Plan, Checklist Form Page, Personal Data Form Page, Letter From Faculty Committee or University Official, Statement of Data Availability, Assurances and Certifications.

Reviewers will use the following criteria in assessing the applications:

1. *Significance and originality from a scientific or technical viewpoint:* Does this study address an important problem? If the aims of the application are achieved, how will the findings be of benefit? What will be the effects of these studies on the concepts or method that drive the substance abuse services research field?

2. *Topic:* Does the proposed project analyze data on the incidence and prevalence of substance abuse, the distribution and characteristics of substance abuse treatment facilities and services, the costs and outcomes of substance abuse treatment programs, or other issues of interest to SAMHSA?

3. *Approach:* Are the conceptual framework, design, methods, and analyses adequately developed, well-integrated, and appropriate to the aims of the project? Are adequate data available for the project or is there an adequate proposed plan to collect data required for the project? Does the applicant recognize potential problem areas and explain how they might be resolved?

4. *Environment:* Does the scientific environment in which the work will be done contribute to the probability of success? Is there evidence of institutional support? Is there sufficient evidence that the confidentiality of any data used in the study will be adequately protected?

Note: Although the budget for the proposed project is not a review criterion, the Review Group will be asked to comment on the appropriateness of the budget after the merits of the application have been considered.

2. Review and Selection Process

A committee will review the applications based on the above criteria and make recommendations to SAMHSA.

Decisions to fund a grant are based on:

- The strengths and weaknesses of the application as identified by the Review Committee.
- The overall merit of the application. Some preference will be given to proposals that make use of SAMHSA-collected databases, such as the National Survey on Drug Use and Health (NSDUH, formerly known as the National Household Survey on Drug Abuse), the Alcohol and Drug Services Study (ADSS), and the Drug and Alcohol Services Information System (DASIS).
- Availability of funds.

VI. Award Administration Information

1. Award Notices

After your application has been reviewed, you will receive a letter from SAMHSA through postal mail that contains your score and a summary statement, prepared by SAMHSA staff, of the Review Committee's comments.

If you are approved for funding, you will receive an additional notice, the Notice of Grant Award, signed by SAMHSA's Grants Management Officer. The Notice of Grant Award is the sole obligating document that allows the grantee to receive Federal funding for work on the grant project. It is sent by postal mail and is addressed to the contact person listed on the face page of the application.

If you are not funded, you may re-apply at subsequent application deadlines.

2. Administrative and National Policy Requirements

- You must comply with all terms and conditions of the grant award. SAMHSA's standard terms and conditions are available on the SAMHSA Web site at *http://www.samhsa.gov/grants/2004/useful_info.asp.*
- In an effort to improve access to funding opportunities for applicants, SAMHSA is participating in the U.S. Department of Health and Human Services ''Survey on Ensuring Equal Opportunity for Applicants.'' This survey is included in the application kit for SAMHSA grants. Applicants are encouraged to complete the survey and return it, using the instructions provided on the survey form.

3. Reporting Requirements

3.1 Progress and Financial Reports

- Grantees are required to submit an annual progress report, as part of the continuation process, and two copies of the completed dissertation in a form acceptable and approved by the academic institution. All submitted documents must be written in English.
- Grantees must provide annual and final financial status reports. These reports may be included as separate sections of annual and final progress reports or can be separate documents.
- SAMHSA staff will use the information contained in the reports to determine the grantee's progress toward meeting its goals.

3.2 Government Performance and Results Act

The Government Performance and Results Act (GPRA) mandates accountability and performance-based management by Federal agencies. The performance requirements for SAMHSA's Dissertation Grants are described in Section I–2.2 under ''Data and Performance Measurement'' and listed in Appendix A of this PA.

3.3 Publications

If you are funded under this grant program, you are required to notify the Government Project Officer (GPO) and

SAMHSA's Publications Clearance Officer (301–443–8596) of any materials based on the SAMHSA-funded project that are accepted for publication.

In addition, SAMHSA requests that grantees:

- Provide the GPO and SAMHSA Publications Clearance Officer with advance copies of publications.
- Include acknowledgment of the SAMHSA grant program as the source of funding for the project.
- Include a disclaimer stating that the views and opinions contained in the publication do not necessarily reflect those of SAMHSA or the U.S. Department of Health and Human Services, and should not be construed as such.

SAMHSA reserves the right to issue a press release about any publication deemed by SAMHSA to contain information of program or policy significance to the substance abuse treatment/substance abuse prevention/mental health services community.

VII. Agency Contacts

For questions on program issues, contact: Sarah Q. Duffy, Ph.D., Senior Economist, Government Project Officer, SAMHSA Dissertation Grants, Office of Applied Studies, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane Rm. 16–105, Rockville, MD 20857, (301) 443–8565.

E-mail: sduffy@samhsa.gov.

For questions on grants management issues, contact: Gwendolyn Simpson, SAMHSA/Division of Grants Management, 5600 Fishers Lane, Room 13–103, Rockville, MD 20857, 301–443–4456, E-mail: *gsimpson@samhsa.gov.*

Appendix A—Performance Indicators for SAMHSA Dissertation Grants

SAMHSA Dissertation Grants: Support for Analyses in Substance Abuse GPRA Performance Measures and Targets

Performance Goals and Measures

The goal of this program is to encourage progress on and the completion of substance abuse services research dissertations, and, by doing so, increase the number of knowledge products available. The outcome is the number of documents, either annual progress reports or completed dissertations. Grantees are required to submit these documents under the terms and conditions of award.

SAMHSA's measures will be based on the cumulative number of documents received. We expect to receive at least 5 documents each year, pending availability of funding. This will vary over the years, depending on the number of new and continuation grants we fund. Our target will be 80% of the minimum number expected each year, plus 80% of the cumulative expected number from previous years. This leads to the following targets:

2004: 4.
2005: 8.
2006: 12.
2007: 16, etc.

In addition to this information, the performance measurement system will contain the following information, all either available in the application or required under the terms of the award:

(1). Grantee.
(2). Principal Investigator.
(3). Application Abstract.
(4). Certificate of Institutional Review Board (IRB) approval, if applicable.

Appendix B—Checklist for Formatting Requirements and Screenout Criteria for SAMHSA Grant Applications

SAMHSA's goal is to review all applications submitted for grant funding. However, this goal must be balanced against SAMHSA's obligation to ensure equitable treatment of applications. For this reason, SAMHSA has established certain formatting requirements for its applications. If you do not adhere to these requirements, your application will be screened out and returned to you without review. In addition to these formatting requirements, programmatic requirements (*e.g.*, relating to eligibility) may be stated in the specific funding announcement. Please check the entire funding announcement before preparing your application.

- Use the PHS 398 application.
- Applications must be received by the application deadline. Applications received after this date must have a proof of mailing date from the carrier dated at least 1 week prior to the due date. Private metered postmarks are not acceptable as proof of timely mailing. Applications not received by the application deadline or not postmarked at least 1 week prior to the application deadline will not be reviewed.
- Information provided must be sufficient for review.
- Text must be legible.
- Type size in the Research Plan cannot exceed an average of 15 characters per inch, as measured on the physical page. (Type size in charts, tables, graphs, and footnotes will not be considered in determining compliance.)
- Text in the Research Plan cannot exceed 6 lines per vertical inch.
- Paper must be white paper and 8.5 inches by 11.0 inches in size.
- To ensure equity among applications, the amount of space allowed for the Research Plan cannot be exceeded.
- Applications would meet this requirement by using all margins (left, right, top, bottom) of at least ½ inch each, and adhering to the page limit for the Research Plan stated in the specific funding announcement.
- Should an application not conform to these margin or page limits, SAMHSA will use the following method to determine compliance: The total area of the Research Plan (excluding margins, but including charts, tables, graphs and footnotes) cannot exceed 75 square inches multiplied by the total number of allowed pages. This number represents the full page less margins, multiplied by the total number of allowed pages.
- Space will be measured on the physical page. Space left blank within the Research Plan (excluding margins) is considered part of the Research Plan, in determining compliance.
- The page limit for Appendices stated in the specific funding announcement cannot be exceeded. (Note: There are no page limits for appendices in PA 04–001).

To facilitate review of your application, follow these additional guidelines. Failure to adhere to the following guidelines will not, in itself, result in your application being screened out and returned without review. However, the information provided in your application must be sufficient for review. Following these guidelines will help ensure your application is complete, and will help reviewers to consider your application.

- The 12 application components required for PA 04–001 applications should be included.

These are:

- Face Page.
- Description, Performance Sites, and Key Personnel.
- Research Grant Table Of Contents.
- Modular Budget Form.
- Biographical Sketch.
- Resources.
- Research Plan, Sections a-i.
- Checklist Form Page.
- Personal Data Form Page.
- Letter From Faculty Committee Or University Official.
- Statement of Data Availability.
- Documentation of Nonprofit Status.
- Applications should comply with the following requirements:
- Provisions relating to confidentiality, participant protection and the protection of human subjects specified in Section IV–2.4 of the specific funding announcement.
- Budgetary limitations as specified in Sections I, II, and IV–5 of the specific funding announcement.
- Documentation of nonprofit status as required in the PHS 398.
- Pages should be typed single-spaced with one column per page.
- Pages should not have printing on both sides.
- Please use black ink and number pages consecutively from beginning to end so that information can be located easily during review of the application. The Face Page should be page 1, the Description, Performance Sites and Key Personnel page should be page 2, the table of contents page should be page 3, etc. Appendices should be labeled and separated from the rest of the application, and the pages should be numbered to continue the sequence.
- Send the original application and two copies to the mailing address in the funding announcement. Please do not use staples, paper clips, and fasteners. Nothing should be attached, stapled, folded, or pasted. Do not use heavy or lightweight paper or any material that cannot be copied using automatic copying machines. Odd-sized and oversized attachments such as posters will not be copied or sent to reviewers. Do not include videotapes, audiotapes, or CD–ROMs.

Appendix C—Glossary

Services Research: Examines how people get access to health care, how much care costs, and what happens to patients as a result of this care. The main goals of health services research are to identify the most effective ways to organize, manage, finance, and deliver high quality care; reduce medical errors; and improve patient safety. Examples include research on the organization, financing, and delivery of health services, outcomes and cost-effectiveness research.

Biomedical Research: Examines the biological underpinnings of disease etiology, prevention, and treatment. Examples include basic science and clinical trials.

Cost-Sharing or Matching: Cost-sharing refers to the value of allowable non-Federal contributions toward the allowable costs of a Federal grant project or program. Such contributions may be cash or in-kind contributions. For SAMHSA grants, cost-sharing or matching is not required, and applications will not be screened out on the basis of cost-sharing. However, applicants often include cash or in-kind contributions in their proposals as evidence of commitment to the proposed project. This is allowed, and the information may be considered by reviewers in evaluating the quality of the application.

Grant: A grant is the funding mechanism used by the Federal Government when the principal purpose of the transaction is the transfer of money, property, services, or anything of value to accomplish a public purpose of support or stimulation authorized by Federal statute. The primary beneficiary under a grant or cooperative agreement is the public, as opposed to the Federal Government.

Dated: March 18, 2004.

Daryl Kade,

Director, Office of Policy, Planning and Budget, Substance Abuse and Mental Health Services Administration.

[FR Doc. 04–6606 Filed 3–24–04; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

Airport and Seaport User Fee Advisory Committee Meeting

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of meeting.

SUMMARY: This document announces an open committee meeting of the Customs and Border Protection Airport and Seaport User Fee Federal Advisory Committee.

DATES: Wednesday, April 14, 2004, at 1 p.m.

ADDRESSES: Customs International Briefing Conference Room (B 1.5–10), Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Roberto Williams, Office of Finance, Room 4.5A, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, telephone: (202) 927–1101; email: *Roberto.M.Williams@dhs.gov*.

SUPPLEMENTARY INFORMATION: This document announces the twenty-seventh meeting of Customs and Border Protection Airport and Seaport User Fee Advisory Committee. The meeting will be held on Wednesday, April 14, 2004, at 1 p.m. at the Customs International Briefing Conference Room (B 1.5–10), Ronald Reagan Building, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

Purpose of Committee

The purpose of this Committee is the performance of advisory responsibilities pursuant to section 286(k) of the Immigration and Nationality Act (INA), as amended, 8 U.S.C. 1356(k) and the Federal Advisory Committee Act, 5 U.S.C. app. 2. The responsibility of this standing Advisory Committee is to advise on issues related to the performance of Airport and Seaport immigration services. This advice should include, but need not be limited to, the time period which such services should be performed, the proper number and deployment of inspection officers, the level of fees, and the appropriateness of any proposed fee. These responsibilities are related to the assessment of an immigration user fee pursuant to section 286(d) of the INA, as amended, 8 U.S.C. 1356(d). The Advisory Committee focuses its attention on those areas of most concern and benefit to the travel industry, the traveling public, and the Federal Government.

Agenda of Meeting

The agenda of the April 14 meeting is as follows:

Agenda:

1. Introduction of the Committee members.
2. Discussion of administrative issues.
3. Discussion of activities since last meeting.
4. Discussion of specific concerns and questions of Committee members.
5. Discussion of future traffic trends.
6. Discussion of relevant written statements submitted in advance by members of the public.
7. Scheduling of next meeting.

Public Participation

The meeting is open to the public, but advance notice of attendance is required to ensure adequate seating. In order to be included on the list of those cleared for admittance, persons planning to attend must notify, at least 5 days prior to the meeting, Roberto Williams, Office of Finance, Room 4.5A, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, telephone: (202) 927–1101; email: *Roberto.M.Williams@dhs.gov*. Members of the public may submit written statements at any time before or after the meeting to Mr. Williams for consideration by this Advisory Committee. Only written statements received by the contact person at least 5 days prior to the meeting will be considered for discussion at the meeting.

Dated: March 22, 2004.

Jo Ellen Cohen,

Acting Assistant Commissioner, Office of Finance.

[FR Doc. 04–6729 Filed 3–24–04; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

Reports, Forms, and Record Keeping Requirements: Agency Information Collection Activity Under OMB Review; Federal Flight Deck Officer Program

AGENCY: Transportation Security Administration (TSA), DHS.

ACTION: Notice of emergency clearance request.

SUMMARY: TSA has submitted a request for emergency processing of an existing public information collection to the Office of Management and Budget (OMB) for review and immediate clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. 35). This notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to OMB for review and comment. The ICR describes the nature of the information collection and its expected burden.

DATES: Send your comments by April 26, 2004. A comment to OMB is most effective if OMB receives it within 30 days of publication.

ADDRESSES: Comments may be faxed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: DHS–TSA Desk Officer, at (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Conrad Huygen, Privacy Act Officer, Information Management Programs, Transportation Security Administration HQ, West Tower, Floor 4, TSA–17, 601

S. 12th Street, Arlington, VA 22202–4220; telephone (571) 227–1954; facsimile (571) 227–2912.

SUPPLEMENTARY INFORMATION:

Transportation Security Administration

Title: Federal Flight Deck Officer (FFDO) Program.

OMB Control Number: 1652–0011.

Type of Request: Emergency processing request of an existing collection.

Forms(s): FFDO online application.

Affected Public: Applicants to the FFDO Program and current FFDOs.

Abstract: To further supplement the security measures being implemented by TSA, Congress and the President enacted the Arming Pilots Against Terrorism Act (APATA) as Title XIV of the Homeland Security Act, Pub. L. 107–296, Nov. 25, 2002, codified at 49 U.S.C. 44921. APATA required TSA to establish a program to screen, select, train, deputize, equip, and supervise qualified volunteer pilots of passenger aircraft. With the enactment of the Vision 100—Century of Aviation Reauthorization Act, Pub. L. 108–176, the program will be expanded to include pilots of cargo aircraft as well as flight engineers and navigators on both passenger and cargo aircraft. These individuals, known as Federal Flight Deck Officers (FFDOs), are authorized to transport and carry a firearm and to use force, including deadly force, to defend the flight deck of an aircraft against acts of criminal violence or air piracy. Information collected as the result of this renewal request would be used to assess the qualifications and suitability of prospective and current FFDOs through an online application, to ensure the readiness of every FFDO, to administer the program, and for security purposes.

Number of Respondents: 18,622.

Estimated Annual Burden Hours: It is estimated that the online application will take one hour for each applicant to prepare, for a total burden of 18,622 hours.

TSA is soliciting comments to—

(1) Evaluate whether the proposed information requirement is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Issued in Arlington, Virginia, on March 19, 2004.

Susan T. Tracey,

Chief Administrative Officer.

[FR Doc. 04–6656 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction on a Single-Family Lot, in Brevard County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Michael Hoffman (Applicant), seeks an incidental take permit (ITP) from the Fish and Wildlife Service (Service), pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize incidental take of the Florida scrub-jay (*Aphelocoma coerulescens*) and the eastern indigo snake (*Drymarchon corais couperi*), on a single family lot for a period of twenty (20) years. The proposed taking is incidental to land clearing and other activities associated with the construction of a single family home on a 1.21-acre lot in Brevard County, Florida (Project).

The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the Florida scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. We have determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1). We announce the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, supporting documentation, categorical exclusion and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before April 26, 2004.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE070282–0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313, facsimile: 404/679–7081; or Mr. Michael Jennings, Fish and Wildlife Biologist, Jacksonville Ecological Services Office, (see **ADDRESSES** above), telephone: 904/232–2580 extension 126.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE070282–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the internet to *''david_dell@fws.gov''*. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at either telephone number listed below (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We

will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The Florida scrub-jay (scrub-jay) is geographically isolated from other species of scrub-jays found in Mexico and the Western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands. The total estimated population is between 7,000 and 11,000 individuals. Due to habitat loss and degradation throughout the State of Florida, it has been estimated that the Florida scrub-jay population has been reduced by at least half in the last 100 years. Surveys have indicated that at least one family of Florida scrub-jays inhabit the Project site. Construction of one and possibly two homes on this site will likely result in death of, or injury to, scrub-jays incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with property development will reduce the availability of feeding, shelter, and nesting habitat.

Section 9 of the Act, and implementing regulations, prohibits taking the Florida scrub-jay and eastern indigo snake. Taking, in part, is defined as an activity that kills, injures, harms, or harasses a listed endangered or threatened species. Section 10(a)(1)(B) of the Act provides an exemption, under certain circumstances, to the Section 9 prohibition if the taking is incidental to, and not the purpose of otherwise lawful activities.

Research conducted by Breininger in 2001 and submitted to the Service in an annual progress report in 2002, indicated at least one family of Florida scrub-jays and their use of suitable habitat on the Applicant's property. Land clearing in preparation of residential construction will destroy occupied Florida scrub-jay habitat on the property, and adversely affect the ability of individual birds to feed, breed or shelter within the property to such an extent as to meet the definition of ''take'' in the Act.

The HCP describes measures the Applicant will take to avoid and mitigate impacts resulting from the Project. To minimize impacts to scrub-jays, the Applicant will not clear vegetation or begin construction during the scrub-jay nesting season (March 1–June 30). Minimization measures for the eastern indigo snake including educating the contractors about how to identify the species and what to do if one is seen on site, will be implemented. The Applicant has agreed to a number of measures to avoid injury or death of any eastern indigo snakes which may be found on the project site. To mitigate for the 1.21 acres of occupied scrub-jay and eastern indigo snake habitat that would be destroyed on-site, the Applicant will purchase 3.26 acres of habitat that supports Florida scrub-jays and transfer fee title of the property to the Brevard County Environmentally Endangered Lands (EEL's) program. It is believed that ensuring the protection and viability of quality, occupied habitat in a large contiguous preserve is more beneficial to the scrub-jay than any on-site mitigation plan could offer.

As earlier stated, the Service has determined that the Plan qualifies as a ''low-effect'' HCP as defined by the Service's Habitat Conservation Planning Handbook (November 1996). Low-effect HCPs are those involving: (1) minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Florida scrub-jay and the eastern indigo snake populations as a whole. The Service does not anticipate a significant reduction in population numbers as a result of the construction project.

2. Approval of the HCP would not have adverse effects on known unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that issuance of an ITP to the Applicant qualifies as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further NEPA documentation will therefore be prepared.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, an ITP will be issued for the incidental take of the Florida scrub-jay and the eastern indigo snake. The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP; the final decision will be made no sooner than 30 days from the date of this notice

Dated: March 11, 2004.

J. Mitch King,

Acting Regional Director.

[FR Doc. 04–6665 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction on Single-Family Lots, in Brevard County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Maronda Homes, Inc. Of Florida (Applicant), seeks an incidental take permit (ITP) from the U.S. Fish and Wildlife Service, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (Act), as amended. The ITP would authorize incidental take of the Florida scrub-jay *(Aphelocoma coerulescens),* on three adjoining single family lots for a period of one (1) year. The proposed taking, which would affect one family of scrub-jays, is incidental to land clearing and other activities associated with the construction of three single family homes on three 0.22-acre lots (0.66 acre total) in Brevard County, Florida (Project).

The Applicant's Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the Florida scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. We have determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore,

the ITP is a ''low-effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1). We announce the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

DATES: Written comments on the permit application, supporting documentation, categorical exclusion and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before April 26, 2004.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE080452–0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, (see **ADDRESSES** above), telephone: 404/679–7313, facsimile: 404/679–7081; or Mr. Michael Jennings, Fish and Wildlife Biologist, Jacksonville Ecological Services Office, (see **ADDRESSES** above), telephone: 904/232–2580 extension 113.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE080452–0 in such comments. You may mail comments to the Service's Regional Office (see **ADDRESSES**). You may also comment via the Internet to *david_dell@fws.gov.* Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at either telephone number listed below (see **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either Service office listed below (see **ADDRESSES).** Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The Florida scrub-jay (scrub-jay) is geographically isolated from other subspecies of scrub-jays found in Mexico and the western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development and subsequent fire protection have resulted in habitat degradation, loss and fragmentation which adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in east-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal east-central Florida occurs proximal to the current shoreline and larger river basins. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

Lots 3 and 4 are locations where scrub-jays were sighted during 2002 county surveys for this species; no observations were recorded on Lot 5. Scrub-jays using the subject residential lots and adjacent properties are part of a larger complex of scrub-jays located in a matrix of urban and natural settings in areas of Brevard and northern Indian River counties. Within the City of Palm Bay, 20 families of scrub-jays persist in habitat fragmented by residential development. Scrub-jays in urban areas are particularly vulnerable and typically do not successfully produce young that survive to adulthood. Persistent urban growth in this area will likely result in further reductions in the amount of suitable habitat for scrub-jays. Increasing urban pressures are also likely to result in the continued degradation of scrub-jay habitat as fire exclusion slowly results in vegetative overgrowth. Thus, over the long-term, scrub-jays within the City of Palm Bay are unlikely to persist, and conservation efforts for this species should target acquisition and management of large parcels of land outside the direct influence of urbanization.

Construction of the Project's infrastructure and facilities will result in harm to scrub-jays, incidental to the carrying out of these otherwise lawful activities. Habitat alteration associated with the proposed residential construction will reduce the availability of foraging and sheltering habitat and potential nesting habitat for one family of scrub-jays.

Section 9 of the Act, and implementing regulations, prohibits taking the Florida scrub-jay. Taking, in part, is defined as an activity that kills, injures, harms, or harasses a listed endangered or threatened species. Section 10(a)(1)(B) of the Act provides an exemption, under certain circumstances, to the Section 9 prohibition if the taking is incidental to, and not the purpose of otherwise lawful activities.

The Applicants do not propose to implement on-site minimization measures to reduce take of scrub-jays. All three lots, in combination, encompass about 0.66 acre and the footprint of the home, infrastructure and landscaping preclude retention of scrub-jay habitat. On-site minimization may not be a biologically viable alternative due to increasing negative demographic effects caused by urbanization.

The Applicant proposes to mitigate for the loss of 0.66 acres of scrub-jay habitat by contributing $8,844 to the Florida Scrub-jay Conservation Fund administered by the National Fish and Wildlife Foundation. Funds in this account are ear-marked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management.

As earlier stated, the Service has determined that the Plan qualifies as a ''low-effect'' HCP as defined by the Service's Habitat Conservation Planning

Handbook (November 1996). Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed and candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Florida scrub-jay population as a whole. The Service does not anticipate a significant reduction in population numbers as a result of the construction project.

2. Approval of the HCP would not have adverse effects on known unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

The Service has therefore determined that issuance of an ITP to the Applicant qualifies as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). No further NEPA documentation will therefore be prepared.

The Service will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, an ITP will be issued for the incidental take of the Florida scrub-jay. The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP; the final decision will be made no sooner than 30 days from the date of this notice.

Dated: March 11, 2004.

J. Mitch King,

Acting Regional Director.

[FR Doc. 04–6666 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of an Application for an Incidental Take Permit for Construction of a Single-Family Home in the City of Palm Bay, Brevard County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: Mr. and Mrs. James Elliott and Mr. and Mrs. Jose Gracia (Applicants) request an incidental take permit (ITP) pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973 (U.S.C. 1531 *et seq.*), as amended (Act). The Applicants anticipate taking about one-half acre of Florida scrub-jay (*Aphelocoma coerulescens*) (scrub-jay) foraging habitat, incidental to lot preparation for the construction of a single-family home and supporting infrastructure in the City of Palm Bay, Brevard County, Florida (Project). The destruction of one-half acre of foraging habitat is expected to result in the take of one family of scrub-jays.

The Applicants' Habitat Conservation Plan (HCP) describes the mitigation and minimization measures proposed to address the effects of the Project to the Florida scrub-jay. These measures are outlined in the **SUPPLEMENTARY INFORMATION** section below. We have determined that the Applicant's proposal, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and would qualify as a categorical exclusion under the National Environmental Policy Act (NEPA), as provided by the Department of Interior Manual (516 DM2, Appendix 1 and 516 DM 6, Appendix 1). We announce the availability of the HCP for the incidental take application. Copies of the HCP may be obtained by making a request to the Regional Office (*see* **ADDRESSES**). Requests must be in writing to be processed. This notice is provided pursuant to Section 10 of the Endangered Species Act and NEPA regulations (40 CFR 1506.6).

DATES: Written comments on the ITP application and HCP should be sent to the Service's Regional Office (*see* **ADDRESSES**) and should be received on or before April 26, 2004.

ADDRESSES: Persons wishing to review the application and HCP may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Please reference permit number TE070785–0 in such requests. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or Field Supervisor, U.S. Fish and Wildlife Service, 6620 Southpoint Drive South, Suite 310, Jacksonville, Florida 32216–0912.

FOR FURTHER INFORMATION CONTACT: Mr. David Dell, Regional HCP Coordinator, (*see* **ADDRESSES** above), telephone: 404/679–7313, facsimile: 404/679–7081; or Mr. Mike Jennings, Fish and Wildlife Biologist, Jacksonville Field Office, Jacksonville, Florida (*see* **ADDRESSES** above), telephone: 904/232–2580.

SUPPLEMENTARY INFORMATION: If you wish to comment, you may submit comments by any one of several methods. Please reference permit number TE070785–0 in such comments. You may mail comments to the Service's Regional Office (*see* **ADDRESSES**). You may also comment via the Internet to ''*david_dell@fws.gov*''. Please submit comments over the internet as an ASCII file avoiding the use of special characters and any form of encryption. Please also include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at either telephone number listed below (*see* **FOR FURTHER INFORMATION CONTACT**). Finally, you may hand deliver comments to either Service office listed below (*see* **ADDRESSES**). Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the administrative record. We will honor such requests to the extent allowable by law. There may also be other circumstances in which we would withhold from the administrative record a respondent's identity, as allowable by law. If you wish us to withhold your name and address, you must state this prominently at the beginning of your comments. We will not, however, consider anonymous comments. We will make all submissions from

organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety.

The Florida scrub-jay (scrub-jay) is geographically isolated from other species of scrub-jays found in Mexico and the western United States. The scrub-jay is found exclusively in peninsular Florida and is restricted to xeric uplands (predominately in oak-dominated scrub). Increasing urban and agricultural development have resulted in habitat loss and fragmentation which has adversely affected the distribution and numbers of scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

The decline in the number and distribution of scrub-jays in east-central Florida has been exacerbated by tremendous urban growth in the past 50 years. Much of the historic commercial and residential development has occurred on the dry soils which previously supported scrub-jay habitat. Based on existing soils data, much of the historic and current scrub-jay habitat of coastal east-central Florida occurs proximal to the current shoreline and larger river basins. Much of this area of Florida was settled early because few wetlands restricted urban and agricultural development. Due to the effects of urban and agricultural development over the past 100 years, much of the remaining scrub-jay habitat is now relatively small and isolated. What remains is largely degraded due to the exclusion of fire which is needed to maintain xeric uplands in conditions suitable for scrub-jays.

Residential construction will take place within section 5, Township 29 South, Range 37 East, Palm Bay, Brevard County, Florida, on lots 7 and 8 of Block 329, Port Malabar Unit 9. Lots 7 and 8 are within 438 feet of locations where scrub-jays were sighted during 2001–2002 surveys for this species. Scrub-jays using the subject residential lots and adjacent properties are part of a larger complex of scrub-jays located in a matrix of urban and natural settings in areas of Brevard and northern Indian River counties. Within the City of Palm Bay, 20 families of scrub-jays persist in habitat fragmented by residential development. Scrub-jays in urban areas are particularly vulnerable and typically do not successfully produce young that survive to adulthood. Persistent urban growth in this area will likely result in further reductions in the amount of suitable habitat for scrub-jays. Increasing urban pressures are also likely to result in the continued degradation of scrub-jay habitat as fire exclusion slowly results in vegetative overgrowth. Thus, over the long-term, scrub-jays within the City of Palm Bay are unlikely to persist, and conservation efforts for this species should target acquisition and management of large parcels of land outside the direct influence of urbanization.

The subject residential parcel lies within a ''high density'' urban setting, and the corresponding territory size of the resident scrub-jays has been estimated to range from 5.2 to 10.8 acres based on average territory sizes of scrub-jay in other urban areas. Data collected from 12 scrub-jay families within the city limits of Palm Bay during the 2000 and 2001 nesting seasons provided information about survival and reproductive success of scrub-jays, but did not attempt to estimate territory sizes. This information indicated that territory boundaries tended to shift from year to year, making calculations of territory size difficult. Similarly, point data do not reliably indicate occupied habitat over time since birds in urban settings tend to move within and between years. Thus, using known territory boundaries and point data to delineate occupied habitat likely underestimates areas occupied by scrub-jays.

To assess whether the Applicant's parcels were within occupied scrub-jay habitat, we calculated the maximum average ''shift'' in territories locations between 2000 and 2001. Based on these estimates, we calculated a maximum average shift of 438 feet between years. We subsequently used the 438 feet as a buffer to surround known territory boundaries and point locations for scrub-jays. We reasoned that 438 feet represented a biologically-based buffer, within which scrub-jays were likely to occur. Application of the 438 buffer to known territories and point locations provides a quantitative method to delineate occupied scrub-jay habitat in highly urbanized areas within the city limits of Palm Bay.

The Applicant's residential lots fall within the 438 buffer established for known scrub-jay territories and/or point data. Although the applicant's property lacks substantial woody vegetation typically required for scrub-jay nesting and sheltering habitat, it does provide suitable foraging habitat. Accordingly, loss of this habitat due to residential construction will result in the destruction of scrub-jay foraging habitat.

The Applicants do not propose to implement on-site minimization measures to reduce take of scrub-jays. Both lots, in combination, encompass about 0.5 acres and the footprint of the home, infrastructure and landscaping preclude retention of scrub-jay habitat. On-site minimization may not be a biologically viable alternative due to increasing negative demographic effects caused by urbanization.

The Applicants propose to mitigate for the loss of 0.5 acres of scrub-jay habitat by contributing $6,700 to the Florida Scrub-jay Conservation Fund administered by the National Fish and Wildlife Foundation. Funds in this account are ear-marked for use in the conservation and recovery of scrub-jays and may include habitat acquisition, restoration, and/or management. The $6,700 is sufficient to acquire and perpetually manage ±1.0 acres of suitable occupied scrub-jay habitat based on a replacement ratio of two mitigation acres per one impact acre. The cost is based on previous acquisitions of mitigation lands in southern Brevard County at an average $5,700 per acre, plus a $1,000 per acre management endowment necessary to ensure future management of acquired scrub-jay habitat.

As stated above, we have determined that the HCP is a low-effect plan that is categorically excluded from further NEPA analysis, and does not require the preparation of an EA or EIS. This preliminary information may be revised due to public comment received in response to this notice. Low-effect HCPs are those involving: (1) Minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources. The Applicant's HCP qualifies for the following reasons:

1. Approval of the HCP would result in minor or negligible effects on the Florida scrub-jay population as a whole. We do not anticipate significant direct or cumulative effects to the Florida scrub-jay population as a result of the construction project.

2. Approval of the HCP would not have adverse effects on known unique geographic, historic or cultural sites, or involve unique or unknown environmental risks.

3. Approval of the HCP would not result in any significant adverse effects on public health or safety.

4. The project does not require compliance with Executive Order 11988 (Floodplain Management), Executive Order 11990 (Protection of Wetlands), or the Fish and Wildlife Coordination Act, nor does it threaten to violate a Federal, State, local or tribal law or requirement imposed for the protection of the environment.

5. Approval of the Plan would not establish a precedent for future action or represent a decision in principle about

future actions with potentially significant environmental effects.

We have determined that approval of the Plan qualifies as a categorical exclusion under the NEPA, as provided by the Department of the Interior Manual (516 DM 2, Appendix 1 and 516 DM 6, Appendix 1). Therefore, no further NEPA documentation will be prepared.

We will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act. If it is determined that those requirements are met, the ITP will be issued for the incidental take of the Florida scrub-jay. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. The results of this consultation, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: March 11, 2004.

J. Mitch King,

Acting Regional Director.

[FR Doc. 04–6667 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Safe Harbor Agreement for Topminnow and Pupfish in Arizona and Receipt of Application for Incidental Take Permit for the Arizona Game and Fish Department

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability and 30-day public comment period.

SUMMARY: The Arizona Game and Fish Department (Applicant) has applied to the Fish and Wildlife Service (Service) for an enhancement of survival permit pursuant to section 10(a)(1)(A) of the Endangered Species Act (Act). The Applicant has been assigned permit number TE–083686–0. The requested permit, which is for 50 years, would authorize incidental take of the endangered Gila topminnow *(Poeciliopsis o. occidentalis),* endangered Yaqui topminnow *(Poeciliopsis o. sonoriensis),* endangered Quitobaquito pupfish *(Cyprinodon eremus),* and endangered desert pupfish *(Cyprinodon macularius).* The proposed take would occur as a result of conservation measures on non-federal lands within the historical range of the species in Arizona.

DATES: Written comments on the Safe Harbor Agreement and Environmental Assessment must be received on or before April 26, 2004, to be considered by the Service. The agreement and supporting documentation are available for public review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the address specified below.

ADDRESSES: Persons wishing to review the application may obtain a copy by writing to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Room 4102, Albuquerque, New Mexico 87103. Persons wishing to review the Safe Harbor Agreement and environmental assessment may obtain copies by contacting Doug Duncan, Tucson Suboffice, Arizona Ecological Services Field Office, 201 North Bonita Avenue, Suite 141, Tucson, Arizona 85745 (520–670–6144, extension 236; Fax 520–670–6154). Documents will be available for public inspection by written request, by appointment only, during normal business hours (7:30 to 4:30), at the Tucson Suboffice, or the Phoenix office at 2321 West Royal Palm Road, Suite 103, Phoenix, Arizona 85021, (602–242–0210; Fax 602–242–2513). Written data or comments concerning the application, Safe Harbor Agreement, and Environmental Assessment should be submitted to the Field Supervisor, Ecological Services Field Office, Phoenix, Arizona (see address above). Please refer to permit number TE–083686–0 when submitting comments. All comments received, including names and addresses, will become a part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Doug Duncan at the Tucson Suboffice, Arizona Ecological Services Field Office, 201 North Bonita Avenue, Suite 141, Tucson, Arizona 85745.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of threatened and endangered species such as the Gila topminnow, Yaqui topminnow, Quitobaquito pupfish, and desert pupfish (topminnow and pupfish). However, the Service, under limited circumstances, may issue permits to take threatened or endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

The proposed action is issuance of the enhancement of survival permit and implementation of the Safe Harbor Agreement as submitted by the Applicant. The Safe Harbor Agreement provides for actions that promote conservation and recovery of the four species by: Providing additional suitable aquatic habitats that have previously been largely unavailable for reestablishment of topminnow and pupfish populations; increasing public awareness of conservation needs for native fishes; providing opportunities to use native fish for mosquito control while reducing or eliminating the use of the nonnative mosquitofish; and developing new partnerships between Federal, State, and non-federal landowners. The Safe Harbor Agreement is designed to provide a net conservation benefit to the topminnow and pupfish. The Safe Harbor Agreement has stipulations for monitoring of species populations and habitats and functioning of the Safe Harbor Agreement. The Safe Harbor Agreement also provides for funding of the mitigation measures and monitoring.

Non-federal landowners, who commit to implementing conservation measures for the listed species under the proposed Safe Harbor Agreement, will receive assurances from the Service upon signing a Certificate of Inclusion with the Applicant that additional conservation measures will not be required and additional land, water, or resource use restrictions will not be imposed as long as the conservation measures are continuing and consistent with the agreement. The Service has prepared an Environmental Assessment for the enhancement of survival permit application. A determination of jeopardy to the species will not be made until at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

Applicant: The Arizona Game and Fish Department intends to enroll appropriate non-federal lands to allow for the reestablishment of Yaqui topminnow, Quitobaquito pupfish, Gila topminnow, and desert pupfish. The incidental take of these fish may occur at the release sites during certain management activities.

Susan MacMullin,

Acting Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 04–6674 Filed 3–24–04; 8:45 am]

BILLING CODE 4510–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Preparation of an Environmental Impact Statement for Issuance of an Incidental Take Permit Associated With a Habitat Conservation Plan for Pacific Gas & Electric Company's Operation and Maintenance Activities in the San Joaquin Valley, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: Pursuant to the National Environmental Policy Act (NEPA), the Fish and Wildlife Service (we, the Service) advises the public that we intend to gather information necessary to prepare, in coordination with the California Department of Fish and Game (DFG), and Pacific Gas & Electric Company (PG&E), a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) on the PG&E San Joaquin Valley Operation and Maintenance Habitat Conservation Plan (Plan). The Plan is being prepared under section 10(a)(1)(B) of the Federal Endangered Species Act of 1973, as amended, (Act). PG&E intends to request a permit for 31 species federally listed as threatened or endangered and 36 unlisted species that may become listed during the term of the permit. The permit is needed to authorize take of listed species that could occur as a result of implementation activities covered under the Plan.

The Service provides this notice to: (1) Describe the proposed action and possible alternatives; (2) advise other Federal and State agencies, affected Tribes, and the public of our intent to prepare an EIS/EIR; (3) announce the initiation of a public scoping period; and (4) obtain suggestions and information on the scope of issues and alternatives to be included in the EIS/EIR.

DATES: Public meetings will be held on: Tuesday, April 6, 2004, from 4 PM to 7 PM, and on Wednesday, April 7, 2004, from 4 PM to 7 PM. Written comments should be received on or before April 26, 2004.

ADDRESSES: The public meeting on Tuesday, April 6, 2004 will be held at Siefert Community Center, Room 2, 128 West Benjamin Holt drive, Stockton, CA, (209) 937–7350, and the public meeting on Wednesday, April 7, 2004 will be held at Mosqueda Community Center, Room 6, 4670 East Butler Avenue, Fresno, CA (559) 621–6600. Information, written comments, or questions related to the preparation of the EIS/EIR and NEPA process should be submitted to Lori Rinek, Chief, Conservation Planning and Recovery Division, U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W–2605, Sacramento, California 95825; FAX (916) 414–6713.

FOR FURTHER INFORMATION CONTACT: Craig Aubrey, Fish and Wildlife Biologist, or Lori Rinek, Chief, Conservation Planning and Recovery Division at the Sacramento Fish and Wildlife Office at (916) 414–6600.

SUPPLEMENTARY INFORMATION:

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Lori Rinek at (916) 414–6600 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Background

Section 9 of the Act and Federal regulations prohibit the ''take'' of a fish and wildlife species listed as endangered or threatened. Under the Act, the following activities are defined as take: harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 U.S.C. 1538). However, under section 10(a) of the Act, we may issue permits to authorize ''incidental take'' of listed species. ''Incidental take'' is defined by the Act as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Regulations governing permits for threatened species and endangered species, respectively, are at 50 CFR 17.32 and 50 CFR 17.22.

Take of listed plant species is not prohibited under the Act and cannot be authorized under a section 10 permit. We propose to include plant species on the permit in recognition of the conservation benefits provided for them under the Plan. These species would also receive no surprises assurances under the Service's ''No Surprises'' regulation (63 FR 8859).

Currently, PG&E intends to request a permit for 67 species (covered species) under the Plan: 31 listed and 36 unlisted species. These include the federally listed endangered vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), blunt-nosed leopard lizard (*Gambelia sila*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat (*Dipodomys ingens*), Buena Vista Lake shrew (*Sorex ornatus relictus*), riparian woodrat (*Neotoma fuscipes riparia*), riparian brush rabbit (*Sylvilagus bachmani riparius*), San Joaquin kit fox (*Vulpes macrotis mutica*), large-flowered fiddleneck (*Amsinckia grandiflora*), California jewelflower (*Caulanthus californicus*), palmate-bracted bird's beak (*Cordylanthus palmatus*), Kern mallow (*Eremalche kernensis*), San Joaquin woolly-threads (*Monolopia congdonii*), Bakersfield cactus (*Opuntia basilaris* var. *treleasei*), hairy orcutt grass (*Orcuttia pilosa*), Hartweg's golden sunburst (*Pseudobahia bahiifolia*), Greene's tuctoria (*Tuctoria greenei*), Keck's checkermallow (*Sidalcea keckii*), and the threatened valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), California red-legged frog (*Rana aurora draytonii*), giant garter snake (*Thamnophis gigas*), bald eagle (*Haliaeetus leucocephalus*), mariposa pussypaws (*Calyptridium pulchellum*), succulent owl's clover (*Castilleja campestris* ssp. *succulenta*), Hoover's spurge (*Chamaesyce hooveri*), Hoover's erastrium (*Erastrium hooverii*), Springville clarkia (*Clarkia springvillensis*), Colusa grass (*Neostapfia colusana*), San Joaquin Valley orcutt grass (*Orcuttia inaequalis*), San Joaquin adobe sunburst (*Pseudobahia peirsonii*), and their habitats.

The 36 unlisted species proposed to be covered under the Plan include: midvalley fairy shrimp (*Branchinecta mesovallensis*), California tiger salamander (*Ambystoma californiense*), limestone salamander (*Hydromantes brunus*), California black rail (*Lateralis jamaicensis coturniculus*), Swainson's hawk (*Buteo swainsoni*), white-tailed kite (*Elanus caerules*), golden eagle (*Aquila chrysaetos*), greater sandhill crane (*Grus canadensis tabida*), western burrowing owl (*Athene cunicularia hypugaea*), bank swallow (*Riparia riparia*), tricolored blackbird (*Agelaius tricolor*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), lesser saltscale (*Atriplex minuscula*), Bakersfield smallscale (*Atriplex tularensis*), big tarplant (*Blepharizonia plumosa* spp. *plumosa*), tree-anemone (*Carpenteria californica*), slough thistle (*Cirsium crassicaule*), Mariposa clarkia (*Clarkia biloba* ssp. *australis*), Merced clarkia (*Clarkia lingulata*), Vasek's clarkia (*Clarkia tembloriensis* ssp. *calientensis*), hispid bird's-beak (*Cordylanthus mollis* ssp. *Hispidus*), Congdon's woolly sunflower (*Eriophyllum congdonii*), delta button-

celery (*Eryngium racemosum*), striped adobe-lily (= Greenhorn) (*Fritillaria striata*), Bogg's Lake hedge-hyssop (*Gratiola heterosepala*), pale-yellow layia (*Layia heterotricha*), Comanche layia (*Layia leucopappa*), legenere (*Legenere limosa*), Congdon's lewisia (*Lewisia congdonii*), Mason's lilaeopsis (*Lilaeopsis masonii*), Mariposa lupine (*Lupinus citrinus* var. *deflexus*), showy madia (*Madia radiata*), Hall's bush mallow (*Malacothamnus hallii*), pincushion navarretia (*Navarretia myersii* spp. *myersii*), oil neststraw (*Stylocline citroleum*), and Jared's pepper grass (*Lepidium jaredii* ssp. *jaredii*). Species may be added or deleted during the course of Plan development based on further analysis, new information, agency consultation, and public comment.

The Plan area includes the network of PG&E facilities within approximately 12,094,000 acres of the San Joaquin Valley. The Plan area comprises portions of nine counties: San Joaquin, Stanislaus, Merced, Fresno, Kings, Kern, Mariposa, Madera, and Tulare. The boundaries of the Plan area are generally defined by the north and eastern boundaries of San Joaquin and Stanislaus County lines, until reaching Mariposa County where it follows the 3,000-foot elevation contour or Federal lands, whichever is lower, south along the western Sierra Nevada foothills. On the west side of the San Joaquin Valley, the plan boundary follows the western boundary of San Joaquin, Stanislaus, Merced, Fresno, Kings, and Kern Counties. The southern limit of the plan area boundary is the 3,000-foot elevation contour near the Kern County line.

Implementation activities that may be covered under the Plan include activities associated with the operation, maintenance, and minor construction of PG&E's gas and electric transmission and distribution system as mandated for public safety by the California Public Utilities Commission, the California Energy Commission, and the Department of Transportation. More specifically, these activities may include: gas pipeline protection, recoating, repair and replacement; electric line protection, repair, reconductering, and replacement; electric pole repair/replacement; vegetation management to maintain clearances around facilities; and minor new gas and electric extensions. Under the Plan, the effects on covered species of the covered activities are expected to be minimized and mitigated through participation in a conservation program, which will be fully described in the Plan. This conservation program would focus on providing long-term protection of covered species by protecting biological communities in the Plan area.

Components of this conservation program are now under consideration by the Service and PG&E. These components will likely include: avoidance and minimization measures, monitoring, adaptive management, and mitigation measures consisting of preservation, restoration and enhancement of habitat.

Environmental Impact Statement/ Environmental Impact Report

PG&E and the Service have selected Jones & Stokes to prepare the Draft EIS/EIR. The joint document will be prepared in compliance with NEPA and the California Environmental Quality Act (CEQA). Although Jones & Stokes will prepare the EIS/EIR, the Service will be responsible for the scope and content of the document for NEPA purposes, and DFG will be responsible for the scope and content of the CEQA document, as the state lead agency pursuant to CEQA and the permitting entity pursuant to the California Endangered Species Act and Fish and Game Code 2081.

The EIS/EIR will consider the proposed action (*i.e.*, the issuance of a Section 10(a)(1)(B) permit under the Act), and a reasonable range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS/EIR. It is anticipated that several alternatives will be developed, which may vary by the level of conservation, impacts caused by the proposed activities, permit area, covered species, or a combination of these factors. Additionally, a No Action alternative will be considered. Under the No Action alternative, the Service would not issue a section 10(a)(1)(B) permit.

The EIS/EIR will also identify potentially significant impacts on biological resources, land use, air quality, water quality, mineral resources, water resources, economics, and other environmental issues that could occur directly or indirectly with implementation of the proposed action and alternatives. For all potentially significant impacts, the EIS/EIR will identify mitigation measures where feasible to reduce these impacts to a level below significance.

Environmental review of the EIS/EIR will be conducted in accordance with the requirements of NEPA (42 U.S.C. 4321 *et seq.*), its implementing regulations (40 CFR 1500–1508), other applicable regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 of NEPA to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the EIS/EIR. The primary purpose of the scoping process is to identify important issues raised by the public, related to the proposed action. Written comments from interested parties are invited to ensure that the full range of issues related to the permit request are identified. While written comments are encouraged, we will accept both written and oral comments at the public meeting. In addition, you may submit written comments by mail or facsimile transmission (see **ADDRESSES**). All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

Dated: March 17, 2004.

Ken McDermond,

Deputy Manager, Region 1, California/Nevada Operations Office, Sacramento, California.

[FR Doc. 04–6664 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–310–0777–XG]

Notice of Public Meeting: Northwest California Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act of 1976 (FLPMA), and the Federal Advisory Committee Act of 1972 (FACA), the U. S. Department of the Interior, Bureau of Land Management (BLM) Northwest California Resource Advisory Council will meet as indicated below.

DATES: The meeting will be held Thursday, May 6 and Friday, May 7, 2004, in Redding, California. On May 6, the meeting begins at 10 a.m. at the BLM Redding Field Office, 355 Hemsted Drive. Members will depart for a field tour of public lands in the Sacramento River Bend Area. On May 7, the meeting begins at 8 a.m. at the McConnell Foundation headquarters, 800 Shasta View Drive in Redding. Time for public comment has been set aside for 1 p.m.

FOR FURTHER INFORMATION CONTACT: Francis Berg, BLM Redding Field Office, 355 Hemsted Dr., (530) 224–2100; or BLM Public Affairs Officer Joseph J. Fontana, (530) 252–5332.

SUPPLEMENTARY INFORMATION: The 12-member council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in Northwest California. At this meeting, agenda topics will include discussion of recreation management on BLM-managed lands in Northwest California, an agreement with the state Department of Forestry and Fire Protection on fire protection zones, and issue scoping for development of a Resource Management Plan for the BLM Ukiah Field Office. The RAC members will also hear status reports from the Arcata, Redding and Ukiah field office managers. All meetings are open to the public. Members of the public may present written comments to the council. Each formal council meeting will have time allocated for public comments. Depending on the number of persons wishing to speak, and the time available, the time for individual comments may be limited. Members of the public are welcome on field tours, but they must provide their own transportation and lunch. Individuals who plan to attend and need special assistance, such as sign language interpretation and other reasonable accommodations, should contact the BLM as provided above.

Dated: March 19, 2004.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 04–6631 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–100–5882–AF; HAG04–0114]

Notice of Public Meeting, Roseburg Resource Advisory Committee Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of meetings for the Roseburg District Bureau of Land Management (BLM) Resource Advisory Committee under Section 205 of the Secure Rural Schools and Community Self Determination Act of 2000 (Pub. L. 106–393).

SUMMARY: This notice is published in accordance with Section 10(a)(2) of the Federal Advisory Committee Act. Meeting notice is hereby given for the Roseburg District BLM Resource Advisory Committee pursuant to Section 205 of the Secure Rural School and Community Self Determination Act of 2000, Public Law 106–393 (the Act). Topics to be discussed by the Roseburg District BLM Resource Advisory Committee include specific information of specific projects and/or decisions on specific projects.

DATES: The Roseburg Resource Advisory Committee will meet at the BLM Roseburg District Office, 777 NW. Garden Valley Boulevard, Roseburg, Oregon 97470 on April 26, May 17, June 21, June 28, July 12, and July 19, 2004 from 9 a.m. to 4 p.m. The May 17 meeting will include an all day field trip. For briefing information please refer to HAG–03–0134.

SUPPLEMENTARY INFORMATION: Pursuant to the Act, five Resource Advisory Committees have been formed for western Oregon BLM district that contain Oregon & California (O&C) Grant Lands and Coos Bay Wagon Road lands. The Act establishes a six-year payment schedule to local counties in lieu of funds derived from the harvest of timber on federal lands, which have dropped dramatically over the past 10 years.

The Act creates a new mechanism for local community collaboration with federal land management activities in the selection of projects to be conducted on federal lands or that will benefit resources on federal lands using funds under Title II of the Act. The Roseburg District BLM Resource Advisory Committee consists of 15 local citizens (plus 6 alternates) representing a wide array of interests.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the Roseburg District BLM Resource Advisory Committee may be obtained from E.Lynn Burkett, Public Affairs Officer, Roseburg District Office, 777 NW. Garden Valley Blvd., Roseburg, Oregon 97470 or *elynn_burkett@blm.gov*, or on the Web at *www.or.blm.gov.*

Dated: March 2, 2004.

Jay Carlson,

Roseburg District Manager.

[FR Doc. 04–6675 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–33–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice of Availability of the Proposed Notice of Sale for Outer Continental Shelf (OCS) Oil and Gas Lease Sale 192 in the Western Gulf of Mexico (GOM)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of availability of the proposed notice of sale for proposed sale 192.

SUMMARY: The MMS announces the availability of the proposed notice of sale for proposed Sale 192 in the Western GOM OCS. This notice is published pursuant to 30 CFR 256.29(c) as a matter of information to the public. With regard to oil and gas leasing on the OCS, the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, provides the affected States the opportunity to review the proposed Notice. The proposed Notice sets forth the proposed terms and conditions of the sale, including minimum bids, royalty rates, and rentals.

DATES: Comments on the size, timing, or location of proposed Sale 192 are due from the affected States within 60 days following their receipt of the proposed Notice. The final Notice of Sale will be published in the **Federal Register** at least 30 days prior to the date of bid opening. Bid opening is currently scheduled for August 18, 2004.

SUPPLEMENTARY INFORMATION: The proposed Notice of Sale for Sale 192 and a ''Proposed Sale Notice Package'' containing information essential to potential bidders may be obtained from the Public Information Unit, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394. Telephone: (504) 736–2519.

Dated: March 16, 2004.

Walter D. Cruickshank,

Acting Director, Minerals Management Service.

[FR Doc. 04–6708 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: Department of the Interior, National Park Service, Land and Water Conservation Fund State Assistance and Urban Park and Recreation Recovery Programs.

ACTION: Notice of submission to OMB and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13), this notice announces the National Park Service's (NPS) intention to request an extension for eight currently approved information collection requests (ICR) for the Land

and Water Conservation Fund (LWCF) and Urban Park and Recreation Recovery (UPARR) grant programs as described below. Comments are invited on: (1) The need for the information including whether the information has practical utility; (2) the accuracy of the reporting burden estimate; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including use of automated collection techniques or other forms of information technology.

1. LWCF Description and Notification (DNF, NPS 10–903. OMB 1024–0031). The DNF is necessary to provide data input into the NPS automated project information system which provides timely data on projects funded over the life of the LWCF program. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 115 hours. *Estimated Average Burden Hours Per Response:* 0.25 hours. *Estimated Frequency of Response:* 450 nationwide.

2. LWCF Program Performance Report (OMB 1024–0332). As required by OMB Circular A–102, grantee must submit performance reports which describe the status of the work required under the project scope. *Respondents:* 56 States, DC and Territories. *Estimated Annual Reporting Burden:* 700 hours. *Estimated Average Burden Hours Per Response:* 1.0 hours. *Estimated Frequency of Response:* 700 nationwide.

3. LWCF Project Agreement and Amendment Form (NPS 10–902 and 10–902a, respectively, OMB 1024–0033). The Project Agreement and Amendment Forms set forth the obligations assumed by the State through its acceptance of federal assistance under the LWCF Act and any special terms and conditions. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 450 hours. *Estimated Average Burden Hours Per Response:* 1.0 hours. *Estimated Frequency of Response:* 450 nationwide.

4. LWCF On-Site Inspection Report (OMB 1024–0034). The On-Site Inspection Reports are used to insure compliance by grantees with applicable Federal laws and program guidelines, and to insure the continued viability of the funded site. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 3,700 hours. *Estimated Average Burden Hours Per Response:* 0.5 hours. *Estimated Frequency of Response:* 7,400 nationwide.

5. LWCF Conversion of Use Provision (OMB 1024–0047). To convert assisted sites to other than public outdoor recreation, LWCF project sponsors must provide relevant information necessary to comply with Section 6(f)(3) of the LWCF Act of 1965. *Respondents:* 56 State governments, DC and territories. *Estimated Annual Reporting Burden:* 1,750 hours. *Estimated Average Burden Hours Per Response:* 50 nationwide.

6. UPARR Project Performance Report (OMB 1024–0028). As required by OMB Circular A–102, grant recipients must submit performance reports which describe the status of the work required under the project scope. *Respondents:* Urban cities and counties. *Estimated Annual Reporting Burden:* 248 hours. *Estimated Average Burden Hours Per Response:* 1.5 hours. *Estimated Frequency of Response:* 164 nationwide.

7. UPARR Conversion of Use Provision (OMB 1024–0048). To convert assisted sites to other than public outdoor recreation, UPARR project sponsors must provide relevant information necessary to comply with Section 1010 of the UPARR Act of 1978. *Respondents:* Urban cities and counties. *Estimated Annual Reporting Burden:* 75 hours. *Estimated Average Burden Hours Per Response:* 25 hours. *Estimated Frequency of Response:* 3 nationwide.

8. UPARR Project Agreement and Amendment Form (NPS 10–912 and 10–914, respectively, OMB 1024–0089). The Project Agreement and Amendment forms set forth the obligations assumed by grant recipients through their acceptance of federal assistance under the UPARR Act and any special terms and conditions. *Respondents:* Urban cities and counties. *Estimated Annual Reporting Burden:* 20 hours. *Estimated Average Burden Hours Per Response:* 1.0 hours. *Estimated Frequency of Response:* 20 nationwide.

There were no public comments received as a result of publishing on November 5, 2003, in the **Federal Register** a 60-day notice of intention to request clearance for this ICR.

DATES: Public comments on these eight proposed ICRs will be accepted on or before April 26, 2004.

ADDRESSES: You may submit comments directly to the Desk Officer for the Department of the Interior, Office of Information and Regulatory Affairs, OMB, by fax at 202/395–6566, or by electronic mail at *oira_docket@omb.eop.gov.* Please also mail or hand carry a copy of your comments to Michael D. Wilson, Chief, Recreation Programs Division, National Park Service, Department of the Interior, 1849 C Street, NW., Washington, DC 20240, or by electronic mail to *michael_d_wilson@nps.gov.*

All comments will become a matter of public record.

Dated: February 26, 2004.

Leonard E. Stowe,

Acting, NPS Information Collection Clearance Officer, National Park Service.

[FR Doc. 04–6639 Filed 3–24–04; 8:45 am]

BILLING CODE 4312–52–M

DEPARTMENT OF THE INTERIOR

National Park Service

General Management Plan, Draft Environmental Impact Statement, Rio Grande Wild and Scenic River, TX

AGENCY: National Park Service, Department of the Interior.

ACTION: Notice of Availability of the Draft Environmental Impact Statement for the General Management Plan, Rio Grande Wild and Scenic River.

SUMMARY: The National Park Service announces the availability of the Draft Environmental Impact Statement for the General Management Plan for Rio Grande Wild and Scenic River, Texas. This is being done pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332(C).

DATES: The National Park Service will accept comments on the Draft Environmental Impact Statement from the public through May 24, 2004. Public meetings to accept comments on the draft plan will be held in Dallas, Houston, and Study Butte, Texas. Times and locations of the meetings will be available from the Superintendent of Rio Grande Wild and Scenic River at the address below or on the Rio Grande Web site at *http://www.nps.gov/rigr.*

ADDRESSES: Copies of the draft Environmental Impact Statement and General Management Plan are available from the Superintendent, Rio Grande Wild and Scenic River, at the address shown below. Public reading copies of the document will be available for review at the following locations:

Office of the Superintendent, Rio Grande Wild and Scenic River, Park Headquarters, Panther Junction, Big Bend National Park, TX 79834–0129, Telephone: (915) 477–2291.

NPS Intermountain Support Office—Denver, Planning and Environmental Quality, 12795 W. Alameda Parkway, Lakewood, CO 80228, Telephone: (303) 987–6671.

FOR FURTHER INFORMATION CONTACT: The Superintendent, Rio Grande Wild and Scenic River, at the address and telephone number shown above.

SUPPLEMENTARY INFORMATION: If you wish to comment on the draft plan, you

may submit your comments by any one of several methods. You may mail comments to Superintendent, Rio Grande Wild and Scenic River, P.O. Box 129, Big Bend National Park, TX 79834–0129. You may also submit a comment via the Internet at *http://planning.nps.gov/plans.cfm.* Please also include ''Attn: Rio Grande GMP'' and your name and return address in the on-line comment form. Finally, you may present your comments in person at the public meetings to be held during the public review period.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. It is not the policy of the National Park Service to consider anonymous comments ''where appropriate.''

Dated: November 10, 2003.

Michael D. Snyder,

Deputy Director, Intermountain Region, National Park Service.

[FR Doc. 04–6642 Filed 3–24–04; 8:45 am]

BILLING CODE 4312–KF–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Anthropological Studies Center, Archaeological Collections Facility at Sonoma State University, Rohnert Park, CA.

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Anthropological Studies Center, Archaeological Collections Facility at Sonoma State University, Rohnert Park, CA. The human remains and associated funerary objects were recovered from two sites in Mendocino County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Services is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Anthropological Studies Center professional staff in consultation with representatives of the Round Valley Indian Tribes of the Round Valley Reservation, California.

Between November 1977 and May 1978, human remains were recovered from the Kopase site (CA-MEN–69) near Covelo, Mendocino County, CA, during salvage excavations conducted by archeologist Barry Price. In 1978, human remains representing a minimum of 11 individuals were identified from the Kopase site collections and were reburied at the site. The remaining archeological collections from the Kopase site were in Mr. Price's possession for analysis from 1978 to April 1994, after which they were returned to the Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University. In 1997, additional human remains representing a minimum of 20 individuals were identified during an inventory of the collections from the Kopase site. The human remains include disassociated fragments from 4 of the individuals reburied in 1978, and the fragmentary remains of 16 other individuals. Discovery of the additional human remains brings the total number of individuals recovered from the Kopase site to 27. No known individuals were identified. No associated funerary objects are present. Radiocarbon dates and analysis of the archeological collection from the Kopase site indicate that the human remains were probably buried between 300 B.C. and A.D. 200.

In October 1979, human remains representing a minimum of one individual were recovered from the Eel River Work Center site (CA-MEN–320/643) near Covelo, Mendocino County, CA, by staff of the Anthropological Studies Center under the direction of Dr. David A. Fredrickson. All identified human remains were reburied at the site in 1985. In 1997, additional human remains representing one individual were identified during an inventory of the collections from the Eel River Work Center site. Due to the disturbed nature of the original burial, it cannot be determined if the human remains identified in 1997 are from the same individual reburied in 1985. Thus, the evidence indicates the possibility that the remains represent two individuals. No known individuals were identified. One chert scraper was identified within the burial matrix during excavation and seven additional artifacts were listed in the catalog as possible associated funerary objects, for a total of eight associated funerary objects. The eight associated funerary objects include one shell bead, three projectile points, one chert scraper, and three grinding stone implements. Analysis of the associated funerary objects and the archeological collection from the Eel River Work Center site indicates that the human remains were probably buried between A.D. 300 and A.D. 1500.

The human remains have been identified as Native American based on archeological evidence from the Kopase and Eel River Work Center sites. Radiocarbon dates and analysis of artifacts from the Kopase and Eel River Work Center sites indicate that these human remains and associated funerary objects date to between 300 B.C. and A.D. 1500. Ethnographic and archeological evidence indicates that the Kopase and Eel River Work Center sites are located within traditional Central Yuki territory. Ethnographic accounts and information provided by representatives of the Round Valley Indian Tribes of the Round Valley Reservation, California demonstrate cultural affiliation with the human remains, as the Round Valley Indian Tribes are composed of descendants of Yuki, Concow Maidu, Little Lake and other Pomo, Nomlaki, Cahto, Wailaki, and Pit River peoples.

The professional staff of the Anthropological Studies Center, Archaeological Collections Facility at Sonoma State University have determined that, pursuant to 25 U.S.C. 3001, the human remains described above represent the physical remains of 21 individuals of Native American ancestry. The professional staff of the Anthropological Studies Center, Archaeological Collections Facility at Sonoma State University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the eight objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, the professional staff of the Anthropological Studies Center, Archaeological Collections Facility at Sonoma State University have

determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects described above and the Round Valley Indian Tribes of the Round Valley Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects described above should contact Regina George, NAGPRA Project Coordinator, Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University, Rohnert Park, CA 94928–3609, telephone (707) 664–2381, before April 26, 2004. Repatriation of the human remains and associated funerary objects described above to the Round Valley Indian Tribes of the Round Valley Reservation, California may begin after that date if no additional claimants come forward.

The Anthropological Studies Center, Archaeological Collections Facility, Sonoma State University is responsible for notifying the Round Valley Indian Tribes of the Round Valley Reservation, California that this notice has been published.

Dated: February 9, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6652 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–70–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Denver Museum of Nature & Science, Denver, CO. The human remains were removed from an unknown site along the Musselshell River in Montana Territory.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Denver Museum of Nature & Science professional staff in consultation with representatives of the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana and the Crow Tribe of Montana.

In 1884, human remains representing one individual were removed from an unknown site along the Musselshell River in Montana Territory by the Crow Chief Plenty Coups. The human remains consist of a scalp. At an unknown time and by unknown means, the human remains came into the possession of Pat Read, an Indian art dealer. In 1954, Mary W.A. Crane and Francis V. Crane obtained the human remains from Mr. Read. In 1983, Mr. and Mrs. Crane donated the human remains to the museum and the human remains were accessioned into the collection in the same year. Accompanying the human remains was a handwritten tag stating, ''Piegan Scalp Taken by the Crow Indian Chief 'Plenty Coos' in a fight on the Muscleshell River Montana Ty February 1884 between the Crows, some white men and a party of Piegan Horse Thieves. Two white men and three Piegans were killed.'' Historically, the Piegan were a constituent band of the Blackfeet that are now recognized as the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana. ''Plenty Coos'' refers to a Crow chief named Plenty Coups. ''Ty'' is an abbreviation of the word territory. No known individual was identified. No associated funerary objects are present.

Based on provenience, collection documentation, and consultation with the Crow Tribe of Montana and Blackfeet Tribe of the Blackfeet Indian Reservation of Montana, the human remains have been identified as Native American. The Musselshell River lies adjacent to and south of Blackfeet territory within territory utilized by the Crow Tribe of Montana in the 1800s. The territory was an area of contact between the Blackfeet and Crow Nations. Crow tribal elders indicate that the remains should be returned to the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana (Piegan).

Officials of the Denver Museum of Nature & Science have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Denver Museum of Nature & Science also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Ella Maria Ray, NAGPRA Officer, Department of Anthropology, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6056, before April 26, 2004. Repatriation of the human remains to the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature & Science is responsible for notifying the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana and the Crow Tribe of Montana that this notice has been published.

Dated: February 10, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6647 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Denver Museum of Nature & Science, Denver, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the Denver Museum of Nature & Science, Denver, CO. The human remains were removed from the Sand Creek Massacre site, Kiowa County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the Denver Museum of Nature & Science professional staff in consultation with representatives of the Arapahoe Tribe of

the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; and Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana.

According to museum records, in 1864, human remains representing one individual were removed from the site of the Sand Creek Massacre along Big Sandy Creek, about 50 miles north of the current city of Lamar, Kiowa County, CO, by William B. Jacobs. The human remains are a scalp. At an unknown date, the human remains became part of the George A. Cuneo collection. No information regarding the transfer from Mr. Jacobs to Mr. Cuneo is known. The Cuneo collection consisted primarily of historic Southwestern and Plains Indian objects that Mr. Cuneo collected during the late 19th and early 20th centuries. Mr. Cuneo's collection was on loan to the Denver Art Museum from 1937 to 1956. Mr. Cuneo died in 1939 and the collection remained at the Denver Art Museum under the control of his estate. Mr. Cuneo's estate sold part of the collection, including this scalp, to Mr. Eric Kohlberg of Kohlberg's Antiques and Indian Arts in Denver, CO in 1956. Later in 1956, Mary W. A. Crane and Francis V. Crane purchased the human remains from Mr. Kohlberg. The Cranes donated the human remains to the museum in 1972, which accessioned the human remains into the collection the same year. Accompanying the human remains was a card written in the hand of George A. Cuneo stating that William B. Jacobs took the scalp from an Arapaho chief at the Sand Creek Massacre, November 29, 1864. The Arapaho individual's name is not documented. No known individual was identified. No associated funerary objects are present.

Based on museum records and historical accounts of the Sand Creek Massacre, the human remains are determined to be Native American. A William B. Jacobs is listed among the members of Colonel John Chivington's 3rd Regiment of Colorado Volunteer Cavalry, which attacked the sleeping Cheyenne and a few Arapaho at the tipi camp at Sand Creek. The event is documented in several historical sources, and eyewitness accounts verify that cavalry members took Indian scalps. Consultations held with the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; and Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana corroborate that tribal histories place Cheyenne and some Arapaho individuals at the site and as victims of the Sand Creek Massacre of 1864. Based on verified original collection history, documented tribal identification in early records with the human remains, and written and scholarly accounts of scalping and Arapaho presence at the Sand Creek Massacre, the human remains are most likely to be culturally affiliated with the Arapahoe Tribe of the Wind River Reservation, Wyoming and the Cheyenne-Arapaho Tribes of Oklahoma.

Officials of the Denver Museum of Nature & Science have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains listed above represent the physical remains of one individual of Native American ancestry. Officials of the Denver Museum of Nature & Science also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Arapahoe Tribe of the Wind River Reservation, Wyoming and the Cheyenne-Arapaho Tribes of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Ella Maria Ray, NAGPRA Officer, Department of Anthropology, Denver Museum of Nature & Science, 2001 Colorado Boulevard, Denver, CO 80205, telephone (303) 370–6056, before April 26, 2004. Repatriation of the human remains to the Arapahoe Tribe of the Wind River Reservation, Wyoming and the Cheyenne-Arapaho Tribes of Oklahoma may proceed after that date if no additional claimants come forward.

The Denver Museum of Nature &Science is responsible for notifying the Arapahoe Tribe of the Wind River Reservation, Wyoming; Cheyenne-Arapaho Tribes of Oklahoma; and Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana that this notice has been published.

Dated: January 22, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6654 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: State Historical Society of Iowa, Iowa City, IA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.8 (f), of the intent to repatriate cultural items in the possession of the State Historical Society of Iowa, Iowa City, IA, that meet the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.8 (f). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The 415 cultural items are 272 chipped and ground stone tools, flakes, and debris; 1 unmodified stone; 4 catlinite and limestone pipes; 4 pieces of worked hematite; 15 ceramic pots and 7 ceramic sherds; 1 metal bead; 11 metal ornaments; 5 iron tools and fragments; 1 copper tool; 7 copper bracelets; 1 copper ear pendant; 1 copper snake; 5 copper tubes; 20 copper beads; 1 piece of worked bone; 15 worked bone beads; 19 worked bone tools; 1 worked bone whistle; 8 pieces of unworked animal bone; 1 piece of sinew from a necklace; 3 clamshell spoons; 1 piece of worked shell; 2 shell beads; and 9 glass beads and fragments.

In 1930, Dr. F.J. Becker, a collector of archeological materials from Iowa sites, donated a portion of his collection to the State Historical Society of Iowa. Among the items in the collection were two cultural items that, according to museum documentation, were found in a grave in the Upper Iowa River valley, Allamakee County, northeastern Iowa (Site 13AMOq). The two cultural items are a single tubular copper bead with a short length of braided sinew preserved inside it. According to museum documentation, the bead was the largest of a number of beads forming a necklace. The State Historical Society of Iowa is not in possession of the human remains from this burial.

The exact location of the burial site is not known, but two factors suggest that the grave may have been an Oneota interment. The site is in an area of known Oneota habitation and cemetery sites, and the style and method of manufacture of the bead, as well as its excellent state of preservation, suggest that it dates to the protohistoric or early Historic/Contact period. Evidence presented during consultation indicates that the cultural items from the site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and

Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In two donations in 1933 and 1947, Ellison Orr donated his collection, known as the Orr Donation, to the State Historical Society of Iowa. Some of the materials were collected by Mr. Orr during excavations he conducted in the 1930s under the direction of Charles R. Keyes. Museum documentation indicates that 53 cultural items were recovered from burials in Iowa, although the specific location of the burials is unknown. The 53 cultural items are 18 chipped stone tools and flakes, 2 catlinite pipes, 1 hematite ornament, 4 shell-tempered ceramic pots, 1 shell-tempered ceramic sherd; 7 copper bracelets, 1 copper ear pendant, 1 copper snake, 1 copper bead; 3 copper tubes, 1 metal bead, 2 metal spiral ear ornaments, 4 bone beads; 2 bone shaft straighteners, 3 antler points; and 2 cervid phalanges. The State Historical Society of Iowa is not in possession of the human remains from this burial.

Evidence presented during consultation indicates that the cultural items in the Orr Donation are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1934, during excavations undertaken by Ellison Orr, under the direction of Charles R. Keyes, on behalf of the State Historical Society of Iowa, at the O'Regan Terrace site (13AM21), Allamakee County, northeastern Iowa, 76 cultural items were removed from burials. The 76 cultural items are 38 chipped and ground stone tools, flakes, and debris; 1 unmodified stone; 4 shell-tempered ceramic pots; 2 iron knives; 3 pieces of iron; 18 copper tubes beads; 1 metal spiral ear ornament; 2 bone awls; 1 bison or elk scapula hoe; and 6 glass bead fragments. The State Historical Society of Iowa is not in possession of the human remains from these burials.

The O'Regan Terrace site has been identified as an Oneota village and cemetery on the basis of material culture and site typology. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1934, Ellison Orr and Charles Keyes undertook excavations on behalf of the State Historical Society of Iowa at the Elephant Terrace site (13AM59), on the north side of the Upper Iowa River, Allamakee County, IA. Mr. Orr and Mr. Keyes recovered 18 cultural items during excavations in 1934, and Mr. Orr obtained 2 cultural items from an unnamed individual who reported having taken them from a burial at this site. The 20 cultural items are 18 chipped and ground stone tools and flakes; 1 shell-tempered ceramic pot; and 1 copper awl. The State Historical Society of Iowa is not in possession of the human remains from these burials.

The Elephant Terrace site includes a Woodland-period habitation site and an Oneota village with an associated cemetery. On the basis of typology and style, the ceramic pot and the chert knife are identifiable as Oneota. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1896, Ellison Orr recovered five cultural items from Woolstrom cemetery (13AM61), Allamakee County, IA, and donated them to the State Historical Society in 1933. In 1936, Mr. Orr recovered an additional four cultural items from the same site, and at an unknown date, he received one cultural item from an unknown individual, which also came from Woolstrom cemetery. The 10 cultural items are 3 chipped and ground stone tools, 3 bone awls, 1 bone whistle, 1 piece of worked bone, 1 bird bone, and 1 cervid phalanx. The State Historical Society of Iowa is not in possession of human remains from these burials.

The Woolstrom cemetery site is one of several cemeteries along Bear Creek, a major tributary of the Upper Iowa River, Allamakee County, IA, that Mr. Keyes, Mr. Orr, and others identified as Oneota on the basis of material culture and site typology. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1936, Ellison Orr recovered 42 cultural items during excavations on behalf of the State Historical Society of Iowa at Burke's Mound (13AM67), a cemetery site on the north side of Bear Creek about a mile west of its confluence with the Upper Iowa River, Allamakee County, IA. Records indicate that Mr. Orr was also given 9 cultural items from this site by various collectors. The 51 cultural items are 24 ground and chipped stone tools, 2 worked hematite pieces, 1 limestone pipe, 3 shell-tempered ceramic pots, 7 metal spiral ear ornaments, 1 copper bead, 4 bone awls, 1 bison rib shaft straightener, 4 bone beads, 1 shell bead, and 3 clamshell spoons. The State Historical Society of Iowa, Keyes Collection is not in possession of the human remains from these burials.

Archeological evidence indicates that the Burke's Mound site is an Oneota cemetery. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1936, during excavations conducted by Ellison Orr on behalf of the State Historical Society of Iowa at Hogback Mound Group (13AM86), 119 cultural items were recovered. The Hogback Mound Group is located between the Upper Iowa River and Bear Creek, Allamakee County, IA. The 119 cultural items, which were recovered from Oneota burial contexts, are 103 chipped and ground stone tools, flakes, and debris; 1 limestone pipe; 1 metal spiral ear ornament; 1 worked antler tine; 1 bone arrow shaft straightener; 1 bone awl; 6 bone beads; 1 shell bead; 1 worked clamshell; and 3 glass beads. The State Historical Society of Iowa is not in possession of the human remains from these burials.

The Hogback Mound Group site contains mounds that were constructed during the late Middle Woodland period (circa A.D. 200–400), but were subsequently used as burial sites for Oneota people living in the area in the early Historic/Contact period. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1934 and 1936, Ellison Orr recovered 24 cultural items from burials at the Lane Farm Mounds site (13AM104) on the Hartley Terrace overlooking the Upper Iowa River, Allamakee County, IA. The excavations were undertaken on behalf of the State Historical Society of Iowa. The 24 cultural items are 11 chipped stone tools, flakes, and debris; 1 piece of polished hematite; 1 shell-tempered ceramic pot and 6 shell-tempered ceramic sherds; 1 bone or quill fragment; and 4 bison or elk scapula hoes. The State Historical Society of Iowa is not in possession of the human remains from these burials.

The Lane Farm Mounds complex includes a Late Woodland habitation site, an Oneota village, and burial mounds that were used by both the Woodland and Oneota populations. Excavation records indicate that the items were identified by Mr. Orr as Oneota. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

In 1934 and 1936, Charles Keyes and Ellison Orr on behalf of the State Historical Society of Iowa collected 61 cultural items from the New Galena Mounds site (13AM108), located on a terrace on the south side of the Upper Iowa River about .5 mile west of its confluence with Bear Creek in Allamakee County, IA. The 61 cultural items are 57 chipped and ground stone tools, flakes, and debris; 2 shell-tempered ceramic pots, and 2 copper tubes. The State Historical Society of Iowa is not in possession of the human remains from these burials.

The New Galena Mounds are Woodland-period burial mounds with intrusive Oneota burials. The cultural items derive from the Oneota burials. Evidence presented during consultation indicates that the cultural items from this site are consistent with Oneota material culture and that the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma are the present-day tribes most closely affiliated with the protohistoric and historic Oneota culture.

Officials of the State Historical Society of Iowa have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the 415 cultural items described above are reasonably believed to have been placed with or near human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from specific burial sites of Native American individuals. Officials of the State Historical Society of Iowa also have determined that pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Jerome Thompson, State Historical Society of Iowa, New Historical Building, 600 East Locust, Des Moines, IA 50319–0290, telephone (515) 281–4221, before April 26, 2004. Repatriation of the unassociated funerary objects to the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

The State Histocial Society of Iowa is responsible for notifying the Iowa Tribe of Oklahoma; Iowa Tribe of Kansas and Nebraska; and Otoe-Missouria Tribe of Indians, Oklahoma that this notice has been published.

Dated: February 9, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6643 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from two sites in Mendocino County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

In 1951, human remains representing at least four individuals were removed from site CA-Men–500, Mendocino County, CA, by C.W. Meighan, during fieldwork sponsored by the University of California. No known individuals were identified. The 56 associated funerary objects are 1 mussel shell, 1 carnivore mandible, 37 glass beads, 1 steatite bead, 4 pestles, 3 stone scrapers, 2 projectile point fragments, and 7 projectile points.

At an unknown time prior to 1972, human remains representing at least two individuals were removed from site CA-Men-NL–10, Mendocino County, CA, by an unknown individual. Museum records identify the locality of the site as ''the Willits area.'' The human

remains and associated funerary objects were donated to the Phoebe A. Hearst Museum of Anthropology by Mendocino County Sheriff Reno H. Bartlomie in 1972. No known individuals were identified. The 132 associated funerary objects are glass and clamshell beads.

Circumstances of burial identify the human remains as Native American. Historical evidence indicates that the geographical area of origin of the human remains was part of Pomo aboriginal territory at the time of European contact and immediately prior to contact. Linguistic evidence and regional archeological evidence suggest long-term cultural continuity. Therefore, the human remains and associated funerary objects listed above are determined to be culturally affiliated with the present-day descendents of the Pomo: Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least six individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 188 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642–6096, before April 26, 2004. Repatriation of the human remains and associated funerary objects to the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lower Lake Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California that this notice has been published.

Dated: January 27, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6649 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA. The human remains and associated funerary objects were removed from 11 sites in and near Round Valley, Mendocino County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations within this notice.

An assessment of the human remains, and catalog records and associated documents relevant to the human remains, was made by Phoebe A. Hearst Museum of Anthropology professional staff in consultation with representatives of the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California.

In 1939 and 1940, human remains representing at least three individuals were removed from site CA-Men–1, Mendocino County, CA, by C.E. Smith and W.D. Weymouth, and were donated to the Phoebe A. Hearst Museum of Anthropology in 1940. No known individuals were identified. The two associated funerary objects are two bone beads.

In 1940, human remains representing at least two individuals were removed from site CA-Men–120, Mendocino County, CA, by W.D. Weymouth and A.E. Treganza, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individuals were identified. No associated funerary objects are present.

In 1946, human remains representing at least one individual were removed from site CA-Men–147, Mendocino County, CA, by University of California staff as a result of a project funded by the Regents of the University of California through the Phoebe A. Hearst Museum of Anthropology or the University of California. No known individual was identified. No associated funerary objects are present.

In 1940, human remains representing at least two individuals were removed from site CA-Men–164, Mendocino County, CA, by W.D. Weymouth and A.E. Treganza, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individuals were identified. The one associated funerary object is a stone pestle.

In 1941, human remains representing at least one individual were removed from site CA-Men–183, Mendocino County, CA, by W.D. Weymouth and A.E. Treganza, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individual was identified. The seven associated funerary objects are four beads, one mortar, and two pestles.

In 1941, human remains representing at least one individual were removed from site CA-Men–183, Mendocino County, CA, by W.D. Weymouth, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individual was identified. No associated funerary objects are present.

In 1946, human remains representing at least one individual were removed from site CA-Men–183, Mendocino County, CA, by W.D. Weymouth, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individual was identified. No associated funerary objects are present.

In 1939, human remains representing at least one individual were removed from site CA-Men–183, Mendocino County, CA, by W.D. Weymouth, and were donated to the Phoebe A. Hearst Museum of Anthropology during the 1940s. No known individual was identified. No associated funerary objects are present

In 1941, human remains representing at least 22 individuals were removed from site CA-Men–187, Mendocino County, CA, during excavations conducted by A.E. Treganza, R.K. Beardsley, W.D. Weymouth, and C.E. Smith, who donated the human remains and associated funerary objects to the Phoebe A. Hearst Museum of Anthropology the same year. No known individuals were identified. The 1,112 associated funerary are 1 scraper, 1,004 glass beads, 50 pine nut beads, 55 shell beads, and 2 shell objects.

In 1940, human remains representing at least two individuals were removed from site CA-Men–72, Mendocino County, CA, by W.D. Weymouth and A.E. Treganza, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individuals were identified. No associated funerary objects are present.

In 1940, human remains representing at least one individual were removed from site CA-Men–93, Mendocino County, CA, by W.D. Weymouth and A.E. Treganza, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individual was identified. No associated funerary objects are present.

In 1940, human remains representing at least two individuals were removed, according to museum records, from a site ''within 4 mi radius of Covelo'' (CA-Men-NL–4), Mendocino County, CA, by C.E. Smith, and were donated to the Phoebe A. Hearst Museum of Anthropology the same year. No known individuals were identified. No associated funerary objects are present.

In 1943, human remains representing at least one individual were removed, according to museum records, from a site ''ca. 5 mi. N. of Farley P.O.'' (CA-Men-NL–5), Mendocino County, CA, by an unknown individual, and were donated to the Phoebe A. Hearst Museum of Anthropology by Mrs. Russell Cummins the same year. No known individual was identified. No associated funerary objects are present.

In 1963, human remains representing at least one individual were removed, according to museum records, from a

site ''10 mi. S.E. of Covelo'' (CA-Men-NL–8), Mendocino County, CA, by an unknown individual, and were donated to the Phoebe A. Hearst Museum of Anthropology by Harriet H. Thomsen the same year. No known individual was identified. No associated funerary objects are present.

Circumstances of burial identify the human remains listed here as Native American. Historical evidence indicates that the geographical region in which the sites are located is part of Yuki traditional territory. Present-day representatives of the Yuki are the Round Valley Indian Tribes of the Round Valley Reservation, California. Oral history of the Round Valley Indian Tribes of the Round Valley Reservation, California tribal elders indicates that the Yuki have a long history of habitation in this region of California. The oral history is corroborated by archeological and linguistic research. Therefore, the human remains and associated funerary objects described above are determined to be culturally affiliated with the Round Valley Indian Tribes of the Round Valley Reservation, California.

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least 41 individuals of Native American ancestry. Officials of the Phoebe A. Hearst Museum of Anthropology also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 1,122 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Phoebe A. Hearst Museum of Anthropology have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Round Valley Indian Tribes of the Round Valley Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact C. Richard Hitchcock, NAGPRA Coordinator, Phoebe A. Hearst Museum of Anthropology, University of California, Berkeley, Berkeley, CA 94720, telephone (510) 642–6096, before April 26, 2004. Repatriation of the human remains and associated funerary objects to the Round Valley Indian Tribes of the Round Valley Reservation, California may proceed after that date if no additional claimants come forward.

The Phoebe A. Hearst Museum of Anthropology is responsible for notifying the Big Valley Band of Pomo Indians of the Big Valley Rancheria, California; Cloverdale Rancheria of Pomo Indians of California; Coyote Valley Band of Pomo Indians of California; Dry Creek Rancheria of Pomo Indians of California; Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California; Grindstone Indian Rancheria of Wintun-Wailaki Indians of California; Guidiville Rancheria of California; Hopland Band of Pomo Indians of the Hopland Rancheria, California; Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California; Lytton Rancheria of California; Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California; Middletown Rancheria of Pomo Indians of California; Pinoleville Rancheria of Pomo Indians of California; Potter Valley Rancheria of Pomo Indians of California; Redwood Valley Rancheria of Pomo Indians of California; Robinson Rancheria of Pomo Indians of California; Round Valley Indian Tribes of the Round Valley Reservation, California; Scotts Valley Band of Pomo Indians of California; Sherwood Valley Rancheria of Pomo Indians of California; and Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California that this notice has been published.

Dated: January 27, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6650 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: San Diego Archaeological Center, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the San Diego Archaeological Center, San Diego, CA, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The 20 cultural items are 14 olivella shell beads, 3 natural quartz crystals, 1 ceramic pipe fragment, 1 rabbit bone bead fragment, and 1 fragment of incised shell.

The 20 cultural items objects were excavated from site CA-SDI–12809, located near Otay Ranch, 4 miles east of Chula Vista, CA. Site CA-SDI–12809 was first excavated by archeologist Dr. Charlotte McGowan from Southwestern Community College, Chula Vista, CA, in 1971. It is reported that inhumations were discovered at that time and were repatriated to the Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California. In 1993, California Department of Transportation, District 11 contracted Brian F. Mooney & Associates to excavate the site for construction of State Route 125, part of the SR 125–South Otay Valley Project. During the 1993 excavations, inhumations and artifacts were discovered at several locations. The archeology report states that the human remains were reinterred at that time ''under the direction of a Native American observer.'' The artifacts from the 1993 collection were taken to the San Diego Archaeological Center on August 8, 2000. The unassociated funerary objects were discovered during the sorting and classifying of artifacts from CA-SDI–12809.

Archeological evidence, including artifacts typical of the late Prehistoric period (3500 B.P. to circa A.D. 1700) indicates that the site described above is Native American. Archeological and historical literature, and oral historical evidence presented during consultation, confirm that site CA-SDI–12809 is located within traditional and historical Kumeyaay territory. The site is thought to be Otai Village, a late Prehistoric-period Kumeyaay village abandoned during the Historic period. The cultural items described above are believed to be associated with known burials found at the site because of their proximity to the burials and their intensely burned condition. The cultural items are also typically associated with burial practices of the Kumeyaay.

Officials of the San Diego Archaeological Center have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are

believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the San Diego Archaeological Center also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Cindy Stankowski, Director, San Diego Archaeological Center, 16666 San Pasqual Valley Road, Escondido, CA 92027, before April 26, 2004. Repatriation of the unassociated funerary objects to the Kumeyaay Cultural Repatriation Committee on behalf of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California may proceed after that date if no additional claimants come forward.

The San Diego Archaeological Center is responsible for notifying the Kumeyaay Cultural Repatriation Committee; Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California that this notice has been published.

Dated: January 28, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6644 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: San Diego Archaeological Center, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the San Diego Archaeological Center, San Diego, CA, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The 14 cultural items are 7 ceramic pipe fragments, 3 natural quartz crystals, 1 stone sucking tube or cloud blower pipe, 1 stone long-bodied projectile point, and 2 pieces of red ochre, which were excavated from 5 archeological sites in San Diego County, CA.

In 1991, site CA-SDI–5075 was excavated as part of a subdivision project near the community of Olivenhain, Carlsbad, in northern San Diego County, CA. Artifacts from the excavation were taken to the San Diego Archaeological Center in November 2000. When preparation for curation of the collection began in 2003, two ceramic pipe fragments were discovered among the other items.

In 1973, site CA-SDI–5699 was excavated as part of a development project in the City of Santee, in southeastern San Diego County, CA. Artifacts from the excavation were taken to the San Diego Archaeological Center, and were accessioned on October 12, 1998. One ceramic pipe fragment was discovered in the collection from site CA-SDI–5699. The San Diego Archaeological Center is currently engaged in long-term processing of this poorly documented collection and periodically notifies tribes after cultural items subject to NAGPRA are discovered.

On October 21, 1998, the San Diego Archaeological Center received a collection including one ceramic pipe fragment from a site designated CA-SDI–8022. There was no documentation with the collection and the only location name that is associated with this site is ''Vista Serrena,'' which is in the San Pasqual Valley area of San Diego County, CA. Preparation of the collection for curation began in 2003, and the ceramic pipe fragment was discovered at that time.

In 1994, the site designated CA-SDI–11453, located near the village of Sunnyside, San Diego County, CA, 1.4 km south of the Sweetwater Dam and 0.6 km east of the Sweetwater River was excavated by Brian F. Mooney & Associates for the California Department of Transportation as part of the proposed State Route 125. Three ceramic pipe fragments were part of the collection from CA-SDI–11453, accessioned by San Diego Archaeological Center in August 2000.

The ceramic pipe fragments were discovered during the curation process.

In 1988, 1989, and 1995, the site designated CA-SDI–10998, also known as the Waldo site, located in the City of Lemon Grove, San Diego County, CA, in the floodplain of Spring Valley, was excavated by California Department of Transportation staff as part of the archeological testing for State Routes 54 and 125. One sucking tube or cloud blower pipe, two natural quartz crystals, one stone projectile point, and two pieces of red ochre were part of the collections received by the San Diego Archaeological Center on August 8, 2000, and on November 15, 2000. Site CA SDI–10998 is described in the archeology report as a short-term habitation site of the late Prehistoric period. The site is thought to be a satellite or component of the contact-period village of Meti and falls within the traditional Kumeyaay (Tipai) territory. The cultural items were discovered by San Diego Archaeological Center staff while they prepared the collection for permanent curation. The cultural items were described in the archeological report as part of a shaman's cache, although they were found dispersed throughout the site.

In 2000, the site designated CA-SDI–14788, located near South Chollas Creek in southern San Diego County, CA, was excavated by Tierra Environmental Services as part of the development of the property. One quartz crystal was among the collection taken to the San Diego Archaeological Center in September 2000 for curation. The crystal was discovered during preparation of the collection for curation. Monitoring and some data recovery was conducted pursuant to the California Environmental Quality Act. Radiocarbon dates place habitation of the site between about 650 years B.P. and the modern period (1940–1950).

Archeological evidence, including artifacts typical of the late Prehistoric period (3500 B.P. to circa A.D. 1700) indicates that the sites described above are Native American. The sacred nature of the objects is indicated by archeological and historical literature, as well as oral historical evidence presented during consultation. Ceramic pipes, shaman's caches, natural quartz crystals, stone sucking tubes or cloud blower pipes, long-bodied stone projectile points, and red ochre are used in sacred ceremonies by the Kumeyaay. Archeological and historical literature and oral historical evidence presented during consultation confirms that all of the sites described above are located within traditional and historical Kumeyaay territory.

Officials of the San Diego Archaeological Center have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the 14 cultural items described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents. Officials of the San Diego Archaeological Center also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the sacred objects and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the sacred objects should contact Cindy Stankowski, Director, San Diego Archaeological Center, 16666 San Pasqual Valley Road, Escondido, CA 92027, before April 26, 2004. Repatriation of the sacred objects to the Kumeyaay Cultural Repatriation Committee on behalf of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California may proceed after that date if no additional claimants come forward.

The San Diego Archaeological Center is responsible for notifying the Kumeyaay Cultural Repatriation Committee; Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California that this notice has been published.

Dated: January 28, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6645 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: San Diego Archaeological Center, San Diego, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of San Diego Archaeological Center, San Diego, CA. The human remains and associated funerary objects were removed from six sites in San Diego County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by San Diego Archaeological Center professional staff in consultation with representatives of the Kumeyaay Cultural Repatriation Committee, which is the authorized NAGPRA representative of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

On February 4, 1971, human remains representing a minimum of one individual were discovered by a private individual on his property at the far western end of Batiquitos Lagoon, Leucadia, San Diego County, CA. The human remains were removed by the individual and kept in his possession until 2004. Examination of the human remains by the San Diego County Sheriff confirmed that they are ancient and, based on the age of the human remains, shape of the teeth, and the provenience, experts at local museums confirmed that they are Native American. On January 13, 2004, the human remains were donated to the San Diego Archaeological Center by the private landowner, and were accessioned at that time. Stone tools, perhaps associated with the burial, and reported in a 1971 newspaper article, are no longer in the individual's possession and the location of the stone tools is unknown. No known individual was identified. The 26 associated funerary objects are fragments of fossilized nonhuman bone, shells, and stone flakes.

In 1973, human remains representing a minimum of one individual were removed from site CA-SDI–5699 in Santee, San Diego County, CA, during excavations conducted by Archaeological Consulting Technology, Inc. (ACT), for Time For Living, Inc., a residential development. The collection of archeological materials from the site was stored by ACT until 1998, when it was donated to the San Diego Archaeological Center. No other items subject to NAGPRA were found in the collection. No known individual was identified. No associated funerary objects are present. Other human remains from site CA-SDI–5699 were repatriated to the Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, now known as Ewiiaapaayp Band of Kumeyaay Indians, California, in 1973, and unassociated funerary objects from the site were reported in a notice of intent to repatriate published in the **Federal Register** on May 23, 2000 (FR Doc. 00–12850, pages 33352–33353). The San Diego Archaeological Center is currently engaged in the long-term processing of this poorly documented collection.

In or around 1978, human remains representing a minimum of one individual were removed from site CA-SDI–4765 in southern San Diego County, CA, during excavations conducted by Archaeological Consulting Technology, Inc. (ACT) for a private subdivision project. The collection of archeological materials from the site was stored by ACT until 1998, when it was donated to the San Diego Archaeological Center. No other items subject to NAGPRA were found in the collection. No known individual was identified. No associated funerary objects are present.

In 1993 or 1994, human remains representing a minimum of one individual were removed from site CA-SDI–9243 in Santee, San Diego County, CA, during excavations undertaken by the California Department of Transportation (Caltrans). When the collection of archeological materials from site CA-SDI–9243 was accessioned by the San Diego Archaeological Center as part of the Caltrans District 11 collection, bones were found with a note that they had been identified by an expert at the San Diego Museum of Man as ''possibly human.'' San Diego Archaeological Center staff in consultation with representatives of the Kumeyaay Cultural Repatriation Committee have determined that the remains are likely to be human. No other items subject to NAGPRA were found in the collection. No known individual was identified. No associated funerary objects are present.

In 1995, human remains representing a minimum of one individual were removed from site CA-SDI–9273 in the southeastern part of San Diego County, CA, near the United States-Mexico border and the city of Tecate, Mexico. Site CA-SDI–9273 was excavated in 1995 by Caltrans's District 11 Environmental Analysis Branch as part of a cultural resources assessment prior to development of the property. The site was described in a Caltrans report as containing a human cremation feature, ceramic and lithic scatter, faunal material, and other artifacts associated with village life. The report also mentions discovery of inhumations and the proposed reburial of the human remains, which would occur after project completion. The collection of archeological materials was brought to the San Diego Archaeological Center on August 11, 2001, and the cremated human remains were discovered while preparing the collection for permanent curation. No other items subject to NAGPRA were found in the collection. The collection also includes 108 cataloged items, including chipped stone, and faunal and Historic-period artifacts. No known individual was identified. No associated funerary objects are present.

In 1996–1997, human remains representing a minimum of two individuals were removed from CA-SDI–4530, also known as the Salt Creek Ranch site, in southern San Diego County, CA. Site CA-SDI–4530 lies partially within the Bonita-Miguel National Register District, northwest of the upper Otay Reservoir and across Proctor Road. Site CA-SDI–4530 was excavated for Pacific Bay Homes in 1996–1997 by Brian F. Smith & Associates. Native American consultant Clarence Brown monitored the excavation. A partial copy of the site report indicates that the site was excavated at an earlier unknown date by ERC, an environmental company. The collection of archeological materials excavated in 1996–1997 was accessioned by the San Diego Archaeological Center in August 1999. No other items subject to NAGPRA were found in the collection. No known individuals were identified. No associated funerary objects are present.

Archeological evidence, including artifacts typical of the late Prehistoric and early Historic periods (1500 B.C. to

circa A.D. 1700), indicates that the sites described above were either burial or habitation sites of Native Americans. Some of the human remains show evidence of cremation, which was typical of the burial practices during this cultural period. The human remains were likely interred before the arrival of Europeans in the area. Archeological and historical literature, and oral historical evidence presented during consultation, confirm that all of the sites described above are located within traditional and historical Kumeyaay territory.

Officials of the San Diego Archaeological Center have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains listed above represent the physical remains of a minimum of seven individuals of Native American ancestry. Officials of the San Diego Archaeological Center also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 26 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the San Diego Archaeological Center also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Ewiiaapaayp Band of Kumeyaay Indians, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Cindy Stankowski, Director, San Diego Archaeological Center, 16666 San Pasqual Valley Road, Escondido, CA 92027, telephone (760) 291–0370, before April 26, 2004.

Repatriation of the human remains to the Kumeyaay Cultural Repatriation Committee on behalf of the Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California may proceed after that date if no additional claimants come forward.

The San Diego Archaeological Center is responsible for notifying the Kumeyaay Cultural Repatriation Committee; Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California; Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California; Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California; Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California; Jamul Indian Village of California; La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California; Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California; Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California; San Pasqual Band of Diegueno Mission Indians of California; Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California; Sycuan Band of Diegueno Mission Indians of California; and Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California that this notice has been published.

Dated: January 29, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6648 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: U.S. Department of Defense, Department of the Army, U.S. Army Intelligence Center and Fort Huachuca, Fort Huachuca, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.8 (f), of the intent to repatriate cultural items in the possession of the U.S. Department of Defense, Department of the Army, U.S. Army Intelligence Center and Fort Huachuca, Fort Huachuca, AZ, that meet the definition of unassociated funerary objects under 25 U.S.C. 3001 (3)(B).

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 43 CFR 10.8 (f). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations within this notice.

The eight unassociated funerary objects are one group of shell ornaments, two ceramic vessels, one ceramic dice cup, one ceramic figurine, two stone effigies, and one stone rasp.

The funerary objects were recovered in association with a cremation burial from excavations at the Garden Canyon site, AZ EE:11:13 (ASM), Fort Huachuca, AZ, conducted by a University of Arizona graduate student in 1964 with permission from Fort Huachuca. Between 1964 and July 2003, the funerary objects and human remains were curated at the Fort Huachuca History Museum.

When collections from the Fort Huachuca History Museum were transferred to the Environmental and Natural Resources Division at Fort Huachuca in July 2003, the human remains could not be located.

The context and style of artifacts recovered from the Garden Canyon site are representative of the archeological Hohokam culture as defined in the

Phoenix and Tucson Basins. While there are no radiocarbon dates from the Garden Canyon site, radiocarbon dates from Hohokam sites in other parts of Arizona suggest a temporal context for the Garden Canyon site of approximately A.D. 600–1400. The Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona claim the archeological Hohokam culture as ancestral. The Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona agree that the Tohono O'odham Nation of Arizona will assume responsibility for the repatriation and reburial of the unassociated funerary objects.

Officials of the U.S. Army Intelligence Center and Fort Huachuca have determined that the cultural items described in this notice meet the definition of unassociated funerary objects at 25 U.S.C. 3001 (3)(B): the cultural items are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual. Officials of the U.S. Army Intelligence Center and Fort Huachuca also have determined that, according to the definition of cultural affiliation at 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Charles Slaymaker, Ph.D., Department of the Army, U.S. Army Intelligence Center and Fort Huachuca, Fort Huachuca, AZ 85613, telephone (520) 533–9089, before April 26, 2004. Repatriation of the unassociated funerary objects to the Tohono O'odham Nation of Arizona may proceed after that date if no additional claimants come forward.

The U.S. Army Intelligence Center and Fort Huachuca is responsible for notifying the

Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Fort Sill Apache Tribe of Oklahoma; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; San Carlos Apache Tribe of the San Carlos Reservation, Arizona; Tohono O'odham Nation of Arizona; White Mountain Apache Tribe of the Fort Apache Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: January 29, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6651 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of California, Riverside, Riverside, CA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the University of California, Riverside, Riverside, CA. The remains were removed from three archeological sites in Riverside County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations within this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations within this notice.

A detailed assessment of the human remains was made by the University of California, Riverside professional staff in consultation with the Cahuilla Inter-Tribal Repatriation Committee, representing the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Cahuilla Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; and Torres-Martinez Band of Cahuilla Mission Indians of California.

In 1990, human remains representing a minimum of one individual were removed by the University of California, Riverside from the surface of archeological site CA-RIV–4070, Riverside County, CA. The human remains consist of a burned mandible fragment. No known individual was identified. No associated funerary objects are present.

In 1991, human remains representing a minimum of one individual were removed by the University of California, Riverside from the surface of archeological site CA-RIV–2199, Riverside County, CA. The human remains consist of the fragmentary distal end of a burned ulna. No known individual was identified. No associated funerary objects are present. Fish bones found in test excavations at CA-RIV–2199 suggest that the site represents a shoreline settlement. Other artifacts recovered in test excavations at CA-RIV–2199 include several small cottonwood triangle and desert side-notched arrowpoints and approximately 300 ceramic sherds.

In 1991, human remains representing a minimum of one individual were removed by the University of California, Riverside from the surface adjacent to archeological site CA-RIV–4169, Riverside County, CA. The human remains consist of a single burned pelvis fragment. No known individual was identified. No associated funerary objects are present.

Sites CA-RIV–2199, CA-RIV–4169, CA-RIV–4070 are part of a dense cluster of archeological sites that was once located along the shoreline of Lake Cahuilla. Large scale environmental changes around A.D. 1500 led to the complete evaporation of Lake Cahuilla. Sites along the prehistoric lakeshore generally date to shortly before A.D. 1500. CA-RIV–2199, CA-RIV–4169, and

CA-RIV–4070 are located within the area traditionally occupied by the desert division of the Cahuilla tribe, represented today by the Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Cahuilla Mission Indians, California; and Torres-Martinez Band of Cahuilla Mission Indians of California. However, the inferred antiquity of the human remains suggests that they represent an ancestral population of a more broadly defined Cahuilla tribe.

Officials of the University of California, Riverside have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains listed above represent the physical remains of three individuals of Native American ancestry. Officials of the University of California, Riverside, have also determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can reasonably be traced between the Native American human remains and the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Cahuilla Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; and Torres-Martinez Band of Cahuilla Mission Indians of California.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains should contact Philip J. Wilke, Department of Anthropology, University of California, Riverside, Riverside, CA 92521–0418, telephone (909) 787–5524, before April 26, 2004. Repatriation of these human remains to the Cahuilla Inter-Tribal Repatriation Committee may proceed after that date if no additional claimants come forward.

The University of California, Riverside is responsible for notifying the Cahuilla Inter-Tribal Repatriation Committee, Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California; Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California; Cabazon Band of Cahuilla Mission Indians, California; Cahuilla Band of Mission Indians of the Cahuilla Reservation, California; Los Coyotes Band of Cahuilla & Cupeno Indians of the Los Coyotes Reservation, California; Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California; Ramona Band or Village of Cahuilla Mission Indians of California; Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California; and Torres-Martinez Band of Cahuilla Mission Indians of California that this notice has been published.

Dated: February 10, 2004.

John Robbins,

Assistant Director, Cultural Resources.

[FR Doc. 04–6646 Filed 3–24–04; 8:45 am]

BILLING CODE 4310–50–S

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–1046 (Final)]

Tetrahydrofurfuryl Alcohol (THFA) From China

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: March 15, 2004.

FOR FURTHER INFORMATION CONTACT: Jai Motwane (202) 205–3176, Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION: On February 3, 2004, the Commission established a schedule for the conduct of the final phase of the subject investigation (69 FR 6005, February 9, 2004). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from April 9, 2004 to June 10, 2004 (69 FR 12127, March 15, 2004). The Commission, therefore, is revising its schedule to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than June 7, 2004; the prehearing conference will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 9, 2004; the prehearing staff report will be placed in the nonpublic record on May 28, 2004; the deadline for filing prehearing briefs is June 7, 2004; the hearing will be held at the U.S. International Trade Commission Building at 9:30 a.m. on June 14, 2004; the deadline for filing posthearing briefs is June 21, 2004; the Commission will make its final release of information on July 8, 2004; and final party comments are due on July 12, 2004.

For further information concerning this investigation see the Commission's notice cited above and 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).

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: March 19, 2004.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 04–6692 Filed 3–24–04; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'')

Consistent with Departmental policy 28 CFR § 50.7, 38 FR 19029, and 42 U.S.C. § 9622(d), notice is hereby given that on March 8, 2004, a proposed consent decree in *United States* v. *Atlantic Richfield Company, Inc.*, Civil Action No. 02–CV–0485E, was lodged with the United States District Court for the Western District of New York.

In this action, the United States sought recovery of response costs, pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), incurred related to the Sinclair Refinery Superfund Site located in the Village and Town of Wellsville, Allegany County, New York. The Consent Decree requires settling defendant Atlantic Richfield Company to pay $1,834,712 to the United States reimbursement of past response costs incurred with respect to the Site, and to pay all future oversight costs incurred

by the United States with respect to the Site, subject to certain annual caps. 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. *Atlantic Richfield Company, Inc.*, D.J. Ref. #90–11–3–298/1.

The consent decree may be examined at the Office of the United States Attorney, Western District of New York, Federal Center, 138 Delaware Avenue, 4th Floor, Buffalo, New York 14202 (contact AUSA Mary K. Roach), and at U.S. EPA Region II, 290 Broadway, New York, New York 10007–1866 (contact Carol Berns). During the public comment period, the consent decree also may be examined on the Department of Justice website at *http://www.usdoj.gov/enrd/open.html.* A copy of the consent decree also may 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 $15.25 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environmental and Natural Resources Divison.

[FR Doc. 04–6637 Filed 3–24–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging Proposed Consent Decree

In accordance with Departmental Policy, 28 CFR § 50.7, notice is hereby given that a proposed Partial Consent Decree in *United States* v. *Brian Chuchua, Al Julian, and Joe Weber III,* (S.D. Cal.), 3:01CV1479 DMS (AJB), was lodged with the United States Court for the Southern District of California on March 8, 2004.

This proposed Partial Consent Decree concerns a complaint filed by the United States against Brian Chuchua, Al Julian, and Joe Weber III pursuant to section 309(b) and (d) of the Clean Water Act, 33 U.S.C. 1319(b) and (d), to obtain injunctive relief from and impose civil penalties against the Defendants for violating the Clean Water Act by discharging pollutants without a permit into waters of the United States. The proposed Partial Consent Decree resolves these allegations against Defendant Al Julian by requiring Mr. Julian to pay a civil penalty.

The Department of Justice will accept written comments relating to this proposed Partial Consent Decree for thirty (30) days from the date of publication of this Notice. Please address comments to Pamela S. Tonglao, Trial Attorney, United States Department of Justice, Environment and Natural Resources Division, P.O. Box 23986, Washington, DC 20026–3986 and refer to *United States* v. *Brian Chuchua, Al Julian, and Joe Weber III,* (S.D. Cal.) 3:01CV1479 DMS (AJB), DJ #90–5–1–1–16111.

The proposed Partial Consent Decree may be viewed at *http://www.usdoj.gov/enrd/open.html.*

Stephen Samuels,

Assistant Chief, Environmental Defense Section, Environment & Natural Resources Division.

[FR Doc. 04–6638 Filed 3–24–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with 28 CFR § 50.7, 38 FR 19029, notice is hereby given that on March 10, 2004, a Consent Decree was lodged with the United States District Court for the District of Massachusetts in *United States* v. *Massachusetts Bay Transportation Authority,* Civil Action No. 04CV10481–MEL. A complaint in the action was also filed simultaneously with the lodging of the Consent Decree. In the complaint the United States, on behalf of the U.S. Environmental Protection Agency (''EPA''), alleges that the defendant Massachusetts Bay Transportation Authority (''MBTA'') violated the Clean Water Act, 33 U.S.C. 1251, *et seq.,* (''CWA'') and Clean Air Act, 42 U.S.C. 7412, at several facilities owned and operated by the defendant. The violations alleged in the complaint include discharges of process waste water without a permit; violations of EPA storm water permitting requirements; and violations of 310 C.M.R. § 7.11(1)(b), the bus idling regulations. The consent decree requires MBTA to pay a civil penalty of $328,274; achieve compliance with applicable provisions of the CWA and CWA; expend at least $1,000,000 on supplemental environmental projects; and undertake compliance audits and an environmental management systems audit with respect to the defendants' Massachusetts facilities.

The Department of Justice will receive comments relating to the proposed Consent Decree for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Washington, DC 20044, and should refer to *United States* v. *Massachusetts Bay Transportation Authority,* D.J. Ref. 90–5–1–1–07029.

The proposed consent decree may be examined at the office of the United States Attorney, Suite 9200, 1 Courthouse Way, Boston, Massachusetts 02110, and at the Region I office of the Environmental Protection Agency, One Congress Street, Suite 1100, Boston, Massachusetts 02114. 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 proposed consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611 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, please enclose a check (there is a 25 cent per page reproduction cost) in the amount of $25.50 payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment & Natural Resources Division.

[FR Doc. 04–6636 Filed 3–24–04; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Aerospace Vehicle Systems Institute (''AVSI'') Cooperative

Notice is hereby given that, on February 20, 2004, pursuant to section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Aerospace Vehicle Systems Institute (''AVSI'') Cooperative has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership and planned activities. The

notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the AVSI Cooperative intends to undertake the following joint research projects:

''Energy Harvesting and Structural Damping''—To determine the feasibility of using multifunctional carbon nanotube supercapacitors as a stand-alone system to harvest aero-elastic energy, dampen structural buffeting and provide structural elements.

''Modular Open Systems Approach Interoperability''—To develop an open systems approach for airborne systems such as avionics to allow greater interoperability through modular common interfaces and architectures. The goal is to reduce operational and support costs for these systems to enable increased investment in acquisition of new and/or technology-refreshed replacement systems.

''Validation and Verification of Advanced Flight Control Systems''—To validate and verify advanced nonlinear, adaptive and reconfigurable control strategies for manned and unmanned aircraft.

''Economic Analysis of Fuel and Infrastructure Options for Aircraft Fuel Cell Applications''—To investigate the economic feasibility of fuel type and fuel supply infrastructure options for aircraft fuel cell applications.

Furthermore, Textron Company, acting through its Cessna Aircraft Company, Wichita, KS, has withdrawn as a party to this venture. In addition, BAE Systems, acting through its BAE Systems Controls Division, a corporation in Rockville, MD; and Rockwell Collins, acting through its Air Transport Systems Division, Cedar Rapids, IA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activities of the group research project. Membership in this group research project remains open, and the AVSI Cooperative intends to file additional written notification disclosing all changes in membership.

On November 18, 1998, the AVSI Cooperatives filed its original notification pursuant to section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to section 6(b) of the Act on February 18, 1999 (64 FR 8123).

The last notification was filed with the Department on October 29, 2003. A notice was published in the **Federal Register** pursuant to section 6(b) of the Act on December 12, 2003 (68 FR 69422).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–6658 Filed 3–24–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Water Heater Industry Joint Research and Development Consortium

Notice is hereby given that, on February 26, 2004, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Water Heater Industry Joint Research and Development Consortium (''the Consortium'') filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing a change in its status. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, the term of the Consortium has been changed as of February 21, 2004 from a term of nine years beginning February 27, 1995 to a period of ten years beginning February 27, 1995.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and the Consortium intends to file additional written notification disclosing all changes in membership.

On February 28, 1995, the Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 1995 (60 FR 15789).

The last notification was filed with the Department on March 3, 2003. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 16, 2003 (68 FR 18658).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 04–6657 Filed 3–24–04; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF LABOR

Employment and Training Administration

Fiscal Year (FY) 2004 Congressional Rescissions for WIA Adults and Dislocated Workers; Program Year (PY) 2004 Workforce Investment Act (WIA Allotments and Additional Funds From Dislocated Worker National Reserve for Adult/Dislocated Worker Activities for Eligible States; PY 2004 Wagner-Peyser Act Final Allotments; FY 2004 Work Opportunity Tax Credit and Welfare-to-Work Tax Credit Allotments

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This Notice announces FY 2004 Congressional Rescissions for WIA Adults and Dislocated Worker programs, states' allotments for PY 2004 (July 1, 2004–June 30, 2005) for WIA Title I Youth, Adults and Dislocated Worker programs; additional PY 2004 funding from the Dislocated Worker National Emergency Reserve for eligible states; final allotments for Employment Service (ES) activities under the Wagner-Peyser Act for PY 2004; and Work Opportunity Tax Credit and Welfare-to-Work Tax Credit allotments for FY 2004.

The WIA allotments for states and the final allotments for the Wagner-Peyser Act are based on formulas defined in their respective statutes. The WIA allotments for the outlying areas are based on a formula determined by the Secretary. As required by WIA section 182(d), on February 17, 2000, a Notice of the discretionary formula for allocating PY 2000 funds for the outlying areas was published in the **Federal Register** at 65 FR 8236 (February 17, 2000). The rationale for the formula and methodology was fully explained in the February 17, 2000 **Federal Register** Notice. The formula for PY 2004 is the same as used for PY 2000 and is described in the section on Youth allotments. The data for all outlying areas was obtained from the Bureau of the Census and was based on 2000 census surveys for those areas conducted either by the Bureau or the outlying areas. This is the first year that 2000 census data is used in the allotment formula. Comments are invited upon the formula used to allot funds to the outlying areas.

DATES: Comments must be received by April 26, 2004.

ADDRESSES: Submit written comments to the Employment and Training

Administration, Office of Financial and Administrative Management, 200 Constitution Ave, NW., Room N–4702, Washington, DC 20210, Attention: Ms. Sherryl Bailey, 202–693–2813 (phone), 202–693–2859 (fax), e-mail: *bailey.sherryl@dol.gov*.

FOR FURTHER INFORMATION CONTACT: WIA Youth Activities allotments: Haskel Lowery at 202–693–3608; WIA Adult and Dislocated Worker Employment and Training Activities allotments: Raymond Palmer at 202–693–3535; Employment Service final allotments: Anthony Dais at 202–693–2784 (these are not toll-free numbers). Information may also be found at the Web site: *http://www.doleta.gov*.

SUPPLEMENTARY INFORMATION: The Department of Labor (DOL or Department) is announcing WIA allotments for PY 2004 (July 1, 2004–June 30, 2005) for Youth Activities, Adults and Dislocated Worker Activities, and Wagner-Peyser Act PY 2004 final allotments. This document provides information on the amount of funds available during PY 2004 to states with an approved WIA Title I and Wagner-Peyser 5-Year Strategic Plan and information regarding allotments to the outlying areas. The allotments are based on the funds appropriated in the Consolidated Appropriations Act, 2004, Public Law 108–199, January 23, 2004. This appropriation requires an across-the-board reduction of 0.59 percent to all FY 2004 discretionary programs, including FY 2004 advance funds for the WIA Adults and Dislocated Worker programs appropriated in the FY 2003 appropriation. Attached are tables listing the FY 2004 rescissions for the WIA Adults (Attachment II–A) and Dislocated Worker (Attachment III–A) programs and the PY 2004 allotments for programs under WIA Title I Youth Activities, Adults and Dislocated Workers Employment and Training Activities and the PY 2004 Wagner-Peyser Act final allotments. Also attached is a table displaying the FY 2004 Work Opportunity Tax Credit and Welfare-to-Work Tax Credit allotments.

Youth Activities Allotments. PY 2004 Youth Activities funds under WIA total $995,059,306 (no funds were appropriated for Youth Opportunity grants). Attachment I includes a breakdown of the Youth Activities program allotments for PY 2004 and provides a comparison of these allotments to PY 2003 Youth Activities allotments for all states, outlying areas, Puerto Rico and the District of Columbia. Before determining the amount available for states, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Youth Activities. WIA section 127(b)(1)(B)(i)(IV) provides that the Freely Associated States (Marshall Islands, Micronesia, and Palau) are not eligible for funding for any program year beginning after September 30, 2001. However, section 3 of Public Law 106–504 (November 13, 2000), overrode the sections of WIA which terminated funding of the Freely Associated States for any fiscal year beginning after September 30, 2001, until negotiations on the Compact of Free Association were complete. On December 17, 2003, the President signed P. L. 108–188, the *Compact of Free Association Amendments Act of 2003*, which continues the availability of programs previously available to the Freely Associated States to the extent that such programs continue to be available to states. Therefore, the Freely Associated States will continue to receive funds for PY 2004. The methodology for distributing funds to all outlying areas is not specified by WIA, but is at the Secretary's discretion. The methodology used is the same as used since PY 2000, i.e., funds are distributed among the areas by formula based on relative share of number of unemployed, a 90-percent hold-harmless of the prior year share, a $75,000 minimum, and a 130-percent stop-gain of the prior year share. Data for the relative share calculation in the PY 2004 formula were from 2000 census data from all outlying areas (the first year that 2000 census data has been used). The total amount available for Native Americans is 1.5 percent of the total amount for Youth Activities, in accordance with WIA section 127. After determining the amount for the outlying areas and Native Americans, the amount available for allotment to the States for PY 2004 is $977,645,768. This total amount was below the required $1 billion threshold specified in section 127(b)(1)(C)(iv)(IV); therefore, as in PY 2003, the WIA additional minimum provisions were not applied, and, instead, as required by WIA, the JTPA section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor were used. Also, as required by WIA, the provision applying a 130-percent stop-gain of the prior year allotment percentage was used. The three formula factors required in WIA use the following data for the PY 2004 allotments:

(1) The number of unemployed for areas of substantial unemployment (ASU's) are averages for the 12-month period, July 2002 through preliminary June 2003;

(2) The number of excess unemployed individuals or the ASU excess (depending on which is higher) are averages for the same 12-month period used for ASU unemployed data; and

(3) The number of economically disadvantaged youth (age 16 to 21, excluding college students and military) are from the 2000 Census. This is the first year that 2000 census data has been used in the allotment formula.

Adult Employment and Training Activities Allotments. The total Adult Employment and Training Activities appropriation is $898,890,800. Attachment II-B shows the PY 2004 Adult Employment and Training Activities allotments and comparison to PY 2003 allotments by state. Like the Youth Activities program, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Adults. The Adult Activities funds for grants to all outlying areas, for which the distribution methodology is at the Secretary's discretion, were distributed among the areas by the same principles, formula and data as used for outlying areas for Youth Activities. After determining the amount for the outlying areas, the amount available for allotments to the states is $896,643,573. Like the Youth Activities program, the WIA minimum provisions were not applied for the PY 2004 allotments because the total amount available for the states was below the $960 million threshold required for Adults in section 132(b)(1)(B)(iv)(IV). Instead, as required by WIA, the minimum allotments were calculated using the JTPA section 202(a)(3) (as amended by section 701 of the Job Training Reform Amendments of 1992) minimums of 90 percent hold-harmless of the prior year allotment percentage and 0.25 percent state minimum floor. Also, like the Youth Activities program, a provision applying a 130 percent stop-gain of the prior year allotment percentage was used. The three formula factors use the same data as used for the Youth Activities formula, except that data from the 2000 Census for the number of economically disadvantaged adults (age 22 to 72, excluding college students and military) were used. This is the first year that 2000 census data has been used in the allotment formula.

Dislocated Worker Employment and Training Activities Allotments. The total Dislocated Worker appropriation is $1,454,419,116. The total appropriation includes formula funds for the states, while the National Reserve is used for

National Emergency Grants, technical assistance and training, demonstration projects, and the outlying areas Dislocated Worker allotments. Attachment III-B shows the PY 2004 Dislocated Worker Activities fund allotments by state. Like the Youth and Adults programs, the total available for the outlying areas was reserved at 0.25 percent of the full amount appropriated for Dislocated Worker Activities. The Dislocated Worker Activities funds for grants to all outlying areas, for which the distribution methodology is at the Secretary's discretion, were distributed among the areas by the same pro rata share as the areas received for the PY 2004 WIA Adult Activities program, the same methodology used in PY 2003. For the state distribution of formula funds, the three formula factors required in WIA use the following data for the PY 2004 allotments:

(1) Number of unemployed, averages for the 12-month period, October 2002 through September 2003;

(2) Number of excess unemployed, averages for the 12-month period, October 2002 through September 2003; and

(3) Number of long-term unemployed, averages for calendar year 2002. Since the Dislocated Worker Activities formula has no floor amount or hold-harmless provisions, funding changes for states directly reflect the impact of changes in the number of unemployed.

Additional Funding From Dislocated Worker National Emergency Reserve for Adult /Dislocated Worker Activities for Eligible States. WIA Section 173(e) provides that up to $15 million from Dislocated Workers reserve funds is to be made annually to certain states that receive less funds under the WIA Adult formula than they would have received had the JTPA Adult formula been in effect. The amount of the grants is based on the difference between the WIA and JTPA formula allotments. Funds are available for grants for up to 8 states with the largest difference. The additional funding must be used for Adult or Dislocated Worker Activities.

Wagner-Peyser Act Final Allotments. The Employment Service program involves a Federal-state partnership between the U.S. Department of Labor and the State Workforce Agencies. Under the Wagner-Peyser Act, funds are allotted to each state to administer a labor exchange program responding to the needs of the state's employers and workers through a system of local employment services offices that are part of the One-Stop service delivery system established by the state. Attachment V shows the Wagner-Peyser Act final allotments for PY 2004. These final allotments have been produced using the formula set forth at Section 6 of the Wagner-Peyser Act, 29 U.S.C. 49e. They are based on averages of the civilian labor force (CLF) and unemployment for calendar year 2003. State planning estimates reflect $18,000,000 being withheld from distribution to states to finance postage costs associated with the conduct of labor exchange services for PY 2004. The Secretary of Labor is required to set aside up to three percent of the total available funds to assure that each state will have sufficient resources to maintain statewide employment service activities, as required under section 6(b)(4) of the Wagner-Peyser Act. In accordance with this provision, the three percent set-aside funds are included in the total planning estimate. The set-aside funds are distributed in two steps to states that have lost in relative share of resources from the previous year. In Step 1, states that have a CLF below one million and are also below the median CLF density are maintained at 100 percent of their relative share of prior year resources. All remaining set-aside funds are distributed on a pro-rata basis in Step 2 to all other states losing in relative share from the prior year but not meeting the size and density criteria for Step 1. Under section 7 of the Wagner-Peyser Act, ten percent of the total sums allotted to each state shall be reserved for use by the Governor to provide performance incentives for ES offices; services for groups with special needs; and for the extra costs of exemplary models for delivering job services.

Work Opportunity Tax Credit and Welfare-to-Work Tax Credit Programs: Grants to States. Total funding for FY 2004 is $20,740,902. Attachment VI shows the PY 2004 Work Opportunity Tax Credit and Welfare-to-Work Tax Credit (WOTC/WtW) grants by state. After reserving $580,745 for postage and $20,000 for the Virgin Islands, funds are distributed to states by administrative formula with a $64,000 minimum allotment and a 95% stop-loss/120% stop-gain from the prior year allotment share percentage. The allocation formula is as follows:

(1) 50% based on each state's relative share of total FY 2003 certifications issued for the WOTC/WtW Tax Credit programs;

(2) 30% based on each state's relative share of the CLF for twelve months ending September 2003; and

(3) 20% based on each state's relative share of the adult recipients of Temporary Assistance for Needy Families (TANF) for FY 2002.

Signed at Washington, DC, this 22nd day of March, 2004.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

BILLING CODE 4510–30–P

Attachment I

U.S. Department of Labor
Employment and Training Administration
WIA Youth Activities State Allotments
Comparison of PY 2004 vs PY 2003

State	PY 2003	PY 2004	Difference	% Difference
Total	**$994,458,727**	**$995,059,306**	**$600,579**	**0.06%**
Alabama	16,855,132	15,180,497	(1,674,635)	-9.94%
Alaska	3,222,244	3,059,190	(163,054)	-5.06%
Arizona	17,618,550	18,651,315	1,032,765	5.86%
Arkansas	9,192,466	8,279,152	(913,314)	-9.94%
California	144,177,321	141,024,592	(3,152,729)	-2.19%
Colorado	8,308,353	10,808,605	2,500,252	30.09%
Connecticut	7,550,224	7,565,617	15,393	0.20%
Delaware	2,723,213	2,452,649	(270,564)	-9.94%
District of Columbia	3,281,736	2,955,680	(326,056)	-9.94%
Florida	44,092,006	42,102,288	(1,989,718)	-4.51%
Georgia	18,088,873	20,753,840	2,664,967	14.73%
Hawaii	4,380,988	3,945,717	(435,271)	-9.94%
Idaho	3,736,937	3,759,244	22,307	0.60%
Illinois	47,822,181	46,051,436	(1,770,745)	-3.70%
Indiana	15,599,164	16,271,301	672,137	4.31%
Iowa	3,789,782	4,930,250	1,140,468	30.09%
Kansas	5,538,059	7,204,640	1,666,581	30.09%
Kentucky	15,843,538	14,269,410	(1,574,128)	-9.94%
Louisiana	21,820,346	19,652,395	(2,167,951)	-9.94%
Maine	3,044,815	2,959,879	(84,936)	-2.79%
Maryland	11,663,795	10,504,944	(1,158,851)	-9.94%
Massachusetts	12,704,666	16,527,910	3,823,244	30.09%
Michigan	40,644,085	36,605,909	(4,038,176)	-9.94%
Minnesota	8,959,275	9,540,062	580,787	6.48%
Mississippi	13,711,722	12,349,400	(1,362,322)	-9.94%
Missouri	16,181,718	16,241,262	59,544	0.37%
Montana	3,198,764	2,880,952	(317,812)	-9.94%
Nebraska	2,723,213	2,765,459	42,246	1.55%
Nevada	5,714,424	5,146,670	(567,754)	-9.94%
New Hampshire	2,723,213	2,452,649	(270,564)	-9.94%
New Jersey	23,237,116	25,271,181	2,034,065	8.75%
New Mexico	8,232,569	7,414,626	(817,943)	-9.94%
New York	66,245,602	69,091,107	2,845,505	4.30%
North Carolina	26,917,963	29,968,970	3,051,007	11.33%
North Dakota	2,723,213	2,452,649	(270,564)	-9.94%
Ohio	39,875,453	38,602,812	(1,272,641)	-3.19%
Oklahoma	7,741,715	9,267,999	1,526,284	19.72%
Oregon	15,487,173	16,672,248	1,185,075	7.65%
Pennylvania	32,978,730	39,850,805	6,872,075	20.84%
Puerto Rico	43,696,441	39,354,999	(4,341,442)	-9.94%
Rhode Island	2,723,213	3,146,239	423,026	15.53%
South Carolina	14,607,125	14,156,036	(451,089)	-3.09%
South Dakota	2,723,213	2,452,649	(270,564)	-9.94%
Tennessee	18,331,645	16,510,312	(1,821,333)	-9.94%
Texas	82,983,454	84,072,503	1,089,049	1.31%
Utah	4,360,660	5,672,923	1,312,263	30.09%
Vermont	2,723,213	2,452,649	(270,564)	-9.94%
Virginia	14,274,975	13,081,864	(1,193,111)	-8.36%
Washington	27,578,685	26,080,073	(1,498,612)	-5.43%
West Virginia	8,415,446	7,579,333	(836,113)	-9.94%
Wisconsin	13,453,552	15,148,228	1,694,676	12.60%
Wyoming	2,723,213	2,452,649	(270,564)	-9.94%
State Total	**976,945,172**	**977,645,768**	**700,596**	**0.07%**
American Samoa	91,717	79,079	(12,638)	-13.78%
Guam	896,485	772,960	(123,525)	-13.78%
Marshall Islands	207,764	258,753	50,989	24.54%
Micronesia	462,834	557,876	95,042	20.53%
Northern Marianas	208,474	179,749	(28,725)	-13.78%
Palau	75,000	75,000	0	0.00%
Virgin Islands	654,400	564,231	(90,169)	-13.78%
Outlying Areas Total	**2,596,674**	**2,487,648**	**(109,026)**	**-4.20%**
Native Americans	14,916,881	14,925,890	9,009	0.06%

Attachment II-A

U. S. Department of Labor
Employment and Training Administration
WIA Adult Activities
2004 Appropriation Rescission to PY 2003 State Allotments
(Applicable to Funds Available 10/1/03)

State	Initial Allotment			FY 2004	Revised Allotment with Rescission		
	Total	7/1/2003 (PY 2003)	10/1/2003 (FY 2004)	0.59% Rescission	Total	7/1/2003 (PY 2003)	10/1/2003 (FY 2004)
Total	**$898,778,000**	**$186,778,000**	**$712,000,000**	**($4,200,800)**	**$894,577,200**	**$186,778,000**	**$707,799,200**
Alabama	15,809,885	3,285,504	12,524,381	(73,894)	15,735,991	3,285,504	12,450,487
Alaska	3,088,814	641,897	2,446,917	(14,437)	3,074,377	641,897	2,432,480
Arizona	16,106,496	3,347,144	12,759,352	(75,280)	16,031,216	3,347,144	12,684,072
Arkansas	8,510,825	1,768,662	6,742,163	(39,779)	8,471,046	1,768,662	6,702,384
California	128,352,398	26,673,331	101,679,067	(599,906)	127,752,492	26,673,331	101,079,161
Colorado	6,385,170	1,326,923	5,058,247	(29,844)	6,355,326	1,326,923	5,028,403
Connecticut	5,163,259	1,072,994	4,090,265	(24,133)	5,139,126	1,072,994	4,066,132
Delaware	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
District of Columbia	3,043,319	632,442	2,410,877	(14,224)	3,029,095	632,442	2,396,653
Florida	42,506,473	8,833,409	33,673,064	(198,671)	42,307,802	8,833,409	33,474,393
Georgia	16,416,374	3,411,540	13,004,834	(76,729)	16,339,645	3,411,540	12,928,105
Hawaii	4,172,547	867,111	3,305,436	(19,502)	4,153,045	867,111	3,285,934
Idaho	3,495,034	726,314	2,768,720	(16,335)	3,478,699	726,314	2,752,385
Illinois	43,516,543	9,043,315	34,473,228	(203,392)	43,313,151	9,043,315	34,269,836
Indiana	11,983,210	2,490,270	9,492,940	(56,008)	11,927,202	2,490,270	9,436,932
Iowa	3,479,855	723,160	2,756,695	(16,265)	3,463,590	723,160	2,740,430
Kansas	5,225,669	1,085,963	4,139,706	(24,424)	5,201,245	1,085,963	4,115,282
Kentucky	15,065,366	3,130,783	11,934,583	(70,414)	14,994,952	3,130,783	11,864,169
Louisiana	20,586,135	4,278,072	16,308,063	(96,218)	20,489,917	4,278,072	16,211,845
Maine	2,529,979	525,763	2,004,216	(11,825)	2,518,154	525,763	1,992,391
Maryland	11,140,826	2,315,211	8,825,615	(52,071)	11,088,755	2,315,211	8,773,544
Massachusetts	9,146,541	1,900,773	7,245,768	(42,750)	9,103,791	1,900,773	7,203,018
Michigan	37,426,616	7,777,748	29,648,868	(174,928)	37,251,688	7,777,748	29,473,940
Minnesota	8,451,933	1,756,424	6,695,509	(39,504)	8,412,429	1,756,424	6,656,005
Mississippi	12,333,253	2,563,014	9,770,239	(57,644)	12,275,609	2,563,014	9,712,595
Missouri	15,255,516	3,170,299	12,085,217	(71,303)	15,184,213	3,170,299	12,013,914
Montana	3,195,672	664,103	2,531,569	(14,936)	3,180,736	664,103	2,516,633
Nebraska	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
Nevada	5,480,233	1,138,865	4,341,368	(25,614)	5,454,619	1,138,865	4,315,754
New Hampshire	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
New Jersey	20,462,777	4,252,437	16,210,340	(95,641)	20,367,136	4,252,437	16,114,699
New Mexico	7,553,274	1,569,671	5,983,603	(35,303)	7,517,971	1,569,671	5,948,300
New York	64,833,150	13,473,189	51,359,961	(303,024)	64,530,126	13,473,189	51,056,937
North Carolina	25,828,772	5,367,562	20,461,210	(120,721)	25,708,051	5,367,562	20,340,489
North Dakota	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
Ohio	37,400,608	7,772,343	29,628,265	(174,807)	37,225,801	7,772,343	29,453,458
Oklahoma	7,266,384	1,510,051	5,756,333	(33,962)	7,232,422	1,510,051	5,722,371
Oregon	14,899,673	3,096,350	11,803,323	(69,640)	14,830,033	3,096,350	11,733,683
Pennsylvania	31,825,313	6,613,722	25,211,591	(148,748)	31,676,565	6,613,722	25,062,843
Puerto Rico	41,861,405	8,699,356	33,162,049	(195,656)	41,665,749	8,699,356	32,966,393
Rhode Island	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
South Carolina	13,621,665	2,830,763	10,790,902	(63,666)	13,557,999	2,830,763	10,727,236
South Dakota	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
Tennessee	17,352,119	3,606,001	13,746,118	(81,102)	17,271,017	3,606,001	13,665,016
Texas	74,481,312	15,478,205	59,003,107	(348,118)	74,133,194	15,478,205	58,654,989
Utah	3,532,009	733,998	2,798,011	(16,508)	3,515,501	733,998	2,781,503
Vermont	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
Virginia	13,305,145	2,764,986	10,540,159	(62,187)	13,242,958	2,764,986	10,477,972
Washington	25,857,712	5,373,576	20,484,136	(120,856)	25,736,856	5,373,576	20,363,280
West Virginia	8,091,380	1,681,496	6,409,884	(37,818)	8,053,562	1,681,496	6,372,066
Wisconsin	12,559,792	2,610,091	9,949,701	(58,703)	12,501,089	2,610,091	9,890,998
Wyoming	2,241,328	465,778	1,775,550	(10,476)	2,230,852	465,778	1,765,074
State Total	**896,531,055**	**186,311,055**	**710,220,000**	**(4,190,298)**	**892,340,757**	**186,311,055**	**706,029,702**
American Samoa	98,425	20,454	77,971	(460)	97,965	20,454	77,511
Guam	477,793	99,292	378,501	(2,233)	475,560	99,292	376,268
Marshall Islands	209,054	43,444	165,610	(977)	208,077	43,444	164,633
Micronesia	452,668	94,070	358,598	(2,116)	450,552	94,070	356,482
Northern Marianas	293,977	61,092	232,885	(1,374)	292,603	61,092	231,511
Palau	75,000	15,586	59,414	(351)	74,649	15,586	59,063
Virgin Islands	640,028	133,007	507,021	(2,991)	637,037	133,007	504,030
Outlying Areas Total	**2,246,945**	**466,945**	**1,780,000**	**(10,502)**	**2,236,443**	**466,945**	**1,769,498**

Attachment II-B

U.S. Department of Labor
Employment and Training Administration
WIA Adult Activities State Allotments
Comparison of PY 2004 vs PY 2003

State	PY 2003 (Post - .59% Rescission)	PY 2004	Difference	% Difference
Total	**$894,577,200**	**$898,890,800**	**$4,313,600**	**0.48%**
Alabama	15,735,991	14,230,682	(1,505,309)	-9.57%
Alaska	3,074,377	2,859,064	(215,313)	-7.00%
Arizona	16,031,216	17,371,272	1,340,056	8.36%
Arkansas	8,471,046	7,660,704	(810,342)	-9.57%
California	127,752,492	132,993,142	5,240,650	4.10%
Colorado	6,355,326	8,301,763	1,946,437	30.63%
Connecticut	5,139,126	6,461,241	1,322,115	25.73%
Delaware	2,230,852	2,241,609	10,757	0.48%
District of Columbia	3,029,095	2,739,331	(289,764)	-9.57%
Florida	42,307,802	41,406,006	(901,796)	-2.13%
Georgia	16,339,645	18,949,765	2,610,120	15.97%
Hawaii	4,153,045	3,755,764	(397,281)	-9.57%
Idaho	3,478,699	3,145,925	(332,774)	-9.57%
Illinois	43,313,151	41,671,909	(1,641,242)	-3.79%
Indiana	11,927,202	13,699,135	1,771,933	14.86%
Iowa	3,463,590	3,546,110	82,520	2.38%
Kansas	5,201,245	5,888,626	687,381	13.22%
Kentucky	14,994,952	13,560,531	(1,434,421)	-9.57%
Louisiana	20,489,917	18,529,847	(1,960,070)	-9.57%
Maine	2,518,154	2,726,619	208,465	8.28%
Maryland	11,088,755	10,028,002	(1,060,753)	-9.57%
Massachusetts	9,103,791	11,891,996	2,788,205	30.63%
Michigan	37,251,688	33,688,182	(3,563,506)	-9.57%
Minnesota	8,412,429	7,736,245	(676,184)	-8.04%
Mississippi	12,275,609	11,101,321	(1,174,288)	-9.57%
Missouri	15,184,213	14,551,508	(632,705)	-4.17%
Montana	3,180,736	2,876,466	(304,270)	-9.57%
Nebraska	2,230,852	2,241,609	10,757	0.48%
Nevada	5,454,619	4,999,958	(454,661)	-8.34%
New Hampshire	2,230,852	2,241,609	10,757	0.48%
New Jersey	20,367,136	24,489,068	4,121,932	20.24%
New Mexico	7,517,971	6,798,800	(719,171)	-9.57%
New York	64,530,126	66,385,630	1,855,504	2.88%
North Carolina	25,708,051	27,191,090	1,483,039	5.77%
North Dakota	2,230,852	2,241,609	10,757	0.48%
Ohio	37,225,801	34,885,528	(2,340,273)	-6.29%
Oklahoma	7,232,422	8,476,875	1,244,453	17.21%
Oregon	14,830,033	15,300,146	470,113	3.17%
Pennylvania	31,676,565	35,610,304	3,933,739	12.42%
Puerto Rico	41,665,749	37,679,993	(3,985,756)	-9.57%
Rhode Island	2,230,852	2,508,668	277,816	12.45%
South Carolina	13,557,999	13,014,315	(543,684)	-4.01%
South Dakota	2,230,852	2,241,609	10,757	0.48%
Tennessee	17,271,017	15,618,867	(1,652,150)	-9.57%
Texas	74,133,194	76,924,235	2,791,041	3.76%
Utah	3,515,501	4,592,188	1,076,687	30.63%
Vermont	2,230,852	2,241,609	10,757	0.48%
Virginia	13,242,958	11,976,133	(1,266,825)	-9.57%
Washington	25,736,856	23,274,862	(2,461,994)	-9.57%
West Virginia	8,053,562	7,283,156	(770,406)	-9.57%
Wisconsin	12,501,089	12,571,338	70,249	0.56%
Wyoming	2,230,852	2,241,609	10,757	0.48%
State Total	**892,340,757**	**896,643,573**	**4,302,816**	**0.48%**
American Samoa	97,965	88,594	(9,371)	-9.57%
Guam	475,560	459,478	(16,082)	-3.38%
Marshall Islands	208,077	271,804	63,727	30.63%
Micronesia	450,552	511,641	61,089	13.56%
Northern Marianas	292,603	264,613	(27,990)	-9.57%
Palau	74,649	75,000	351	0.47%
Virgin Islands	637,037	576,097	(60,940)	-9.57%
Outlying Areas Total	**2,236,443**	**2,247,227**	**10,784**	**0.48%**

Attachment III-A

U. S. Department of Labor
Employment and Training Administration
WIA Dislocated Worker Activities
2004 Appropriation Rescission to PY 2003 State Allotments
(Applicable to Funds Available 10/1/03)

State	Initial Allotment			FY 2004	Revised Allotment with Rescission		
	Total	7/1/2003 Rev (PY 2003)	10/1/2003 Rev (FY 2004)	0.59% Rescission	Total	7/1/2003 (PY 2003)	10/1/2003 (FY 2004)
Total	**$1,431,340,495**	**$371,340,495**	**$1,060,000,000**	**($6,254,000)**	**$1,425,086,495**	**$371,340,495**	**$1,053,746,000**
Alabama	19,733,903	5,247,201	14,486,702	(85,472)	19,648,431	5,247,201	14,401,230
Alaska	3,547,956	943,394	2,604,562	(15,367)	3,532,589	943,394	2,589,195
Arizona	19,319,754	5,137,079	14,182,675	(83,678)	19,236,076	5,137,079	14,098,997
Arkansas	8,418,083	2,238,349	6,179,734	(36,460)	8,381,623	2,238,349	6,143,274
California	181,903,156	48,367,641	133,535,515	(787,860)	181,115,296	48,367,641	132,747,655
Colorado	12,699,522	3,376,774	9,322,748	(55,004)	12,644,518	3,376,774	9,267,744
Connecticut	6,574,440	1,748,129	4,826,311	(28,475)	6,545,965	1,748,129	4,797,836
Delaware	1,626,875	432,582	1,194,293	(7,046)	1,619,829	432,582	1,187,247
District of Columbia	3,426,849	911,191	2,515,658	(14,842)	3,412,007	911,191	2,500,816
Florida	56,772,587	15,095,704	41,676,883	(245,894)	56,526,693	15,095,704	41,430,989
Georgia	19,959,194	5,307,105	14,652,089	(86,447)	19,872,747	5,307,105	14,565,642
Hawaii	3,523,052	936,772	2,586,280	(15,259)	3,507,793	936,772	2,571,021
Idaho	4,620,076	1,228,468	3,391,608	(20,010)	4,600,066	1,228,468	3,371,598
Illinois	63,948,516	17,003,767	46,944,749	(276,974)	63,671,542	17,003,767	46,667,775
Indiana	18,749,009	4,985,319	13,763,690	(81,206)	18,667,803	4,985,319	13,682,484
Iowa	4,754,065	1,264,095	3,489,970	(20,591)	4,733,474	1,264,095	3,469,379
Kansas	5,885,172	1,564,854	4,320,318	(25,490)	5,859,682	1,564,854	4,294,828
Kentucky	15,391,281	4,092,507	11,298,774	(66,663)	15,324,618	4,092,507	11,232,111
Louisiana	22,202,620	5,903,627	16,298,993	(96,164)	22,106,456	5,903,627	16,202,829
Maine	2,416,484	642,538	1,773,946	(10,466)	2,406,018	642,538	1,763,480
Maryland	13,878,761	3,690,331	10,188,430	(60,112)	13,818,649	3,690,331	10,128,318
Massachusetts	16,346,535	4,346,507	12,000,028	(70,800)	16,275,735	4,346,507	11,929,228
Michigan	49,265,375	13,099,553	36,165,822	(213,378)	49,051,997	13,099,553	35,952,444
Minnesota	10,861,209	2,887,971	7,973,238	(47,042)	10,814,167	2,887,971	7,926,196
Mississippi	15,052,083	4,002,315	11,049,768	(65,194)	14,986,889	4,002,315	10,984,574
Missouri	17,431,907	4,635,105	12,796,802	(75,501)	17,356,406	4,635,105	12,721,301
Montana	2,077,280	552,344	1,524,936	(8,997)	2,068,283	552,344	1,515,939
Nebraska	2,888,995	768,177	2,120,818	(12,513)	2,876,482	768,177	2,108,305
Nevada	9,376,689	2,493,241	6,883,448	(40,612)	9,336,077	2,493,241	6,842,836
New Hampshire	2,502,182	665,325	1,836,857	(10,837)	2,491,345	665,325	1,826,020
New Jersey	30,098,146	8,003,030	22,095,116	(130,361)	29,967,785	8,003,030	21,964,755
New Mexico	7,082,177	1,883,135	5,199,042	(30,674)	7,051,503	1,883,135	5,168,368
New York	85,640,106	22,771,512	62,868,594	(370,925)	85,269,181	22,771,512	62,497,669
North Carolina	43,544,252	11,578,319	31,965,933	(188,599)	43,355,653	11,578,319	31,777,334
North Dakota	950,765	252,806	697,959	(4,118)	946,647	252,806	693,841
Ohio	39,264,551	10,440,356	28,824,195	(170,063)	39,094,488	10,440,356	28,654,132
Oklahoma	6,353,809	1,689,464	4,664,345	(27,520)	6,326,289	1,689,464	4,636,825
Oregon	25,742,763	6,844,943	18,897,820	(111,497)	25,631,266	6,844,943	18,786,323
Pennsylvania	44,985,677	11,961,591	33,024,086	(194,842)	44,790,835	11,961,591	32,829,244
Puerto Rico	36,968,824	9,829,927	27,138,897	(160,119)	36,808,705	9,829,927	26,978,778
Rhode Island	2,582,668	686,726	1,895,942	(11,186)	2,571,482	686,726	1,884,756
South Carolina	17,690,855	4,703,959	12,986,896	(76,623)	17,614,232	4,703,959	12,910,273
South Dakota	1,278,341	339,908	938,433	(5,537)	1,272,804	339,908	932,896
Tennessee	17,752,044	4,720,229	13,031,815	(76,888)	17,675,156	4,720,229	12,954,927
Texas	91,566,972	24,347,452	67,219,520	(396,595)	91,170,377	24,347,452	66,822,925
Utah	6,466,518	1,719,433	4,747,085	(28,008)	6,438,510	1,719,433	4,719,077
Vermont	1,298,772	345,341	953,431	(5,625)	1,293,147	345,341	947,806
Virginia	14,032,707	3,731,265	10,301,442	(60,779)	13,971,928	3,731,265	10,240,663
Washington	39,395,498	10,475,175	28,920,323	(170,630)	39,224,868	10,475,175	28,749,693
West Virginia	6,944,168	1,846,439	5,097,729	(30,077)	6,914,091	1,846,439	5,067,652
Wisconsin	19,403,913	5,159,457	14,244,456	(84,042)	19,319,871	5,159,457	14,160,414
Wyoming	955,311	254,015	701,296	(4,138)	951,173	254,015	697,158
State Total	**1,155,152,447**	**307,152,447**	**848,000,000**	**(5,003,200)**	**1,150,149,247**	**307,152,447**	**842,996,800**
American Samoa	156,745	36,429	120,316	(710)	156,035	36,429	119,606
Guam	760,747	176,803	583,944	(3,445)	757,302	176,803	580,499
Marshall Islands	332,926	77,374	255,552	(1,508)	331,418	77,374	254,044
Micronesia	720,743	167,506	553,237	(3,264)	717,479	167,506	549,973
Northern Marianas	468,072	108,783	359,289	(2,120)	465,952	108,783	357,169
Palau	120,059	27,903	92,156	(544)	119,515	27,903	91,612
Virgin Islands	1,019,059	236,836	782,223	(4,615)	1,014,444	236,836	777,608
Outlying Areas Total	**3,578,351**	**831,634**	**2,746,717**	**(16,206)**	**3,562,145**	**831,634**	**2,730,511**
National Reserve	272,609,697	63,356,414	209,253,283	(1,234,594)	271,375,103	63,356,414	208,018,689

Attachment III-B

U.S. Department of Labor
Employment and Training Administration

WIA Dislocated Worker Activities State Allotments
Comparison of PY 2004 vs PY 2003

State	PY 2003 (Post - .59% Rescission)	PY 2004	Difference	% Difference
Total	**$1,425,086,495**	**$1,454,419,116**	**$29,332,621**	**2.06%**
Alabama	19,648,431	15,915,250	(3,733,181)	-19.00%
Alaska	3,532,589	4,052,945	520,356	14.73%
Arizona	19,236,076	19,795,977	559,901	2.91%
Arkansas	8,381,623	7,971,448	(410,175)	-4.89%
California	181,115,296	182,472,003	1,356,707	0.75%
Colorado	12,644,518	17,386,544	4,742,026	37.50%
Connecticut	6,545,965	9,017,462	2,471,497	37.76%
Delaware	1,619,829	1,443,317	(176,512)	-10.90%
District of Columbia	3,412,007	3,293,130	(118,877)	-3.48%
Florida	56,526,693	53,987,825	(2,538,868)	-4.49%
Georgia	19,872,747	23,938,297	4,065,550	20.46%
Hawaii	3,507,793	2,241,272	(1,266,521)	-36.11%
Idaho	4,600,066	4,534,083	(65,983)	-1.43%
Illinois	63,671,542	65,073,898	1,402,356	2.20%
Indiana	18,667,803	17,558,760	(1,109,043)	-5.94%
Iowa	4,733,474	5,676,652	943,178	19.93%
Kansas	5,859,682	7,243,275	1,383,593	23.61%
Kentucky	15,324,618	14,434,214	(890,404)	-5.81%
Louisiana	22,106,456	18,036,776	(4,069,680)	-18.41%
Maine	2,406,018	2,746,735	340,717	14.16%
Maryland	13,818,649	11,824,549	(1,994,100)	-14.43%
Massachusetts	16,275,735	25,342,096	9,066,361	55.70%
Michigan	49,051,997	50,409,392	1,357,395	2.77%
Minnesota	10,814,167	11,249,351	435,184	4.02%
Mississippi	14,986,889	13,723,973	(1,262,916)	-8.43%
Missouri	17,356,406	19,360,228	2,003,822	11.55%
Montana	2,068,283	1,621,508	(446,775)	-21.60%
Nebraska	2,876,482	2,851,401	(25,081)	-0.87%
Nevada	9,336,077	6,980,038	(2,356,039)	-25.24%
New Hampshire	2,491,345	2,880,523	389,178	15.62%
New Jersey	29,967,785	36,042,634	6,074,849	20.27%
New Mexico	7,051,503	6,006,672	(1,044,831)	-14.82%
New York	85,269,181	88,811,867	3,542,686	4.15%
North Carolina	43,355,653	40,837,556	(2,518,097)	-5.81%
North Dakota	946,647	1,115,928	169,281	17.88%
Ohio	39,094,488	45,565,287	6,470,799	16.55%
Oklahoma	6,326,289	8,980,008	2,653,719	41.95%
Oregon	25,631,266	23,836,272	(1,794,994)	-7.00%
Pennsylvania	44,790,835	48,164,633	3,373,798	7.53%
Puerto Rico	36,808,705	30,525,711	(6,282,994)	-17.07%
Rhode Island	2,571,482	3,448,814	877,332	34.12%
South Carolina	17,614,232	18,063,750	449,518	2.55%
South Dakota	1,272,804	996,339	(276,465)	-21.72%
Tennessee	17,675,156	15,710,419	(1,964,737)	-11.12%
Texas	91,170,377	100,044,294	8,873,917	9.73%
Utah	6,438,510	7,726,406	1,287,896	20.00%
Vermont	1,293,147	1,036,599	(256,548)	-19.84%
Virginia	13,971,928	13,135,448	(836,480)	-5.99%
Washington	39,224,868	37,037,061	(2,187,807)	-5.58%
West Virginia	6,914,091	6,853,650	(60,441)	-0.87%
Wisconsin	19,319,871	20,279,450	959,579	4.97%
Wyoming	951,173	910,583	(40,590)	-4.27%
State Total	**1,150,149,247**	**1,178,192,303**	**28,043,056**	**2.44%**
American Samoa	156,035	143,346	(12,689)	-8.13%
Guam	757,302	743,443	(13,859)	-1.83%
Marshall Islands	331,418	439,783	108,365	32.70%
Micronesia	717,479	827,843	110,364	15.38%
Northern Marianas	465,952	428,148	(37,804)	-8.11%
Palau	119,515	121,351	1,836	1.54%
Virgin Islands	1,014,444	932,134	(82,310)	-8.11%
Outlying Areas Total	**3,562,145**	**3,636,048**	**73,903**	**2.07%**
National Reserve	271,375,103	272,590,765	1,215,662	0.45%

Attachment IV

U.S. Department of Labor

Employment and Training Administration

Additional PY 2004 Funding from Dislocated Worker National Emergency Reserve for Adult/Dislocated Worker Activities for Eligible States

** Per WIA Sec. 173(e): Up to $15 million from Dislocated Workers Emergency reserve is to be made available to not more than 8 States with the largest ratio of JTPA formula amount to WIA formula amount.*

State	WIA Calculation	JTPA Calculation	JTPA less WIA	JTPA less Quotient	Eligible * States	Additional $*
Total	**$896,643,573**	**$896,507,929**	**($135,644)**		**3**	**$7,872,467**
Alabama	14,230,682	14,228,529	(2,153)	99.9849%		
Alaska	2,859,064	2,822,091	(36,973)	98.7068%		
Arizona	17,371,272	17,153,610	(217,662)	98.7470%		
Arkansas	7,660,704	7,659,545	(1,159)	99.9849%		
California	132,993,142	131,309,834	(1,683,308)	98.7343%		
Colorado	8,301,763	12,489,597	4,187,834	150.4451%	1	4,187,834
Connecticut	6,461,241	6,380,936	(80,305)	98.7571%		
Delaware	2,241,609	2,241,270	(339)	99.9849%		
District of Columbia	2,739,331	2,738,916	(415)	99.9849%		
Florida	41,406,006	40,894,823	(511,183)	98.7654%		
Georgia	18,949,765	18,719,070	(230,695)	98.7826%		
Hawaii	3,755,764	3,755,195	(569)	99.9848%		
Idaho	3,145,925	3,145,449	(476)	99.9849%		
Illinois	41,671,909	41,134,516	(537,393)	98.7104%		
Indiana	13,699,135	13,526,544	(172,591)	98.7401%		
Iowa	3,546,110	3,504,687	(41,423)	98.8319%		
Kansas	5,888,626	5,814,566	(74,060)	98.7423%		
Kentucky	13,560,531	13,558,480	(2,051)	99.9849%		
Louisiana	18,529,847	18,527,044	(2,803)	99.9849%		
Maine	2,726,619	2,693,598	(33,021)	98.7889%		
Maryland	10,028,002	10,026,485	(1,517)	99.9849%		
Massachusetts	11,891,996	15,154,213	3,262,217	127.4320%	1	3,262,217
Michigan	33,688,182	33,683,086	(5,096)	99.9849%		
Minnesota	7,736,245	7,644,029	(92,216)	98.8080%		
Mississippi	11,101,321	11,099,641	(1,680)	99.9849%		
Missouri	14,551,508	14,369,178	(182,330)	98.7470%		
Montana	2,876,466	2,876,031	(435)	99.9849%		
Nebraska	2,241,609	2,241,270	(339)	99.9849%		
Nevada	4,999,958	4,937,967	(61,991)	98.7602%		
New Hampshire	2,241,609	2,241,270	(339)	99.9849%		
New Jersey	24,489,068	24,175,326	(313,742)	98.7188%		
New Mexico	6,798,800	6,797,771	(1,029)	99.9849%		
New York	66,385,630	65,558,240	(827,390)	98.7537%		
North Carolina	27,191,090	26,842,783	(348,307)	98.7190%		
North Dakota	2,241,609	2,241,270	(339)	99.9849%		
Ohio	34,885,528	34,438,061	(447,467)	98.7173%		
Oklahoma	8,476,875	8,374,512	(102,363)	98.7924%		
Oregon	15,300,146	15,101,806	(198,340)	98.7037%		
Pennylvania	35,610,304	35,159,281	(451,023)	98.7334%		
Puerto Rico	37,679,993	37,674,293	(5,700)	99.9849%		
Rhode Island	2,508,668	2,477,478	(31,190)	98.7567%		
South Carolina	13,014,315	12,851,899	(162,416)	98.7520%		
South Dakota	2,241,609	2,241,270	(339)	99.9849%		
Tennessee	15,618,867	15,616,504	(2,363)	99.9849%		
Texas	76,924,235	75,949,169	(975,066)	98.7324%		
Utah	4,592,188	5,014,604	422,416	109.1986%	1	422,416
Vermont	2,241,609	2,241,270	(339)	99.9849%		
Virginia	11,976,133	11,974,322	(1,811)	99.9849%		
Washington	23,274,862	23,271,341	(3,521)	99.9849%		
West Virginia	7,283,156	7,282,054	(1,102)	99.9849%		
Wisconsin	12,571,338	12,411,935	(159,403)	98.7320%		
Wyoming	2,241,609	2,241,270	(339)	99.9849%		

Attachment V

U. S. Department of Labor
Employment and Training Administration
Employment Service (Wagner-Peyser)
PY 2004 Final vs PY 2003 Final Allotments

State	Final PY 2003	Final PY 2004	Difference	% Difference
Total	**$756,783,722**	**$752,319,968**	**($4,463,754)**	**-0.59%**
Alabama	10,553,788	10,393,066	(160,722)	-1.52%
Alaska	8,030,931	7,982,408	(48,523)	-0.60%
Arizona	12,708,064	12,562,304	(145,760)	-1.15%
Arkansas	6,112,317	6,049,046	(63,271)	-1.04%
California	87,026,157	86,120,277	(905,880)	-1.04%
Colorado	11,310,375	11,446,619	136,244	1.20%
Connecticut	7,858,518	8,081,689	223,171	2.84%
Delaware	2,063,552	2,051,084	(12,468)	-0.60%
District of Columbia	3,121,006	3,047,445	(73,561)	-2.36%
Florida	36,944,410	36,603,194	(341,216)	-0.92%
Georgia	19,256,784	19,104,848	(151,936)	-0.79%
Hawaii	2,987,670	2,917,251	(70,419)	-2.36%
Idaho	6,691,195	6,650,767	(40,428)	-0.60%
Illinois	31,475,936	31,142,250	(333,686)	-1.06%
Indiana	14,373,896	14,245,240	(128,656)	-0.90%
Iowa	6,972,545	6,913,737	(58,808)	-0.84%
Kansas	6,482,034	6,435,283	(46,751)	-0.72%
Kentucky	9,652,389	9,524,881	(127,508)	-1.32%
Louisiana	10,518,812	10,347,040	(171,772)	-1.63%
Maine	3,979,190	3,955,148	(24,042)	-0.60%
Maryland	13,115,865	12,932,357	(183,508)	-1.40%
Massachusetts	15,782,983	15,671,959	(111,024)	-0.70%
Michigan	25,159,933	24,993,149	(166,784)	-0.66%
Minnesota	12,501,180	12,713,063	211,883	1.69%
Mississippi	6,850,823	6,719,219	(131,604)	-1.92%
Missouri	14,008,971	13,884,974	(123,997)	-0.89%
Montana	5,468,079	5,435,041	(33,038)	-0.60%
Nebraska	6,571,557	6,531,851	(39,706)	-0.60%
Nevada	5,214,637	5,162,089	(52,548)	-1.01%
New Hampshire	3,083,468	3,055,738	(27,730)	-0.90%
New Jersey	20,384,182	20,228,282	(155,900)	-0.76%
New Mexico	6,136,146	6,099,071	(37,075)	-0.60%
New York	45,169,427	44,729,961	(439,466)	-0.97%
North Carolina	20,470,545	20,295,652	(174,893)	-0.85%
North Dakota	5,568,141	5,534,498	(33,643)	-0.60%
Ohio	27,526,534	27,478,392	(48,142)	-0.17%
Oklahoma	7,713,677	7,672,154	(41,523)	-0.54%
Oregon	9,468,627	9,596,897	128,270	1.35%
Pennylvania	29,420,399	29,038,471	(381,928)	-1.30%
Puerto Rico	9,538,343	9,348,366	(189,977)	-1.99%
Rhode Island	2,506,567	2,533,912	27,345	1.09%
South Carolina	9,607,931	9,638,907	30,976	0.32%
South Dakota	5,146,242	5,115,148	(31,094)	-0.60%
Tennessee	13,368,481	13,284,936	(83,545)	-0.62%
Texas	51,580,580	52,387,223	806,643	1.56%
Utah	9,399,693	9,178,145	(221,548)	-2.36%
Vermont	2,410,794	2,396,228	(14,566)	-0.60%
Virginia	15,892,108	15,761,242	(130,866)	-0.82%
Washington	15,903,378	15,792,772	(110,606)	-0.70%
West Virginia	5,890,382	5,854,792	(35,590)	-0.60%
Wisconsin	14,010,878	13,923,305	(87,573)	-0.63%
Wyoming	3,992,704	3,968,580	(24,124)	-0.60%
State Total	**736,982,824**	**732,529,951**	**(4,452,873)**	**-0.60%**
Guam	345,694	343,605	(2,089)	-0.60%
Virgin Islands	1,455,204	1,446,412	(8,792)	-0.60%
Postage	18,000,000	18,000,000	0	0.00%

Attachment VI

U. S. Department of Labor
Employment and Training Administration

Work Opportunity Tax Credit (WOTC)

FY 2004 vs FY 2003 State Allotments

State	FY 2003	FY 2004	Difference	% Difference
Total	**$20,863,500**	**$20,740,902**	**($122,598)**	**-0.6%**
Alabama	321,489	303,618	(17,871)	-5.6%
Alaska	65,120	64,000	(1,120)	-1.7%
Arizona	301,854	309,973	8,119	2.7%
Arkansas	350,806	331,306	(19,500)	-5.6%
California	2,264,101	2,340,303	76,202	3.4%
Colorado	188,380	182,124	(6,256)	-3.3%
Connecticut	291,411	275,212	(16,199)	-5.6%
Delaware	65,120	64,000	(1,120)	-1.7%
District of Columbia	77,206	72,914	(4,292)	-5.6%
Florida	694,927	772,632	77,705	11.2%
Georgia	564,634	533,248	(31,386)	-5.6%
Hawaii	77,206	72,914	(4,292)	-5.6%
Idaho	65,120	64,000	(1,120)	-1.7%
Illinois	1,027,830	970,696	(57,134)	-5.6%
Indiana	479,670	510,793	31,123	6.5%
Iowa	283,116	267,378	(15,738)	-5.6%
Kansas	144,164	159,639	15,475	10.7%
Kentucky	292,922	326,693	33,771	11.5%
Louisiana	491,813	464,475	(27,338)	-5.6%
Maine	89,474	84,500	(4,974)	-5.6%
Maryland	476,375	449,895	(26,480)	-5.6%
Massachusetts	428,823	404,986	(23,837)	-5.6%
Michigan	700,467	661,530	(38,937)	-5.6%
Minnesota	398,828	376,658	(22,170)	-5.6%
Mississippi	210,820	199,101	(11,719)	-5.6%
Missouri	473,061	451,556	(21,505)	-4.5%
Montana	65,120	64,000	(1,120)	-1.7%
Nebraska	124,355	125,212	857	0.7%
Nevada	132,713	125,336	(7,377)	-5.6%
New Hampshire	77,206	72,914	(4,292)	-5.6%
New Jersey	578,944	620,295	41,351	7.1%
New Mexico	199,205	188,132	(11,073)	-5.6%
New York	1,244,590	1,175,407	(69,183)	-5.6%
North Carolina	518,391	523,360	4,969	1.0%
North Dakota	65,120	64,000	(1,120)	-1.7%
Ohio	909,235	882,480	(26,755)	-2.9%
Oklahoma	198,893	198,275	(618)	-0.3%
Oregon	232,609	219,679	(12,930)	-5.6%
Pennylvania	1,003,515	947,733	(55,782)	-5.6%
Puerto Rico	147,888	139,667	(8,221)	-5.6%
Rhode Island	97,524	92,103	(5,421)	-5.6%
South Carolina	256,161	241,922	(14,239)	-5.6%
South Dakota	65,120	64,000	(1,120)	-1.7%
Tennessee	615,714	684,796	69,082	11.2%
Texas	1,236,934	1,369,008	132,074	10.7%
Utah	86,567	103,269	16,702	19.3%
Vermont	65,120	64,000	(1,120)	-1.7%
Virginia	460,013	434,442	(25,571)	-5.6%
Washington	465,582	439,702	(25,880)	-5.6%
West Virginia	136,807	157,627	20,820	15.2%
Wisconsin	386,117	364,654	(21,463)	-5.6%
Wyoming	65,120	64,000	(1,120)	-1.7%
State Total	**20,259,300**	**20,140,157**	**(119,143)**	**-0.6%**
Virgin Islands	20,000	20,000	0	0.0%
Postage	584,200	580,745	(3,455)	-0.6%

[FR Doc. 04–6703 Filed 3–24–04; 8:45 am]
BILLING CODE 4510–30–C

OFFICE OF NATIONAL DRUG CONTROL POLICY

Paperwork Reduction Act; Notice of Intent to Collect; Comment Request

AGENCY: Office of National Drug Control Policy (ONDCP).

ACTION: ONDCP provides opportunity for public comment concerning the collection of information for its 25 Cities initiative.

SUMMARY: This action proposes a continuation of ONDCP's collection of drug control information from Federal, State, and local governments.

SUPPLEMENTARY INFORMATION:

I. Background

ONDCP previously collected information to establish a baseline of Federal, State, and local drug control funding levels in the 25 largest metropolitan areas. The proposed continuation of this data collection will help ONDCP measure spending level changes, coordinate services, and develop National Drug Control Strategies.

The 25 Cities project identifies in each affected city significant movements in key drug use measures, and encourages city administrators to use proven programs that increase efficiencies and effectiveness; promote coordination and collaboration; develop commitments; and, gather accurate performance measurement data. Detailed information regarding the project is available at *www.whitehousedrugpolicy.gov.*

Type of Collection: Reinstatement with change of an approved data collection that expired.

Title of Information Collection: Survey of drug treatment, drug use prevention, and law enforcement resources available to cities identified in ONDCP's 25 Cities project.

Frequency: Annually by fiscal year.

Affected Public: Instrumentalities of State, local, and tribal governments.

Estimated Burden: Minimal since providers maintain the data for other purposes.

II. Special Issues for Comment

ONDCP especially invites comments on: (a) Whether the proposed collection is necessary for the proper performance of ONDCP functions, including whether the information has practical utility; (b) ways to enhance information quality, utility, and clarity; and (c) ways to ease the burden on respondents, including the use of automated collection techniques or other forms of information technology.

ADDRESSES: Address all comments in writing within 60 days to Terry Zobeck, Deputy Associate Director, Office of Planning and Budget. Facsimile and email are the more reliable means of communication. Mr. Zobeck's facsimile number is (202) 395–6729, and his email address is *tzobeck@ondcp.eop.gov.* Mailing address is Executive Office of the President, Office of National Drug Control Policy, Washington, DC 20503. For further information, contact Mr. Zobeck at (202) 395–5503.

Signed in Washington, DC on March 19, 2004.

Daniel R. Petersen,

Assistant General Counsel.

[FR Doc. 04–6655 Filed 3–24–04; 8:45 am]
BILLING CODE 3180–02–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection: Appeal Under the Railroad Retirement and Railroad Unemployment Insurance Act; OMB 3220–0007.

Under Section 7 (b)(3) of the Railroad Retirement Act (RRA), and section 5(c) of the Railroad Unemployment Insurance Act (RUIA) any person aggrieved by a decision on his or her application for an annuity or benefit under that Act has the right to appeal to the RRB. This right is prescribed in 20 CFR 260 and 20 CFR 320. The notification letter sent to the individual at the time of the original action on the application informs the applicant of such right. When an individual protests a decision, the concerned bureau reviews the entire file and any additional evidence submitted and sends the applicant a letter explaining the basis of the determination. The applicant is then notified that if he or she wishes to protest further, they can appeal to the RRB's Bureau of Hearings and Appeals. The procedure pertaining to the filing of such an appeal is prescribed in 20 CFR 260.5 and 260.9 and 20 CFR 320.12 and 320.38.

The form prescribed by the RRB for filing an appeal under the RRA or RUIA is form HA–1, *Appeal Under the Railroad Retirement Act or Railroad Unemployment Insurance Act.* The form asks the applicant to furnish the basis for the appeal and what additional evidence, if any, is to be submitted. Completion is voluntary, however if the information is not provided the RRB cannot process the appeal.

The RRB proposes no changes to Form HA–1. The completion time for the HA–1 is estimated at 20 minutes per response. The RRB estimates that approximately 850 Form HA–1's are completed annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 04–6662 Filed 3–24–04; 8:45 am]
BILLING CODE 7905–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

Summary: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Request for Internet Services.
(2) *Form(s) submitted:* (N/A).
(3) *OMB Number:* 3220–0198.
(4) *Expiration date of current OMB clearance:* 05/31/2004.
(5) *Type of request:* Revision.
(6) *Respondents:* Individuals or households.
(7) *Estimated annual number of respondents:* 11,760.
(8) *Total annual responses:* 23,520.
(9) *Total annual reporting hours:* 1,274.
(10) *Collection description:* The Railroad Retirement Board collects information needed to provide customers with the ability to request a Password Request Code and subsequently, to establish an individual PIN/Password, the initial steps in providing the option of conducting transactions with the RRB on a routine basis through the Internet.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained by contacting Charles Mierzwa, the agency clearance officer, at (312) 751–3363 or *Charles.Mierzwa@RRB.GOV*.

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@RRB.GOV* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. 04–6663 Filed 3–24–04; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application of GE Global Insurance Holding Corporation to Withdraw Its 7% Notes (due 2026) From Listing and Registration on the New York Stock Exchange, Inc. File No. 1–14178

March 19, 2004.

GE Global Insurance Holding Corporation, a Delaware corporation (''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 7% Notes (due 2026) (''Security''), from listing and registration on the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'').

The Issuer stated in its application that it has met the requirements of the NYSE rules governing an issuer's voluntary withdrawal of a security from listing and registration.

The Board of Directors (''Board'') of the Issuer approved a resolution on March 10, 2004 to withdraw the Issuer's Security from listing on the NYSE. The Board stated that following reasons factored into its decision to withdraw the Issuer's Security from the Exchange: (i) The limited number of holders of the Security (as of March 2, 2004, there were approximately 88 beneficial holders of the Security); (ii) the Issuer's Security trades infrequently on the NYSE and based on information provided in pricing history reports, there has been minimal trading of the Security during the three-month period prior to the date of this application; (iii) the Issuer believes that delisting the Security should not have a material impact on the holders of the Security; and (iv) the Issuer is not obligated under the indenture under which the Security was issued or any other documents to maintain a listing of the Security on the NYSE or any other exchange.

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 April 12, 2004, 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. All comment letters should refer to File No. 1–14178. 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. 04–6659 Filed 3–24–04; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49454; File No. PCAOB–2003–07]

Public Company Accounting Oversight Board; Notice of Filing of Proposed Rules Relating to Investigations and Adjudications

March 19, 2004.

Pursuant to section 107(b) of the Sarbanes-Oxley Act of 2002 (the ''Act''), notice is hereby given that on October 10, 2003, the Public Company Accounting Oversight Board (the ''Board'' or the ''PCAOB'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rules described in Items I, II, and III below, which items have been prepared by the Board. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. Board's Statement of the Terms of Substance of the Proposed Rules

On September 29, 2003, the Board adopted rules related to investigations and adjudications. The proposal includes 64 rules on investigations and adjudications (PCAOB Rules 5000 through 5501), a general rule on time computation (PCAOB Rule 1002) and 14 definitions that would appear in PCAOB Rule 1001. The text of the proposed rules is available for inspection at the Commission's Public Reference Room and on the PCOAB's Internet Web site, at *http://www.pcaobus.org.*

II. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules; Board's Statements on Burden on Competition and on Comments on the Proposed Rules

In its filing with the Commission, the Board included statements concerning the purpose of, and basis for, the proposed rules and discussed the burden on competition and any comments it received on the proposed rules. The text of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in subsections A, B and C below, of the most significant aspects of such statements.

[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).

A. Board's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

(a) Purpose

Section 105 of the Act grants the Board broad investigative and disciplinary authority over registered public accounting firms and persons associated with such firms. Specifically, the Act authorizes the Board to conduct an investigation of any act or practice, or omission to act, by a registered public accounting firm, any associated person of such firm, or both, that may violate any provision of the Act, the rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards. The Act also authorizes the Board to conduct hearings to determine whether a registered firm or associated person should be disciplined for any such violation. To implement this authority, Section 105(a) directs the Board to establish, by rule, fair procedures for the investigation and discipline of registered public accounting firms and associated persons of such firms. The Board has adopted the proposed rules and definitions to establish fair procedures for Board investigations, fair procedures for Board disciplinary proceedings, and fair sanctions for violations. Each of the rules and definitions is discussed below.

Rule 1001—Definitions of Terms Employed in Rules

Rule 1001 contains definitions of terms used in the Board's rules. The rules relating to investigations and adjudications employ certain terms that the Board is adding to the terms defined in Rule 1001.

Accounting Board Demand

Rule 1001(a)(ix) defines ''accounting board demand'' as a command to produce documents and/or to appear at a certain time and place to give testimony. The rules use this term only to identify demands made upon registered public accounting firms and associated persons of such firms. Under the Act, the Board has authority to require those firms and persons to provide any testimony or documents sought by the Board in furtherance of its responsibilities under the Act, and including in particular any testimony or documents that the Board considers relevant to an investigation.

Accounting Board Request

Rule 1001(a)(x) defines ''accounting board request'' as a request to produce documents and/or to appear at a certain time and place to give testimony. The rules use this term to distinguish the Board's efforts to obtain documents and testimony from persons other than registered public accounting firms and their associated persons.

Bar

Rule 1001(b)(ii) defines ''bar'' as a permanent disciplinary sanction prohibiting a person from being associated with a registered public accounting firm. The rules distinguish between the concepts of ''bar'' and ''suspension.'' Both sanctions, when applied to an associated person, prohibit the person from being an associated person of a registered public accounting firm. A suspension, however, as defined below, is a time-limited sanction that expires at a fixed time after which the person may resume being an associated person without any other action by the person or the Board. In contrast, a bar is a permanent sanction that does not expire unless the person petitions the Board for termination of the bar, pursuant to the provisions of the rules, and the Board grants the petition. In some cases, the Board may impose a bar that expressly provides that a person may petition for termination of the bar after a fixed period. In other cases, the Board may impose a bar with no such provision.

Counsel

Rule 1001(c)(ii) defines ''counsel'' as an attorney at law admitted to practice, and in good standing, before the Supreme Court of the United States or the highest court of any state.

Disciplinary Proceeding

Rule 1001(d)(i) defines ''disciplinary proceeding'' as a proceeding initiated by an order instituting proceedings, held for the purpose of determining (1) whether a registered public accounting firm, or any person associated with a registered public accounting firm has (a) engaged in any act or practice, or omitted to act, in violation of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards; or (b) failed reasonably to supervise an associated person in connection with any such violation by that person; or (c) failed to cooperate with the Board in connection with an investigation; and (2) whether to impose a sanction pursuant to Rule 5300.

Document

Rule 1001(d)(ii) defines ''document'' as synonymous in meaning and equal in scope to its usage in Federal Rule of Civil Procedure 34(a), including, without limitation, electronic or computerized data compilations. A draft or non-identical copy is a separate document within the meaning of this term. In no event shall the term ''document'' be construed to be limited to audit work papers.

Hearing Officer

Rule 1001(h)(i) defines ''hearing officer'' to mean a person, other than a Board member or staff of the interested division, duly authorized by the Board to preside at a hearing.

Interested Division

Rule 1001(i)(iv) defines ''interested division'' as a division or office of the Board assigned primary responsibility by the Board to participate in a particular proceeding. As a general matter, the interested division in a disciplinary proceeding will be the Division of Enforcement and Investigations, and the interested division in a hearing on disapproval of a registration application will be the Division of Registration and Inspections. The definition is adapted from Rule 101(a)(6) of the Commission's Rules of Practice.

Order Instituting Proceedings

Rule 1001(o)(ii) defines ''order instituting proceedings'' as an order issued by the Board commencing a disciplinary proceeding.

Party

Rule 1001(p)(iii) defines ''party'' as the interested division, any person named as a respondent in an order instituting proceedings or notice of a hearing, any applicant named in the caption of any order, or any person seeking Board review of a decision.

Person

Rule 1001(p)(iv) defines ''person'' as any natural person or any business, legal or governmental entity or association.

Revocation

Rule 1001(r)(iii) defines ''revocation'' as a permanent disciplinary sanction terminating a firm's registration. The rules distinguish between the concepts of ''revocation'' and ''suspension.'' Both sanctions, when applied to a firm,

prohibit the firm from preparing or issuing, or participating in the preparation or issuance of, audit reports. A suspension, however, as defined below, is a time-limited sanction that expires at a fixed time after which the firm may resume such work without any other action by the firm or the Board. In contrast, revocation is a permanent sanction that does not expire unless the firm, with the Board's permission, reapplies for registration pursuant to the provisions of the rules, and the Board approves the application. In some cases, the Board may impose a revocation that expressly provides that a firm may reapply for registration after a fixed period. In other cases, the Board may impose a revocation with no such provision.

Secretary

Rule 1001(s)(iii) defines ''Secretary'' as the Secretary of the Board.

Suspension

Rule 1001(s)(iv) defines ''suspension'' as a temporary disciplinary sanction which lapses by its own terms and prohibits (1) a registered public accounting firm from preparing or issuing, or participating in the preparation or issuance of, any audit report with respect to any issuer; or (2) a person from being associated with a registered public accounting firm. A suspension is distinct from a bar (as to an associated person) and a revocation (as to a firm) in that a suspension is a sanction that expires by its own terms at a fixed time, with no further action required of the associated person, the firm, or the Board.

Rule 1002—Time Computation

Rule 1002 describes the method by which the Board shall compute time for purposes of complying with deadlines in the Board's rules.

Rule 5000—General

Rule 5000 requires that registered public accounting firms and any associated persons of such firms comply with all Board orders to which they are subject. The Act authorizes the Board to take certain action with respect to, or require certain things of, registered public accounting firms and their associated persons. For example, the Act authorizes the Board to require such firms and persons to produce documents or to provide testimony, and the Act authorizes the Board to impose significant disciplinary sanctions on such firms and persons for various violations and for non-cooperation with Board investigations. In exercising its authority, the Board will frequently act through the vehicle of a Board order. A requirement of compliance with such orders is implicit in the authority to take the action, and Rule 5000 makes that requirement explicit.

Part 1—Inquiries and Investigations

Part 1 of the Board's Rules on Investigations and Adjudications consists of Rules 5100 through 5112. These rules address procedural matters concerning the conduct of informal inquiries by Board staff and formal Board investigations.

Rule 5100—Informal Inquiries

The Board contemplates that the staff of the Division of Enforcement and Investigations will sometimes conduct informal inquiries to determine whether to recommend that the Board open a formal investigation on a matter. Rule 5100 describes generally the circumstances in which the staff may conduct an informal inquiry (Rule 5100(a)) and the scope of the activity in which the staff may engage in an informal inquiry (Rule 5100(b)).

Under Rule 5100(a), the staff may undertake an informal inquiry where it appears to the staff that an act or practice, or an omission to act, by a registered public accounting firm or an associated person may violate the Act, the Board's rules, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards. Under Rule 5100(b), the staff may pursue an informal inquiry by requesting documents, information, or testimony from any person. The staff may not, in an informal inquiry, issue accounting board demands.

Rule 5101—Commencement and Closure of Investigations

Rule 5101 describes generally the processes by which the Board will commence and close formal investigations. The Board may commence a formal investigation when it appears that an act or practice, or omission to act, by a registered public accounting firm or any person associated with such a firm may violate any provision of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards. Rule 5101(a)(1) provides that the way the Board will commence an investigation is by issuing an order of formal investigation. Rule 5101(a)(2) provides that the Board may, in the formal order, designate Board staff members, or groups of staff members (such as a particular division or office) authorized to issue accounting board demands and otherwise require or request the cooperation of any person in connection with the investigation. Rule 5101(b) provides that the Board may issue an order suspending a formal investigation for a specified period of time or terminating a formal investigation.

Rule 5102—Testimony of Registered Public Accounting Firms and Associated Persons in Investigations

Section 105(b)(2)(A) of the Act authorizes the Board to promulgate rules requiring the testimony of any registered public accounting firm or any associated person of such a firm with respect to any matter that the Board considers relevant or material to an investigation. Rule 5102(a) implements that authority by providing that the Board and the staff of the Board designated in the order of formal investigation may require such testimony. Paragraphs (b) through (e) of Rule 5102 describe procedures related to obtaining and recording that testimony.

Rule 5102(b) provides that the Board or staff shall require testimony by serving an accounting board demand. Under the rule, the demand must give reasonable notice of the time and place for taking testimony, must describe the methods by which the testimony will be recorded, and, if the demand is directed to a firm rather than to a natural person, must supply a description with reasonable particularity of the matters on which examination is requested.

The rule does not impose any minimum period of notice for testimony, but does require reasonable notice. We anticipate that it will not be unusual for the staff to provide two to three weeks notice. We decline to codify a particular period of notice, however, because there will be circumstances in which there is no compelling reason why 21, or even 14, days notice is necessary, and there may be legitimate reasons for requiring the testimony sooner.

Rule 5102(c) describes procedures related to the actual conduct of the examination. Rule 5102(c)(1) provides that each witness shall be required to declare that the witness will testify truthfully, by oath or affirmation. The oath or affirmation provision of the rule is adapted from Federal Rule of

Evidence 603. The authority to administer and obtain such an oath or affirmation is implicit in the Board's authority to require testimony.

Rule 5102(c)(2) provides that examinations shall be conducted before a reporter designated by the Board's staff to record the examination. Rule 5102(c)(3) imposes restrictions on who may be present during the examination. Persons who may be present are limited to the witness, the witness's counsel (subject to Rule 5109(b), discussed below), any member of the Board or the Board's staff, the reporter, and any other person whom the Board or the staff designated in the order of formal investigation determine to be appropriate permit to be present. All of these provisions, however, are qualified by the restriction that in no event shall any person (other than the witness) who has been or is reasonably likely to be examined in the investigation be present. This last restriction is not limited to registered public accounting firms and associated persons of such firms but also includes any other person from whom the Board or the staff could seek to require testimony pursuant to a Commission subpoena (as described in Rule 5111).

The rule allows counsel to represent a witness and the witness's firm to the extent that such dual representation is consistent with counsel's ethical obligations generally. The rule does not allow for the presence of a firm's in-house counsel, or any other counsel, who does not enter a notice of appearance affirmatively stating that he or she represents the witness. Counsel who represents both the firm and the witness, and who, during testimony, becomes aware of a conflict that would cause him or her to cease representing the witness, may not continue to be present.

Rule 5102(c)(4) is modeled on Rule 30(b)(6) of the Federal Rules of Civil Procedure. Rule 5102(c)(4) provides that a registered public accounting firm that is required to provide testimony shall designate one or more persons to testify on its behalf and may set forth, for each person designated, the matters on which the person will testify. Those persons are then required to testify as to matters known or reasonably available to the firm.

Rule 5102(e) allows a witness a period of time, after being notified that the transcript or other recording of the examination is available for review, to describe any changes in form or substance that the witness would make and to supply the reasons for such changes. Under the rule, the transcript shall be accompanied by the reporter's certification that the witness was duly sworn and that the transcript is a true record of the testimony, and shall indicate whether the witness requested to review the transcript. The reporter shall also append to the transcript any changes to the testimony made by the witness during the review period described above.

Rule 5102(e) allow a witness 15 days to request changes to the transcript, and allows for an extension of the 15-day period with the approval of the Director of the Division of Enforcement and Investigations.

Rule 5103—Demands for Production of Audit Workpapers and Other Documents in Investigations From Registered Public Accounting Firms and Associated Persons

Section 105(b)(2)(B) of the Act authorizes the Board to promulgate rules requiring the production of audit workpapers and any other document or information in the possession of any registered public accounting firm or any associated person of such a firm, wherever domiciled, with respect to any matter that the Board considers relevant or material to an investigation. Rule 5103(a) implements that authority by providing that the Board and the staff of the Board designated in the order of formal investigation may require production of such documents and information.

Rule 5103(b) provides that an accounting board demand for documents or information shall set forth a reasonable time and place for such production. Rule 5103(b) does not impose any minimum notice requirement before production shall be due. We anticipate that it will not be unusual for the staff to provide two to three weeks notice. The rule does not codify a particular period of notice, however, because there will be circumstances in which there is no compelling reason why 21, or even 14, days notice is necessary and there may be legitimate reasons for requiring the documents sooner.

Rule 5103(b) provides that the documents produced may be photocopies unless otherwise specified in the accounting board demand. The rule also requires, however, that the originals be maintained in a reasonably accessible manner, be readily available for inspection by the staff, and not be destroyed without the staff's consent. An original document that could otherwise be destroyed consistent with any applicable document retention requirements or other legal requirements may nevertheless not be destroyed without the staff's consent if it is responsive to an accounting board demand received by the firm.

Rule 5104—Examination of Books and Records in Aid of Investigations

Section 105(b)(2)(B) of the Act authorizes the Board to promulgate rules allowing the Board to inspect the books and records of a registered public accounting firm or any associated person of such a firm, wherever domiciled, to verify the accuracy of any documents and information supplied by the firm or person in an investigation. Rule 5104 implements that authority by providing that the Board and the staff designated in an order of formal investigation may examine such books and records to verify the accuracy of any documents or information supplied in the course of an informal inquiry or formal investigation. Any such examination would be separate and apart from any Board inspection pursuant to Section 104 of the Act and the Board's rules thereunder and would not be subject to the provisions of Section 104 or the Board's rules thereunder. Rule 5104 requires that the firm or person allow such examination upon demand, and does not provide for any minimum notice period.

Rule 5105—Requests for Testimony or Production of Documents From Persons Not Associated With Registered Public Accounting Firms

Section 105(b)(2)(C) of the Act authorizes the Board to promulgate rules to request that any person, including any client of a registered public accounting firm, provide any testimony and documents that the Board considers relevant or material to an investigation. The Act requires the Board and the staff to provide appropriate notice of such requests, subject to the needs of the investigation. Rule 5105 implements that authority by providing that the Board and the staff may make such requests to any person. In this context, the rules use the term ''accounting board request'' to distinguish it from an ''accounting board demand,'' which may be made only to registered public accounting firms and associated persons of such firms.

Rule 5105 provides that the Board or staff shall give appropriate notice when requesting testimony (Rule 5105(a)(1)) and specify a reasonable time and place when requesting document production (Rule 5105(b)). What notice is appropriate for testimony, and what is a reasonable time and place for production, may vary with the circumstances and the needs of the investigation. Rule 5105(a)(1) also

provides that an accounting board request for testimony shall state the method by which the testimony shall be recorded. The rule further provides that if the person to be examined is an organized entity, rather than a natural person, the accounting board request shall provide a description with reasonable particularity of the matters on which examination is requested.

Rule 5105(a)(2) incorporates, in the context of testimony pursuant to an accounting board request, the procedural and transcript provisions of testimony pursuant to an accounting board demand, as discussed above with respect to Rules 5102(c)–(e).

Although the Board can only request, and not require, testimony or production of documents from persons other than registered public accounting firms and associated persons of such firms, the Board does have the option of seeking a Commission subpoena to require testimony or document production from any person, as discussed below with respect to Rule 5111. The note to Rule 5105 serves as a reminder that this option is available to the Board. The note, however, does not in any way limit the Board's authority to seek a Commission subpoena at any time, even if the Board has not first sought the testimony or documents through an accounting board request. Neither the note, nor anything in the Board's rules, creates any right in any person to receive an accounting board request or any other form of notice from the Board before the Board seeks a Commission subpoena to be served on that person.

Rule 5106—Assertion of Claim of Privilege

Rule 5106 imposes requirements on any person who declines to provide testimony, documents, or information required by an accounting board demand, or a demand for examination under Rule 5104, on the ground of an assertion of privilege. The rule specifies the types of information that a person must supply related to the privilege assertion. The rule is adapted from Rule 6.2 of the local rules of the District Court for the Southern District of New York. Failure to supply the required information is a violation of the rule, and may subject a person to a disciplinary proceeding for violation of a Board rule or for non-cooperation with an investigation.

Although not expressly reflected in the rule text, the Board does not intend to invade the province of any legitimately asserted privilege that would, under prevailing law, be treated as a valid basis for declining to provide documents or information in response to a Commission subpoena, including valid assertions of the privilege against self-incrimination under the Fifth Amendment to the United States Constitution. The Board fully intends, however, that assertions of the Fifth Amendment privilege may be used as evidence in Board disciplinary proceedings and will be the basis for evidentiary inferences against the person asserting the privilege. In addition, the Board may also report assertions of that privilege to other appropriate authorities consistent with our authority under the Act to share information.

Rule 5107—Uniform Definitions in Demands and Requests for Information

Rule 5107 supplies certain definitions and rules of construction that shall be deemed to be incorporated by reference into all accounting board demands and accounting board requests for information. These definitions and rules of construction are modeled on those in use by the federal districts courts in the Southern District of New York. Rule 5107 does not preclude the Board or the staff, in any particular accounting board demand or accounting board request, from defining other terms, or from using abbreviations, or supplementing or using only part of a definition of a term defined in Rule 5107.

Rule 5108—Confidentiality of Investigatory Records

Rule 5108(a) provides that unless otherwise ordered by the Board or the Commission, all documents, testimony or other information prepared or received by or specifically for the Board or its staff in connection with an informal inquiry or a formal investigation shall be confidential in the hands of the Board, unless and until presented in connection with a public proceeding or released in accordance with Section 105(c) of the Act and the Board's rules thereunder. Consistent with Section 105(b)(5) of the Act, however, Rule 5108 provides that the Board may supply any such information to the Commission and, when determined by the Board to be necessary to accomplish the purposes of the Act or to protect investors, to certain other government entities, specifically: the Attorney General of the United States, an appropriate Federal functional regulator (as defined in Section 509 of the Gramm-Leach-Bliley Act) other than the Commission if the information pertains to an audit report for an institution subject to the jurisdiction of such regulator, state attorneys general in connection with any criminal investigation, and appropriate state regulatory authorities.

Rule 5108(b) provides that nothing in paragraph (a) ''shall prohibit the Board or the staff of the Board from disclosing any documents, testimony, or other information to any other person as is reasonably necessary to carry out the Board's responsibility, under Section 105 of the Act, to conduct investigations according to fair procedures.'' The purpose of this provision is to provide notice that the Board does not interpret Section 105(b)(5)(A) to prohibit the Board from doing such fundamental things as, for example, questioning a witness about a document supplied to the staff by someone other than that witness.

Read literally and in isolation, Section 105(b)(5)(A) could be understood to prohibit the staff not only from showing exhibits to witnesses, but even from transmitting to a firm a written accounting board demand for documents, since the demand would be a document encompassed by the language of Section 105(b)(5)(A) and would therefore be confidential. We read Section 105(b)(5)(A) in light of, rather than in isolation from, the rest of Section 105. Section 105 begins by authorizing the Board to conduct investigations and requiring the Board to do so according to fair procedures. An overly literal reading of Section 105(b)(5)(A) would negate any possibility of doing so.

Rule 5108(b) reflects our understanding that the Act authorizes the Board and its staff to disclose documents and information (even if otherwise covered by Section 105(b)(5)(A)) as reasonably necessary to execute the Board's authority and responsibility to conduct fair investigations. Rule 5108(b)'s application does not extend outside the sphere of a Board investigation. It is not authority for disclosing information other than to a person from whom the Board demands or requests information in connection with an investigation. Even as to those persons, the rule is not authority for disclosing information other than as reasonably necessary to carry out legitimate investigative functions in a manner that is fair to the person.

We note that Section 105(b) of the Act appears to preempt state open records laws with respect to materials and information provided by the Board to an agency under Section 105(b)(5)(B).[1] We

[1] Any otherwise applicable state or local law that would conflict with a requirement of the Act or stand as an obstacle to the accomplishment and execution of the full purposes and objectives of

do not, however, see this as a point that has a place in the Board's rules. The Act speaks clearly for itself on this point.

For similar reasons, the rule does not seek to prohibit agencies from disclosing materials that the Act itself forbids them to disclose. Nor do we see a need to provide, by rule, for a confidentiality agreement in every case to reinforce the requirements of the Act. It is the Act, and not the Board's rules, that constrain the conduct of those agencies. In the event that we discover that any particular agency makes disclosures that we believe are inconsistent with Section 105(b)(5), both the Act and Rule 5108 allow us the flexibility to decline to supply certain information to that agency or to require appropriate assurances of confidentiality.

The second note to Rule 5108 points out that the Director of Enforcement and Investigations may engage in, and may authorize staff to engage in, discussions with persons identified in Rule 5108 concerning documents, testimony, and information described in the rule.

Rule 5109—Rights of Witnesses in Inquiries and Investigations

Rule 5109 sets out certain rights accorded to persons from whom the Board seeks documents, testimony, or information in an investigation. Under Rule 5109(a), any person compelled to testify or produce documents pursuant to a Commission subpoena issued pursuant to Rule 5111, and any person who testifies or produces documents pursuant to an accounting board demand, shall, upon request, be allowed to review the Board's order of formal investigation. No such person is entitled to obtain their own copy of the order of formal investigation, but the Director of Enforcement and Investigations may, in his or her discretion, allow a person to obtain a copy of the order. The Director of Enforcement and Investigations may, as a condition of granting a request for the formal order, impose limitations on its further dissemination. We intend for the Director to use this discretion as necessary to avoid undermining an investigation and to maintain, to the extent reasonably possible, the nonpublic nature of the formal order. We do not intend that this discretion routinely be used in a way that would inhibit legitimate uses of the document by a person or counsel, such as sharing of the document subject to a joint defense agreement.

Rule 5109(b) allows any person who appears to testify in a formal investigation to be accompanied, represented, and advised by counsel. Rule 5109(b) grants this right on the condition that counsel affirmatively represents to the staff, either through a notice of appearance or a statement on the record at the beginning of the testimony, that he or she represents the witness. This rule is adapted from Rule 7(b) of the Commission's Rules Relating to Investigations. The right granted by Rule 5109(b) is also limited by Rule 5102(c)(3), which does not allow for the presence of any person, even counsel, who has been or is reasonably likely to be examined in the investigation.

Rule 5109(c) provides that a witness may inspect the transcript of his or her own testimony. A person who has testified or provided documents may also request a copy of his or her transcript or of the documents he or she produced. If the request is granted, the transcript or documents may be obtained upon the payment of fees to cover the cost of reproduction. Any such request, however, may be denied by the Director of Enforcement and Investigations for good cause shown if the documents or testimony have not been presented in connection with a proceeding or released in accordance with Section 105(c) of the Act and the Board's rules thereunder. This rule is adapted in part from Rule 6 of the Commission's Rules Relating to Investigations.

Rule 5109(d) provides that registered public accounting firms and persons associated with such firms may, on their own initiative at any time, submit a written statement to the Board setting forth their interests and positions in regard to the subject matter of any investigation in which they have become involved. The staff, either upon request or on its own initiative, may—but is not required to—advise any such person of the general nature of an investigation, including the indicated violations as they pertain to that person, and may prescribe a fixed period of time that will be allowed for the person to submit a statement of position and interests before the staff makes any recommendation to the Board. Rule 5109(d) provides that any such statement that is submitted will be forwarded to the Board in conjunction with any staff recommendation pertaining to the person submitting the statement. This rule is adapted from Rule 7(a) of the Commission's Rules Relating to Investigations.

The purpose of the Rule 5109(d) process is to assist the Board in its decision-making. It is our expectation that the staff will routinely give a respondent a meaningful opportunity to make a Rule 5109(d) submission. We also expect, though, that the staff will exercise its discretion not to provide that opportunity when doing so would be contrary to the public interest or the interests of investors—such as when circumstances call for expedited enforcement action, or when advance notice of particular charges to a respondent might undermine legitimate investigative objectives of the Board or of other regulatory or law enforcement agencies conducting parallel investigations. We therefore decline to create a right to make a Rule 5109(d) submission, or a right to have a certain amount of time in every case where the opportunity is afforded.

Rule 5110—Non-Cooperation With an Investigation

Section 105(b)(3) of the Act authorizes the Board to impose sanctions, including revocation of registration and bar on association, against any registered public accounting firm or associated person who refuses to testify, produce documents, or otherwise cooperate with the Board in connection with an investigation. Rule 5110 describes how the Board will implement that authority.

Under Rule 5110(a), the Board may institute a disciplinary proceeding, in accordance with Rule 5200(a)(3), for non-cooperation with an investigation in certain circumstances. Under the rule as proposed, a non-cooperation proceeding would have been warranted if it appeared to the Board that a registered public accounting firm or an associated person may have failed to comply with an accounting board demand; may have knowingly made any false material declaration or made or used any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration; may have abused the Board's processes for the purpose of obstructing an investigation; or may otherwise have failed to cooperate in connection with an investigation.

We believe it is appropriate to include in the rule the general provision, echoing the Act, that non-cooperation proceedings may be instituted where a firm or associated person ''may otherwise have failed to cooperate.'' Depending upon the nature of the conduct, however, it may be appropriate in many circumstances for the staff to provide notice that it views certain conduct as non-cooperation, and to afford an opportunity to cease or cure

Congress is preempted. *See, e.g., Crosby* v. *National Foreign Trade Council,* 530 U.S. 363, 372–73 (2000); *City of New York* v. *FCC,* 486 U.S. 57, 64 (1988).

the conduct before recommending non-cooperation proceedings.

The provision concern abuse of the Board's processes to obstruct an investigation includes a scienter requirement: We will not treat as non-cooperation every arguable abuse of the Board's processes, but only those that involve an intent to obstruct an investigation. We may, however, infer such an intent from circumstantial evidence, including, for example, circumstances indicating that a reasonable person would not have believed there was any genuine chance of prevailing on a particular petition for review of staff action or of a hearing officer ruling short of finding a violation.

A disciplinary proceeding for non-cooperation shall proceed generally according to the hearing procedures set out in the Board's rules. Because of the nature of the conduct being sanctioned, however, a disciplinary proceeding for non-cooperation will generally be a streamlined proceeding focused on a narrow issue. For that reason, various of the procedural rules governing disciplinary proceedings include certain provisions that will apply only to disciplinary proceedings for non-cooperation.

We recognize that some non-cooperation proceedings may present complex legal issues. Some, such as those involving allegations of false testimony, may also involve significant factual evidence. The rules provide sufficient flexibility to deal with complex non-cooperation issues in an appropriate time frame. But the rules are also designed to address, during the course of an investigation, ongoing recalcitrance even in the absence of any significant factual or legal issue. The rules afford a streamlined approach that will allow for swift dealing with that type of recalcitrance, but the streamlined option should not be understood as a signal that the Board intends to give short shrift to genuinely complex factual and legal issues that may arise in the non-cooperation context.

Nothing in the rules creates vicarious non-cooperation liability for a firm. Nevertheless, an associated person's non-cooperation has consequences for the firm. Pursuant to Section 102(b)(3) of the Act and the Board's rules, every registered public accounting firm will have agreed, as a condition of the continuing effectiveness of its registration, (1) to secure from each of its associated persons a consent to cooperate in and comply with Board demands, and (2) to enforce those consents. While the firm would face no vicarious liability for the associated person's non-cooperation, the firm's own registration status would be at risk if the firm failed either to secure the associated person's cooperation with the Board or to end its association with the person.

Rule 5111—Requests for Issuance of Commission Subpoenas in Aid of an Investigation

Section 105(b)(2)(D) of the Act authorizes the Board to promulgate rules according to which the Board may seek issuance by the Commission, in a manner established by the Commission, of a subpoena on any person to require testimony and the production of documents that the Board considers relevant or material to an investigation. Rule 5111 implements that authority by providing that the Board shall seek issuance of such subpoenas, and in seeking such subpoenas shall supply the Commission with a completed form of subpoena and such other information as the Commission may require.

Rule 5112—Coordination and Referral of Investigations

Rule 5112(a) provides that the Board will notify the Commission of any pending investigation that involves a potential violation of the securities laws. The rule provides that the Board will do so as soon as practicable after entry of an order of formal investigation by sending a copy of the order to the Commission or appropriate Commission staff. Rule 5112(a) provides that the staff will then coordinate its work with the Commission's Division of Enforcement as necessary to protect any ongoing Commission investigation.

Rule 5112(b) provides that the Board may refer any investigation to the Commission and, in the case of an investigation that concerns an audit report for an institution that is subject to the jurisdiction of any other Federal functional regulator (as defined in section 509 of the Gramm-Leach-Bliley Act), to that regulator.

Rule 5112(c) provides that, at the direction of the Commission, the Board may refer any investigation to the Attorney General of the United States, the attorney general of one or more states, and an appropriate state regulatory authority.

Part 2—Disciplinary Proceedings

Part 2 of the Board's Rules on Investigations and Adjudications consists of Rules 5200 through 5206. These rules address the commencement of disciplinary proceedings and the elements of those proceedings.

Rule 5200—Commencement of Disciplinary Proceedings

Rule 5200 addresses the commencement of disciplinary proceedings and certain related matters. Rule 5200(a) identifies the three general categories of circumstances under which the Board may commence a disciplinary proceeding: when it appears to the Board that a hearing is warranted to determine whether (1) a registered public accounting firm or a person associated with such a firm has engaged in any act or practice, or omitted to act, in violation of the Act, the Rules of the Board, the provisions of the securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards, (2) such a firm, or its supervisory personnel, has failed reasonably to supervise an associated person, either as required by the Rules of the Board relating to auditing or quality control standards, or otherwise, with a view to preventing violations of laws, rules, and standards, or (3) such a firm or a person associated with such a firm has failed to comply with an accounting board demand, given false testimony, or otherwise failed to cooperate in connection with an investigation.

The Act plainly contemplates that disciplinary proceedings can be instituted for a violation based on a single negligent act. Section 105(c)(5) of the Act provides that the Board may impose the more severe sanctions authorized by Section 105(c)(4) only in cases that involve intentional or knowing conduct (including reckless conduct) or repeated instances of negligent conduct. Implicit in that provision is that a violation based on a single instance of negligent conduct is sufficient to warrant a disciplinary proceeding to impose lesser sanctions. The rule is intended to implement the full scope of that authority.

At this time, we are not providing specific guidance on the scope of supervisory liability under the Act. We will continue to consider whether additional guidance or rulemaking on this point would be appropriate. We see no reason, however, to limit the persons who may have supervisory liability to those occupying certain positions. A firm itself may have liability for failure to supervise, as may any associated person who plays a supervisory role. Moreover, even in the absence of additional, specific guidance, investigations may uncover

circumstances in which it would be appropriate, under any reasonable reading of the Act, to commence disciplinary proceedings for failure to supervise.

Rule 5200(b) provides for an appointment of a hearing officer by the Board as soon as practicable after issuance of the order instituting proceedings or after a registration applicant has requested a hearing pursuant to Rule 5500(b). The rule is adapted from NASD Rule 9213(a). Under Rule 5200(b), the Board shall notify the parties of the hearing officer's assignment. The hearing officer shall have authority to do all things necessary and appropriate to discharge his or her duties, including, but not limited to, the matters specified in Rule 5200(b). The rule expressly subjects the hearing officer's authority to the limitations described in Rule 5402 (concerning hearing officer disqualification) and Rule 5403 (concerning *ex parte* communications).

Rule 5200(c) provides that the Board will observe certain separation of functions principles. The rule provides that neither the staff of the Division of Enforcement and Investigations, nor any other staff who engaged in investigative or prosecutorial functions on a matter, may participate or advise in the decision, or the review of the decision, except as a witness or counsel. In addition, the rule provides that a hearing officer may not be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for the Board.

With respect to proceedings that involve a common question of law or fact, Rule 5200(d) provides that the Board or a hearing officer may, by order, consolidate the proceedings for hearing of any or all matters at issue in the proceedings. The rule is adapted from Rule 201 of the Commission's Rules of Practice. The rule provides that consolidation shall not prejudice any rights that any party may have under the Board's Rules and shall not affect the right of any party to raise issues that could have been raised in the absence of consolidation.

Rule 5201—Notification of Commencement of Disciplinary Proceedings

Rule 5201(a) provides that when the Board issues an order instituting proceedings, the Secretary shall give each person or firm charged appropriate notice of the order within a time reasonable in light of the circumstances. As described in the note to Rule 5201(a), in the case of emergency or expedited action, actual notice—by any means reasonably calculated to supply notice—may precede formal service of the order instituting proceedings. The rule also provides that if the order instituting proceedings sets a hearing date, each party shall be given notice of the hearing within a time reasonable, in light of the circumstances, in advance of the hearing. As a general matter, we expect that Board orders instituting proceedings will not specify a hearing date, unless the proceedings are for non-cooperation. In those proceedings, we may find that reasonable notice of a hearing date is less than 90 days or 60 days, and we decline to provide by rule for a longer minimum time that would delay the process even when there is no genuine need for delay.

In matters where the Board's order does not set a hearing date, the hearing officer retains discretion to schedule a hearing date. We expect hearing officers to exercise that discretion prudently and fairly, consistent with avoiding unnecessary delays, but we decline to specify a minimum amount of notice that a party must have before a hearing may be held.

Rule 5201(b) describes the content of an order instituting proceedings. The precise requirements concerning the content of the order vary depending upon whether the proceeding is commenced under Rule 5200(a)(1), Rule 5200(a)(2), or Rule 5200(a)(3). The rule provides that, in each case, the order must include a ''short and plain statement of the matters of fact and law to be considered and determined,'' including of the conduct alleged to constitute a violation and the rule, statutory provision, or standard violated. Where a violation requires a particular state of mind, then a necessary component of alleging the conduct is alleging the existence of that state of mind. In requiring that the order include a description of the ''conduct,'' the rule necessarily requires more than just a conclusory statement that the respondent engaged in conduct that violated a rule, statute, or standard. The rule requires that the order allege the conduct in sufficient factual detail to advise the respondent of what conduct is at issue.

Rule 5201(c) provides that, in the case of a hearing on a registration application commenced under Rule 5500, the notice of hearing shall state proposed grounds for disapproving the registration application.

Rule 5201(d) provides that either the Board or, on the motion of the interested division, a hearing officer, may amend an order instituting proceedings. The Board may do so at any time to include new matters of fact or law. A hearing officer may do so only prior to the filing of an initial decision or, if no initial decision is to be filed, prior to the time fixed for filing final briefs with the Board. A hearing officer may amend an order only to include new matters of fact or law that are within the scope of the original order instituting proceedings, but may not initiate new charges or expand the scope of matters set for hearing beyond the framework of the Board's order instituting proceedings. The rule is adapted from Rule 200(d) of the Commission's Rules of Practice.

Rule 5202—Record of Disciplinary Proceedings

Rule 5202(a) describes the material that shall make up the contents of the record in a disciplinary proceeding (Rule 5202(a)(1)) and the contents of the record on disapproval of an application for registration (Rule 5202(a)(2)). Under Rule 5202(b), any document offered as evidence but excluded, and any document marked for identification but not offered as an exhibit, shall not be considered part of the record but shall be maintained by the Secretary until all opportunities for Commission and judicial review have been exhausted or waived. Paragraphs (c)–(e) of Rule 5202 address the substitution of true copies for documents in the record, the preparation of the record and the certification of the record index, and the final transmittal of record items to the Secretary. The rule is adapted from Rules 350 and 351 of the Commission's Rules of Practice.

Rule 5203—Public and Private Hearings

Section 105(c)(2) of the Act provides that any proceeding by the Board to determine whether to discipline a registered public accounting firm or an associated person thereof shall not be public unless otherwise ordered by the Board for good cause shown, with the consent of the parties to the hearing. Rule 5203 implements that requirement by providing that proceedings commenced pursuant to Rule 5200(a) shall not be public unless the Board so orders, for good cause shown, with the consent of the parties.

Rule 5203 also provides that all other Board hearings shall be nonpublic unless the Board otherwise orders. In practical effect, this provision applies only to a hearing on disapproval of a registration application, since that is the only type of hearing for which the rules provide other than the hearings expressly covered by Section 105(c)(2)

of the Act. The rule essentially creates a presumption that a hearing on disapproval of a registration application will be non-public. A disapproval hearing will, by its nature, involve a firm that is not yet a registered firm and may well involve a record that includes confidential information submitted as part of the registration application. The rule reserves to the Board the flexibility to make the hearing public if warranted by unusual circumstances. In any event, if the Board decides, after a hearing, to disapprove the application, that decision, along with the reasons for the decision, will be made public according to the provisions of Section 105(d) of the Act.

Rule 5204—Determinations in Disciplinary Proceedings

Rule 5204(a) provides that in any disciplinary proceeding instituted pursuant to Rule 5200(a)(1), Rule 5200(a)(2), or Rule 5200(a)(3), the interested division shall bear the burden of proving an alleged violation or failure to supervise by a preponderance of the evidence.

Rule 5204(b) provides that, unless the Board orders otherwise, the hearing officer shall prepare an initial decision following a hearing. The rule provides that the initial decision shall include findings and conclusions, including sanctions, if appropriate, and the reasons or basis therefore, as to all the material issues of fact, law, or discretion presented on the record and such other information as the Board may require. The rule is adapted from Rule 360 of the Commission's Rules of Practice.

The note to Rule 5204(b) sets out the Board's general expectations about the time frame within which a hearing officer should complete an initial decision in various types of cases. These time frames are nothing more than the Board's general expectations and do not create any right in any person to have an initial decision prepared within any particular period of time.

Rule 5204(c) governs the hearing officer's filing of the initial decision with the Secretary and the Secretary's service of the initial decision on the parties.

Rule 5204(d) provides the circumstances in which an initial decision of a hearing officer becomes the final decision of the Board as to a party. The rule is adapted from Rule 360(d) of the Commission's Rules of Practice. Rule 5204(d)(1) provides that the initial decision becomes the Board's final decision as to a party upon issuance by the Secretary of a notice of finality. Rule 5204(d)(2) provides that the Secretary shall issue the notice of finality no later than twenty days after the lapsing of the time period for filing a petition for Board review (as described in Rule 5460), unless one of the two conditions described in Rule 5204(d)(3) has occurred. Rule 5204(d)(3) provides that the Secretary shall not issue a notice of finality as to any party who has filed a timely petition for Board review or with respect to whom the Board, on its own motion, has ordered review of the initial decision pursuant to Rule 5460(b).

Rule 5205—Settlement of Disciplinary Proceedings Without a Determination After Hearing

Rule 5205 governs certain matters related to possible settlement of disciplinary proceedings. The rule is adapted from Rule 240 of the Commission's Rules of Practice.

Rule 5205 provides that any person who is or is to be a party to a disciplinary proceeding may at any time propose in writing an offer of settlement. The rule imposes requirements for the content of the offer, and requires that it be signed by the person making the offer, not by counsel.

Rule 5205(c)(1) requires that the Director of Enforcement and Investigations present the offer to the Board along with a recommendation concerning the offer, except that, if the recommendation is unfavorable, the Director shall not present the offer to the Board unless the person making the offer so requests.

Rule 5205(c)(2)–(3) set out various matters that the person making the offer must waive before the Board will consider the offer, including waiver of rights to hearings, rights to proposed findings of fact and conclusions of law, rights to proceedings before and an initial decision by a hearing officer, rights to post-hearing procedures, rights to judicial review, rights to have Board and Board staff observe separation of functions principles, and rights to claim bias or prejudgment by the Board based on consideration of or discussions concerning the settlement offer.

Rule 5205(c)(4) provides that if the Board rejects the offer, the offer will be deemed withdrawn and will not constitute a part of the record. Rule 5205(c)(4) further provides that rejection of the offer will not affect the continued validity of waivers of rights to claim bias or prejudgment on the basis of discussions concerning the settlement offer.

Rule 5205(c)(5) provides that Board acceptance of an offer will occur only upon the issuance of findings and an order by the Board.

A note to Rule 5205 points out that in hearings on disapproval of registration, settlement offers will be handled by the Director of Registration and Inspections, rather than the Director of Enforcement and Investigations, in accordance with Rule 5205.

Rule 5206—Automatic Stay of Final Disciplinary Actions

Rule 5206 provides that no final disciplinary sanction of the Board shall be effective until either (a) the dissolution by the Commission of the stay provided by Section 105(e) of the Act or (b) the expiration of the period during which the Commission, on its own motion or upon application under Section 19(d)(2) of the Exchange Act, may institute review of the sanction.

Part 3—Disciplinary Sanctions

Part 3 of the Board's Rules on Investigations and Adjudications consists of Rules 5300 through 5304. These rules describe the sanctions the Board may impose in disciplinary proceedings and various matters related to the effect of, and the termination of, such sanctions.

Rule 5300—Sanctions

Rule 5300 describes sanctions that the Board may impose in disciplinary proceedings. Rule 5300(a) describes sanctions that the Board may impose in disciplinary proceedings instituted other than for non-cooperation in an investigation. Subparagraphs (1) through (6) of Rule 5300(a) incorporate the sanctions expressly provided by Section 105(c)(4) of the Act, including revocation of registration, bar from association, suspensions, limitations on activities, civil money penalties, censures, and a requirement of additional professional education or training. A note to subparagraph (3) of Rule 5300(a) contains a non-exclusive list of types of limitations on activities the Board may impose. Subparagraphs (7) through (10) of Rule 5300(a) identify other sanctions, pursuant to the authority given to the Board in Section 105(c)(4)(G) of the Act, including requiring a party to engage an independent monitor, to engage counsel or other consultants to design policies to effectuate compliance with the Act, to adopt or implement policies or undertake action to improve audit quality or to effectuate compliance with the Act, or to obtain an independent review and report on one or more engagements.

The more serious the violation is, the more severe the appropriate penalty will be, and the Board retains discretion to assess the seriousness of the violation

and the severity of the penalty. Section 105(c)(5) of the Act requires scienter or repeated negligence for imposition of the most severe sanctions. The Act does not limit the standard that must be met for imposition of other sanctions.

Rule 5300(b) describes the sanctions that the Board may impose in disciplinary proceedings for non-cooperation with an investigation. The sanctions include revocations, bars, and suspensions, as expressly provided by Section 105(b)(3)(A) of the Act. Rule 5300(b) also identifies other sanctions, pursuant to the authority given to the Board in Section 105(b)(3)(A)(iii), including civil money penalties, censures, limitations on activities, requiring a firm to engage a special master or independent monitor to monitor and report on the firm's compliance with accounting board demands, or authorizing the hearing officer to retain jurisdiction to monitor compliance with accounting board demands.

When the Board revokes a firm's registration or bars a person from association with a registered public accounting firm, the sanction is permanent and will not expire of its own accord. In contrast, a suspension of registration or a suspension from association shall be for a fixed time period at the expiration of which a suspended firm shall resume its status as registered and a suspended person shall be free to associate with a registered firm.

In the case of a revocation of registration or a bar on association, the Board may provide for a specified period after which the firm may reapply for registration, or the person may petition for termination of the bar. Modification or termination of sanctions is discussed below in connection with Rule 5302.

A note to Rule 5300 points out that the rule does not preclude the imposition, on consent in the context of a settlement, of any other sanction not identified in the rule.

Rule 5301—Effect of Sanctions

Rule 5301 describes the effect of certain sanctions imposed by the Board. Rule 5301(a) applies to persons who have been suspended or barred from association with a registered public accounting firm or who have failed to comply with any other sanction imposed on them by the Board. Rule 5301 prohibits such persons from willfully becoming or remaining associated with any registered public accounting firm, unless they first obtain the consent of the Board, pursuant to Rule 5302, or of the Commission.

Rule 5301(b) applies to a registered public accounting firm. It prohibits a firm from permitting a person to become or remain associated with the firm if the firm knows, or in the exercise of reasonable care should have known, that the person is subject to a bar or suspension on such association, unless the firm first obtains the consent of the Board, pursuant to Rule 5302, or of the Commission.

Both Rule 5301(a) and Rule 5301(b) are followed by notes that make two fundamental points about the effect of sanctions. First, a barred or suspended person may not receive a share of the firm's profits from audit work. To the extent that any compensation is calculated as a share of profits—whether a partner's draw, or any other employee's bonus or other special compensation—the calculation must be adjusted so that the portion of the firm's profits that is derived from audit revenue is not counted in calculating that compensation.

Second, a person may not be compensated in any form for doing audit work. This does not mean that a salaried employee must suffer a salary cut that mirrors the portion of the firm's profits that are from audit work, but it does reinforce the general prohibition on the person doing any audit work.

The language does not prohibit a barred partner from receiving from the firm a return of the partner's capital or a separation payment provided for in the partnership agreement. Nor does the language prohibit the payment of standard retirement benefits to which the person was entitled on the day the sanction took effect.

One commenter suggested that the rules prescribe at least one procedure which, if followed by a firm to determine whether a person is barred or suspended, would be ''reasonable per se'' and effectively provide a safe harbor for the firm from liability for associating with the person. The commenter suggested, as an example, that obtaining signed statements from individuals certifying that they are not suspended or barred could be a sufficient procedure for the firm to avoid liability.

We will continue to consider what, if any, sort of safe harbor procedure might be made available with respect to a firm's obligations to make efforts to know whether an associated person has been barred or is serving a suspension. A bar or suspension, once it takes effect, will be a matter of public record, and the rule effectively requires that firms make reasonable efforts to confirm, through public records, that an individual is not barred or suspended. The Board will consider ways to make information about bars and suspensions more readily accessible to firms.

Rule 5302—Application for Relief From, or Modification of, Revocations and Bars

Rule 5302 provides mechanisms by which a firm or person subject to a Board sanction may apply to the Board for relief from, or modification of, that sanction. Under Rule 5302(a), a firm that has had its registration revoked pursuant to a Board determination that permitted the firm an opportunity to reapply for registration after a specified period of time may, after the expiration of the specified period, file an application for registration pursuant to Rule 2101. The revocation shall continue, however, unless and until the Board affirmatively approves such a registration application.

Under Rule 5302(b), a person subject to a bar on association that contains a provision allowing the person to seek termination of the bar after a specified period of time may, after the expiration of the specified period, file a petition to terminate the bar. Subparagraphs (2) through (5) of Rule 5302(b) govern the process related to such a petition.

The burdens of the rule should not be viewed as falling solely on the individual. As a practical matter, the petition submitted by the individual should be a collaborative effort between the individual and the firm that wishes to associate with the individual. The firm should readily be able to supply some of the information necessary for the individual to satisfy the rule. The rule is based on Rule 193(b)(4)(iv) of the Commission's Rules of Practice, which imposes similar requirements on barred individuals seeking to associate with a broker-dealer.

Rule 5302(c) governs modification of revocations and bars that do not expressly provide a time period after which the firm may reapply for registration or the person may petition to terminate the bar. Such firm or person may at any time request leave to reapply for registration or leave to file a petition to terminate a bar. They may not file a registration application or a petition to terminate the bar unless the Board grants such leave. The revocation and bar shall continue until the Board has both granted such leave and approved a subsequent application or petition.

Under Rule 5302(d), a firm or person subject to an ongoing sanction imposed for non-cooperation with an investigation may file an application for termination of that sanction once the firm or person has remedied the non-cooperation that formed the basis for the

sanction. The sanction shall continue, however, unless and until the Board orders it terminated.

Under Rule 5302(e), any firm or person subject to a sanction described in subparagraphs (3), (6), (7), (8), (9), or (10) of Rule 5300(a) may file an application for termination of the sanction at any time. The Board may, in its discretion, grant a hearing on the application. The sanction shall continue, however, unless and until the Board orders it terminated.

Rule 5303—Use of Money Penalties

Rule 5303 provides that all money penalties collected by the Board shall be used to fund a merit scholarship program as required by, and described in, Section 109(c)(2) of the Act.

Rule 5304—Summary Suspension for Failure To Pay Money Penalties

Under Rule 5304, the failure of a registered public accounting firm or an associated person to pay money penalties imposed by the Board may result in summary suspension, and effective revocation, of the firm's registration and summary suspension or bar from association. Under Rule 5304(a), if a firm fails to pay a money penalty after the exhaustion of all reviews and appeals and the termination of any stay, the Board may summarily suspend the firm's registration.

The rule allows a thirty-day period for payment after a money penalty becomes final. If payment is not made in that 30-day period, the Board may send a notice that failure to make payment within seven days will result in summary suspension.

Once such a suspension is imposed, it shall terminate upon payment of the penalty by the firm within 90 days of the onset of the suspension. If payment is not made within 90 days, the firm's registration will effectively be revoked, and the firm can re-register only by paying the penalty, plus interest, and filing an application for registration under Rule 2101 and obtaining Board approval of that application.

Under Rule 5304(b), if an associated person fails to pay a money penalty after exhaustion of all reviews and appeals and the termination of any stay, the Board may summarily suspend the person from association with a registered firm. Rule 5304(b) allows a thirty-day period for payment after a money penalty becomes final, after which the Board may send a notice that failure to pay within seven days will result in summary suspension. Once a suspension is imposed, it shall terminate upon payment of the penalty, plus interest, within 90 days of the onset of the suspension. If payment is not made within 90 days, the Board may summarily bar the person from association with a registered firm.

Part 4—Rules of Board Procedure

Part 4 of the Board's Rules on Investigations and Adjudications consists of Rules 5400 through 5469. These rules are further divided into general rules (5400 through 5411), prehearing rules (5420 through 5427), hearing rules (5440 through 5445), and appeals to the Board (5460 through 5469).

Rule 5400—Hearings

Rule 5400 provides for hearings to be held only upon order of the Board and to be conducted in a fair, impartial, expeditious and orderly manner. The rule is adapted from Rule 200 of the Commission's Rules of Practice.

Rule 5401—Appearance and Practice Before the Board

Rule 5401 provides that a person may appear on his own behalf before the Board or may be represented by counsel. Rule 5401 further provides that a member of a partnership may represent the partnership and a bona fide officer of a corporation, trust, or association may represent the corporation, trust, or association. Rule 5401(c) imposes certain procedural requirements related to representation and withdrawal.

Rule 5402—Hearing Officer Disqualification and Withdrawal

Rule 5402 allows a party to make a motion for withdrawal of a hearing officer and governs the circumstances under which such a motion may be made and the time within which it must be made. Rule 5402 also provides for appointment of a replacement hearing officer in the event of withdrawal or disqualification. The rule is based on Rule 112 of the Commission's Rules of Practice and NASD Rule 9233.

Rule 5403—*Ex Parte* Communications

Rule 5403 prohibits a hearing officer from having *ex parte* communications with a person or party, except to the extent permitted by law or by the Board's rules for the disposition of *ex parte* matters. The rule also prohibits any party (including the interested division) and any Board staff that has had substantial involvement in a matter from having *ex parte* communication with the Board or any Board member on a fact in issue, except as permitted by law or by the Board's rules.

The rule includes a specific exception allowing staff to discuss settlement offers with the Board when a party has provided the prejudgment waiver described in Rule 5205(c)(3). The rule is based in part on Rule 120 of the Commission's Rules of Practice.

Rule 5404—Service of Papers by Parties

Rule 5404 requires service of papers on each party in a manner calculated to bring the paper to the attention of the party served. The rule is flexible enough to accommodate service by first class mail, or by other means, such as through electronic communication.

Rule 5405—Filing of Papers With the Board: Procedure

Rule 5405 governs procedures for filing papers with the Board.

Rule 5406—Filing of Papers: Form

Rule 5406 governs the form of papers to be filed with the Board.

Rule 5407—Filing of Papers: Signature Requirement and Effect

Rule 5407 requires every paper filed to be signed either by the party, if the party represents himself or herself, or by counsel if the party is represented by counsel. Because the Board expects most papers to be filed electronically, a note to the rule states that the signature should be scanned into an electronic document where practicable, but that otherwise certain indicia of electronic signature will suffice.

Rule 5408—Motions

Rule 5408 describes procedures and length limitations related to motions and supporting briefs.

Rule 5409—Default and Motions to Set Aside Default

Rule 5409 describes the circumstances that shall constitute a default and the procedure for seeking to set aside a default. The rule is adapted from Rule 155 of the Commission's Rules of Practice.

Rule 5410—Extra Time for Service by Mail

Rule 5410 provides an additional three days for service made by mail.

Rule 5411—Modifications of Time, Postponements and Adjournments

Rule 5411 provides that the Board maintains discretion, except as otherwise provided by law, to adjust the time limits prescribed by the rules or to postpone or adjourn any hearing.

Rule 5420—Leave To Participate To Request a Stay

Rule 5420 provides a procedure by which certain entities may seek a stay of a hearing. The entities that may seek

such a stay are the Commission, the United States Department of Justice or any United States Attorney's Office, any criminal prosecutorial authority of a state or political subdivision of a state, and an appropriate state regulatory authority.

Under Rule 5420, an authorized representative of any such entity may seek leave to participate on a limited basis to request a stay. Rule 5420 provides that a stay shall be granted upon a showing that a stay is necessary to protect an ongoing Commission investigation, and that a stay shall otherwise be favored upon a showing that it is in the public interest or for the protection of investors.

Rule 5421—Answer to Allegations

Rule 5421 governs the filing of answers to orders instituting proceedings. A party may file an answer in any matter, but is not required to file an answer unless ordered to do so in the order instituting proceedings.

Rule 5422—Availability of Documents for Inspection and Copying

Rule 5422 governs the obligations of Board staff to make documents available to a party for inspection and copying. Under the rule, the staff's obligation varies according to whether the proceeding is commenced under Rule 5200(a)(1)–(2) for violations or failures reasonably to supervise, Rule 5200(a)(3) for non-cooperation, or Rule 5500 concerning disapproval of a registration application.

Paragraphs (a) through (c) of Rule 5422 are the core provisions for determining what documents the staff must make available. Paragraph (a) describes generally the documents that the staff must make available to a respondent. Paragraph (b) limits paragraph (a) by describing categories of documents that the staff may withhold, subject to an overriding obligation not to withhold material exculpatory evidence. Paragraph (c) prescribes procedures the staff must follow when withholding certain categories of documents, and procedures for a hearing officer to determine whether withholding is appropriate.

Rule 5422(a)(1) applies to proceedings commenced under Rule 5200(a)(1) or Rule 5200(a)(2). The rule provides that in those proceedings, the Division of Enforcement and Investigations shall make available all documents in four specific categories: (1) Accounting board requests, subpoenas, and accounting board demands for documents, testimony, or information issued in the investigation or in the informal inquiry, if any, that preceded the investigation, (2) responses to those accounting board requests, subpoenas, and accounting board demands, including any documents produced in response, (3) testimony transcripts and exhibits, and any other verbatim records of witness statements, and (4) all other documents prepared or obtained by the Division of Enforcement and Investigations in connection with the investigation prior to the institution of proceedings.

Rule 5422(a)(2) applies to non-cooperation proceedings commenced under Rule 5200(a)(3). Rule 5422(a)(2) requires that the Division of Enforcement and Investigations make available all documents on which the Division intends to rely in seeking a finding of non-cooperation. The rule expressly provides that the Division shall not be required to make available any other documents in a proceeding based on non-cooperation, subject only to the general requirement to make available material exculpatory evidence on the issue of non-cooperation.

We anticipate that non-cooperation proceedings will narrowly focus on such things as, for example, the demand with which there has been no compliance, or the testimony that is allegedly false. The only documents that would be relevant in those examples are the documents that the Division would use to prove non-cooperation and any documents that would tend to show that the person did comply with the demand, or that that person's testimony was not false. Under the rule, all such documents must be made available to the respondent in a non-cooperation proceeding.

We have declined, however, to adopt a ''relevance'' standard and open the door to broader disputes about what documents might be ''relevant.'' Liability for non-cooperation is independent of whether the party has otherwise violated any law, rule, or standard enforceable by the Board. Non-cooperation is not excusable on the basis of a conviction that the staff's investigation is misguided. We do not intend for non-cooperation proceedings to become a forum for demonstrating, through broad access to the investigative record, that the investigation is flawed and that something less than full cooperation was therefore justified. A non-cooperation proceeding focuses only on the obligation to cooperate, which is not a qualified obligation that varies depending upon one's view of the merits of the investigation.

Moreover, we intend that non-cooperation proceedings will generally be commenced as soon as the grounds for such a proceeding appear, rather than waiting until the conclusion of an investigation.[2] An important objective of a non-cooperation proceeding will be not only to impose a sanction if appropriate, but also to compel the cooperation at a time when it is still meaningful to the investigation. At that point in time, to require the staff to make available any portion of the investigative record other than that directly bearing on non-cooperation could compromise the investigation, and might also compromise investigations by the Commission or other authorities. Indeed, to allow access to any portion of the investigative record in the course of a non-cooperation proceeding would supply a counterproductive incentive that might cause some persons to fail to cooperate specifically for the purpose of obtaining access to that record.

Rule 5422(a)(3) applies to registration disapproval proceedings commenced pursuant to Rule 5500. Rule 5422(a)(3) requires the Division of Registration and Inspections to make available all documents obtained by the Division in connection with the registration application prior to the notice of hearing.

Rule 5422(a) includes specific exceptions for, and must be read in conjunction with, Rule 5422(b), which describes four categories of documents that the Division may withhold from a respondent even if Rule 5422(a) would otherwise require the Division to make the document available. Moreover, withholding documents may trigger the procedural requirements of Rule 5422(c). We therefore individually address each of the four categories of documents that may be withheld under Rule 5422(b), and any Rule 5422(c) procedures related to withholding those documents.

Under Rule 5422(b)(1)(i), the Division need not make available any document prepared by a member of the Board or the Board's staff that has not been disclosed to any person other than Board members, Board staff, or persons retained by the Board or Board staff to provide services in connection with the investigation, disciplinary proceeding, or hearing on disapproval of registration. Withholding such documents does not trigger any

[2] The rules do not preclude the Board from commencing a proceeding for non-cooperation after an investigation and prosecuting it separately from or consolidated with a proceeding for alleged violations of laws, rules, or standards enforceable by the Board. For example, the Board may, in its discretion, institute proceedings for violations of the Act and simultaneously institute proceedings for non-cooperation in an investigation against the same respondent for conduct (for example, false testimony) during the investigation.

procedural requirements under Rule 5422(c).

Under Rule 5422(b)(1)(ii), the Division need not make available any other document that, while not encompassed within the first category, is nevertheless protected by a privilege or by the attorney work product doctrine. This category would include, for example, documents that were privileged in the hands of the person who supplied them to the Board, but who supplied them pursuant to an understanding that doing so would not otherwise waive the privilege. As to this category of withheld documents, Rule 5422(c)(1) requires the Division to supply to the hearing officer and each respondent a log providing all of the same information that Rule 5106 requires a person to submit when asserting a privilege against production to the Board.

Under Rule 5422(b)(1)(iii), the Division need not make available any document that would disclose the identity of a confidential source. The rule also provides, however, that the staff may not withhold a document on this basis if doing so results in withholding material exculpatory evidence. Rule 5422(c)(2) requires the Division to provide the hearing officer with a list of any documents withheld to protect the identity of a confidential informant. The rule requires the Division to provide the same list to each respondent, although the staff may redact as much information as necessary from that list (including, in appropriate circumstances, all information) to protect the interests related to the Division's reason for withholding the document. The hearing officer, in his or her discretion, may review any such document *in camera* to assess the grounds for withholding it and to assess whether it includes material exculpatory evidence.

Under Rule 5422(b)(1)(iv), the Division need not make available any other document that the staff identifies for the hearing officer's consideration as to whether the document may be withheld as not relevant to the subject matter of the proceeding or otherwise for good cause shown. We believe that such a general exception is necessary for categories of documents that the staff may occasionally have but may not intend to use as evidence. For example, the staff might have documents supplied by a foreign regulator under a confidentiality agreement. If the staff does not intend to use them, the ''good cause'' exception allows the staff to withhold them to honor the confidentiality agreement. Again, however, the good cause exception does not allow the staff to withhold a document that contains material exculpatory evidence. Rule 5422(c)'s procedures, described above with respect to confidential informant documents, apply in the same fashion to documents withheld as irrelevant or otherwise for good cause.

In addition to the procedural protections described above, Rule 5422(b)(2) provides an over-arching restriction on what the Division may withhold. It provides that nothing in paragraph (b), and nothing in paragraph (a)(2)'s limitation on what the staff must make available in a non-cooperation proceeding, authorizes the interested division to withhold documents that contain material exculpatory evidence.

Rule 5422(d) governs the time period in which the staff must make the documents available. Under the rule, the staff must make the documents available within seven days of the institution of a proceeding under Rule 5200(a)(3) for non-cooperation, and within 14 days of the institution of proceedings under Rules 5200(a)(1), 5200(a)(2), and 5500.

Rule 5422(e) provides that the staff shall make the documents available at the Board's office where the documents are normally maintained, or at such other place as the parties agree upon in writing. Rule 5422(d) further provides that, except as subject to any specific contrary agreement with the staff, a party shall not have custody of the documents and shall not remove the documents from the Board's offices, though the party may make and retain copies of the documents. Rule 5422(f) provides that a party wishing to make copies of the documents must bear the cost of copying.

Rule 5422(g) addresses any failure by the interested division to make available any document that these rules required it to make available. The rule provides that, in that event, no person shall be entitled to a rehearing or redecision in a matter already heard or decided unless that person first establishes that the failure to make the document available did not constitute harmless error.

A note following Rule 5422 points out that the obligations of the interested division under this rule extend only to documents obtained by that division, and that this Rule does not require the interested division to make available documents located only in the files of other divisions or offices. The proviso, however, is not intended to relieve the interested division of the obligation to make available any such document that the division knows of and intends to introduce as evidence. Any such document should be treated, for purposes of Rule 5422, just as if it were physically located in the division's files.

Rule 5423—Production of Witness Statements

Rule 5423(a) provides that a respondent may move that the interested division produce any statement of a person, called or to be called as a witness by the division, that pertains or is expected to pertain to his or her direct testimony and that would be required to be produced pursuant to the Jencks Act, 18 U.S.C. 3500, if the Board were a governmental entity. The hearing officer shall have authority to grant such a motion and require production of any such statement. Rule 5423(b) provides, however, that the interested division's failure to produce any such statement shall not be grounds for rehearing or redecision of a matter already heard or decided unless the respondent first establishes that the failure to produce the statement was not harmless error. The rule is based on Rule 231 of the Commission's Rules of Practice.

Rule 5424—Accounting Board Demands and Commission Subpoenas

Rule 5424 provides for mechanisms by which any party may seek to secure testimony or evidence relevant to a proceeding. Rule 5424(a) describes procedures by which any party may seek to have an accounting board demand served on any registered public accounting firm or associated person of such a firm, or seek to have an accounting board request served on any other person. Under the rule, the party must make a request to the hearing officer for issuance of the accounting board demand or accounting board request. In the event of the hearing officer's unavailability, the party may present its request, through the Secretary, to any member of the Board, or any other person designated by the Board to issue such demands and requests.

The application for an accounting board demand or accounting board request may be denied, or may be granted with modifications, if it is unreasonable, oppressive, excessive in scope, or unduly burdensome. The rule provides that a person whose application for an accounting board demand or accounting board request has been denied or modified may not make the same application to another person and may not apply to the Board for a Commission subpoena covering the same testimony, documents, or information as the denied application covered or as was excluded by modification in granting an application.

Rule 5424(a) also provides that a party who applies for an accounting board demand or accounting board request to summon a witness shall pay the witness's reasonable expenses.

Rule 5424(b) provides that the Board, on its own initiative or on the application of any party, may seek issuance of a subpoena by the Commission to any person in order to seek to secure testimony or evidence that the Board considers relevant or material to the proceeding. Unlike Rule 5424(a), which provides that an application for an accounting board demand or request shall be granted if certain criteria are satisfied, Rule 5424(b) leaves entirely to the discretion of the hearing officer or other Board designee whether to grant a party's request to seek a Commission subpoena. The rule does not create any entitlement, under any circumstances, to have the Board seek a Commission subpoena on behalf of a party. Moreover, if the Board does seek a Commission subpoena requested by a party, the rule does not, and should not be understood to, give rise to or justify any expectation about how or whether the Commission will respond to the request. Accordingly, the rule does not create any entitlement to have any Board proceedings stayed or delayed while any such request is pending.

Rule 5425—Depositions To Preserve Testimony for Hearing

Rule 5425 provides procedures by which a party may seek a deposition for the purpose of preserving for a hearing the testimony of a person who may be unavailable to appear at the hearing. Rule 5425 does not provide for depositions taken for the purpose of discovery. The rule is adapted from Rule 233 of the Commission's Rules of Practice.

Under Rule 5425(a), a party seeking to take a deposition to preserve testimony must make a written motion setting out the reasons why the deposition is necessary and specifically including the reasons that the party believes the witness will be unable to testify at the hearing. The motion must also identify the witness, the matters on which the party intends to question the witness, and the proposed time and place of the deposition. Under Rule 5425(b), the hearing officer may grant the motion if the hearing officer finds that the witness will likely give testimony material to the proceeding, that it is likely the witness will be unable to appear at the hearing because of age, sickness, infirmity, imprisonment or other disability, or will otherwise be unavailable, and that the taking of the deposition will serve the interests of justice. Rules 5425(c) through (e) describe certain procedures governing any such deposition allowed by the hearing officer.

Rule 5426—Prior Sworn Statements of Witnesses in Lieu of Live Testimony

Rule 5426 provides procedures by which a party may introduce into evidence a witness's prior sworn statement in lieu of live testimony by the witness. Rule 5426 is not a limitation on any party's ability to introduce a prior sworn statement with respect to a witness who appears in person and testifies (for purposes of impeachment, for example). But Rule 5426 does limit the circumstances in which a party may introduce a prior sworn statement in lieu of live testimony by the witness.

Rule 5426 identifies five circumstances in which the hearing officer may grant a motion to introduce a prior sworn statement in lieu of live testimony: (1) If the witness is dead, (2) if the witness is outside of the United States, unless it appears that the witness's absence from the country was procured by the party offering the prior sworn statement, (3) if the witness is unable to attend because of age, sickness, infirmity, imprisonment or other disability, (4) if the party offering the prior sworn statement has been unable to procure the attendance of the witness by accounting board demand, or (5) if, in the discretion of the Board or the hearing officer, it would be desirable, in the interests of justice, to allow the prior sworn statement to be used. In granting a motion to introduce a prior sworn statement, a hearing officer has the discretion, under Rule 5426, to require that all relevant portions of the statement be included or to exclude portions of the statement not relevant to the proceeding.

Rule 5427—Motion for Summary Disposition

Rule 5427 provides for any party to make a motion for summary disposition. Under Rule 5427(a), the interested division may make such a motion only after the party against whom the motion is directed has filed an answer and has had documents made available to it pursuant to Rule 5422. Under Rule 5427(b), a respondent may make such a motion at any time.

Rule 5427(c) requires that any party that would move for summary disposition must first request and attend a pre-motion conference with the hearing officer. Under the rule, the hearing officer would, at the conference, set a due date for the motion. The hearing officer has discretion either to set a due date for a response to the motion or to spare the opposing party the need to prepare a response until the hearing officer has reviewed the motion. If the hearing officer chooses that approach, the hearing officer shall review the motion and then either deny the motion without any response being filed or shall give the opposing party an opportunity to file a response.

Rule 5427(d) provides that a hearing officer shall grant a motion for summary disposition if the pleadings, depositions, and admissions on file, together with any affidavits, show that there is no genuine issue as to any material fact and that the moving party is entitled to a disposition as a matter of law. A hearing officer may also enter a summary disposition that is limited to the issue of liability even though there may be a genuine and contested issue as to the appropriate sanction. Rule 5427(d) also provides that the denial of a motion for summary disposition is not subject to interlocutory appeal. Rule 5427(e) governs page limitations on briefs related to motions for summary disposition.

Rule 5440—Record of Hearings

Rule 5440 describes procedures related to the creation, correction, and availability of hearing transcripts.

Rule 5441—Evidence: Admissibility

Rule 5441 provides that a hearing officer may receive relevant evidence and shall exclude all evidence that is irrelevant, immaterial or unduly repetitious. The standard in Rule 5441 is based on the Administrative Procedure Act.[3] In addition, the same standard is used in the Commission's Rules of Practice.[4] By using this phrase in Rule 5441, the Board intends for evidentiary issues in PCAOB hearings to be addressed in a generally similar manner to Commission administrative hearings, and the administrative hearings of most other administrative agencies. Rule 5441 is not intended to limit a hearing officer's authority to exclude or allow evidence based on reasonable principles of admissibility, but is intended to allow a hearing officer reasonable flexibility.[5] In particular, the

[3] 5 U.S.C. 556(c)(3) and (d).

[4] *See* SEC Rule of Practice 320, 17 C.F.R. 201.320 (''The Commission or the hearing officer may receive relevant evidence and shall exclude all evidence that is irrelevant, immaterial or unduly repetitious.'')

[5] *See, e.g.*, Commission Opinion: Wheat, First Securities, Inc.; Rel. No. 34–48378, (August 20, 2003) (holding that hearsay is admissible in a Commission administrative hearing, but noting that the ''record shows the probative and reliable nature of this evidence'').

three bases in the rule—irrelevance, immateriality, and undue repetition—are not the only permissible bases on which a hearing officer may exclude evidence under administrative practice. Nor does the standard in Rule 5441 preclude a hearing officer from referring to principles from the Federal Rules of Evidence or other authoritative sources in exercising his or her discretion to resolve evidentiary issues.[6]

Rule 5442—Evidence: Objections and Offers of Proof

Rule 5442(a) provides that any objections must be made on the record and must be in short form, stating the grounds relied upon. Under Rule 5442(a) any exception to a hearing officer's ruling on an objection need not be noted at the time of the ruling but will be deemed waived on appeal to the Board unless the exception was raised (1) on interlocutory review under Rule 5461, (2) in a proposed finding or conclusion filed under Rule 5445, or (3) in a petition for Board review of an initial decision filed under Rule 5460. Rule 5442(b) provides that when evidence is excluded from the record, the party offering the evidence may make an offer of proof, which shall be included in the record. The excluded material itself would be retained under Rule 5202(b).

Rule 5443—Evidence: Presentation Under Oath or Affirmation

Rule 5443 provides that witnesses at a hearing shall testify under oath or affirmation.

Rule 5444—Evidence: Rebuttal and Cross-Examination

Rule 5444 provides that a party may present its case or defense by oral or documentary evidence, submit rebuttal evidence, and conduct such cross-examination as, in the discretion of the Board or the hearing officer, may be required for a full and true disclosure of the facts. The rule provides that the Board or hearing officer shall determine the scope and form of evidence, rebuttal evidence, and cross-examination in any proceeding. The rule is adapted from Rule 326 of the Commission's Rules of Practice.

Rule 5445—Post-Hearing Briefs and Other Submissions

Rule 5445 provides procedures relating to the submission of post-hearing briefs and other submissions.

Rule 5460—Board Review of Determinations of Hearing Officers

Rule 5460 concerns Board review of initial decisions. Under Rule 5460, a party may obtain Board review of an initial decision by filing a timely petition setting forth specific findings and conclusions of the initial decision to which the party takes exception and setting forth the supporting reasons for each exception. To be timely, a petition must be filed within 10 days of an initial decision in a proceeding commenced under Rule 5200(a)(3) for non-cooperation, and within 30 days of an initial decision in other proceedings. The rule is based in part on Rule 410 of the Commission's Rules of Practice.

Also under Rule 5460(a), if one party submits a timely petition for review, any other party then has an additional ten days to submit its own petition for review, even if its petition raises different issues than those raised by the first party to submit a petition. The purpose of this rule is to avoid the unnecessary expenditure of Board resources in cases where no party would appeal if it knew that the other party would not appeal, but in which one or more parties nevertheless appeal because of a concern that failing to appeal will deprive it of the opportunity to raise its issues in any appeal lodged by another party. Under Rule 5460(a), no party need guess about the other party's intentions, and no party sacrifices anything by waiting to see whether another party files a timely petition for review.

Rule 5460(b) provides that the Board may, on its own initiative, order review of all or any portion of an initial decision even if no party seeks review. The Board may order such review, however, only if it does so before the initial decision would otherwise become the final decision of the Board pursuant to the operation of Rule 5204(c). In effect, this allows the Board to order review on its own initiative for a period of 20 days beyond the deadline for a party to petition for review. The rule is based in part on Rule 411 of the Commission's Rules of Practice. Rules 5460(c) through (e) set out procedural matters related to Board review.

Rule 5461—Interlocutory Review

Rule 5461 concerns Board interlocutory review of hearing officer rulings. Under Rule 5461(a), the Board will not grant interlocutory review absent extraordinary circumstances, but also may direct at any time that any matter or ruling be submitted to the Board for review. Rule 5461(b) provides that a hearing officer shall certify a ruling for interlocutory review only if (1) the ruling would compel testimony of Board members, officers or employees or the production of documentary evidence in their custody, or (2) the ruling involves a controlling question of law as to which there is substantial ground for difference of opinion and immediate review of the order may materially advance completion of the proceeding. Rule 5461(c) provides that neither an application for, nor the granting of, interlocutory review shall stay the proceeding unless otherwise ordered by the hearing officer or the Board. The rule is adapted from Rule 400 of the Commission's Rules of Practice and 28 U.S.C. 1292(b).

Rule 5462—Briefs Filed With the Board

Rule 5462 describes procedural requirements related to briefs and the filing of briefs. The rule is adapted from Rule 450 of the Commission's Rules of Practice.

Rule 5463—Oral Argument Before the Board

Rule 5463 concerns oral argument before the Board. Under Rule 5463(a), the Board may order oral argument, with or without the motion of a party, on any matter. The rule provides that, in general, motions for oral argument will be granted unless exceptional circumstances make oral argument impractical or inadvisable. Rules 5463(b)–(c) provide for procedures relating to oral argument. Rule 5463(d) provides that a member of the Board who is not present for oral argument may nevertheless participate in the Board's decision as long as the Board member reviews a transcript of the argument before participating in the decision. The rule provides that any party may request oral argument, but the party must do so in its initial brief on the merits.

Rule 5464—Additional Evidence

Rule 5464 provides that the Board may, upon its own motion or the motion of a party, allow the submission of additional evidence in connection with the Board's review of an initial decision. The rule is adapted from Rule 452 of the Commission's Rules of Practice.

Rule 5465—Record Before the Board

Rule 5465 provides that the Board shall determine each matter on the basis of the record and provides certain requirements concerning the record. The rule is adapted from Rule 460 of the Commission's Rules of Practice.

[6] *See id.* (explaining that same result would have been reached had the administrative law judge applied the Federal Rules of Evidence).

Rule 5466—Reconsideration

Rule 5466 provides procedures by which a party may seek reconsideration of a Board decision. The rule is adapted from Rule 470 of the Commission's Rules of Practice.

Rule 5467—Receipt of Petitions for Commission or Judicial Review

Rule 5467 is intended to ensure that the Board has notice of any petitions filed by a party for review of a Board decision, or for review of a Commission order with respect to a Board decision. Rule 5467 is separate from, and in addition to, any notice or service requirements that the Commission imposes with respect to petitions for review filed with the Commission. Rule 5467, a registered public accounting firm must notify the Secretary, or any requirements of the Federal Rules of Appellate Procedure or any court within 10 days after the firm or any person associated with the firm files with the Commission a petition for review of a Board decision or files a petition for court review of a Commission order with respect to such a sanction. The rule is modeled in part on Rule 490 of the Commission's Rules of Practice.

A firm will generally have in place a mechanism for regular reporting to the Board, and the Board will have in place a mechanism for receiving reports from a firm. These things generally will not be true with respect to individuals who are associated persons. An associated person who is in the position of petitioning for review of a sanction is a person who, necessarily, has been sanctioned. That sanction—and whether it becomes final by virtue of an appeal period running without the person having petitioned for review—is something that the firm must necessarily monitor since it affects how the firm may or must interact with the associated person. Accordingly, we expect the firm as a matter of course to know whether and when its associated person has petitioned for review. The rule leaves to the firm the creation and enforcement of internal procedures to ensure that its associated persons report the information to the firm.

Rule 5468—Appeal of Actions Made Pursuant to Delegated Authority

As directed by Section 101(g)(2) of the Act, Rule 5468 provides procedures for seeking Board review of any action by someone other than the Board pursuant to authority delegated by the Board. The rule requires a person to act within five days to provide notice to the Board that the person intends to seek review. The rule allows the person another five days beyond that notice in which to submit the petition for review. The rule also includes a provision designed to ensure that a person will not unfairly be denied an opportunity to petition for review if, through no fault of the person, service of notice of the staff action in question was delayed in reaching them.

Rule 5469—Board Consideration of Actions Made Pursuant to Delegated Authority

Rule 5469 provides procedures relating to Board consideration of petitions for review of actions made pursuant to authority delegated by the Board. Rule 5469(a) provides that the Board may act summarily on the basis of the petition, or on the basis of the petition and any staff response, or may require additional statements in support of or opposition to the petition. Rule 5469(b) provides that the filing of a petition for review will not stay the effect of any staff action unless specifically ordered by the Board.

Part 5—Hearings on Disapproval of Registration Applications

Part 5 of the Board's Rules on Investigations and Adjudications consists of Rules 5500 and 5501. These rules relate to adjudications on certain registration applications.

Rule 5500—Commencement of Hearing on Disapproval of a Registration Application

Rule 5500 describes the procedure relating to the commencement of a Board adjudication proceeding to consider an application for registration. Under the Board's registration rules, if the Board is unable to make the determination necessary to approve a registration application, the Board will provide the applicant with notice of a hearing. Rule 5500 provides the procedures through which such a proceeding would be commenced.

Specifically, Rule 5500 provides that a proceeding would commence after the Board provides a notice of hearing under Rule 2106(b)(2)(ii) and the applicant timely files a request for a hearing date and notice of appearance, rather than opting to treat the Board's notice of hearing as a denial of the application. Under Rule 5500(b), a request for hearing must include a statement that the applicant has elected not to treat the notice of hearing as a disapproval of its application and a statement describing with specificity why the applicant believes that the Board should not disapprove the application.

Rule 5501—Procedures for a Hearing on Disapproval of a Registration Application

Rule 5501 provides that proceedings commenced pursuant to Rule 5500 are subject to the procedures set out in Parts 2 and 4 of Section 5 of the Board's rules.

(b) Statutory Basis

The statutory basis for the proposed rules is Title I of the Act.

B. Board's Statement on Burden on Competition

The Board does not believe that the proposed rules will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rules provide procedures by which the Board will carry out its authority and responsibility to conduct investigations and disciplinary proceedings. The proposed rules will provide for procedural fairness and for uniformity of procedures governing investigations and disciplinary proceedings with respect to all persons subject to obligations imposed by the Board in those investigations and proceedings. The proposed rules implement the Act's provisions on investigations and discipline without imposing any burden on competition.

C. Board's Statement on Comments on the Proposed Rules Received From Members, Participants or Others

The Board released the proposed rules for public comment in PCAOB Release No. 2003–012 (July 28, 2003). A copy of PCAOB Release No. 2003–012 and the comment letters received in response to the PCAOB's request for comment are available on the PCAOB's web site at *pcaobus.org.* The Board received 17 written comments. The Board has clarified and modified certain aspects of the proposed rules in response to comments it received, as discussed below.

One commenter suggested that the Board add a good standing requirement to the definition of ''counsel.'' The Board incorporated that suggestion in the final rule.

The Board proposed a definition of ''hearing officer'' that included a panel of Board members constituting less than a quorum of the Board, an individual Board member, or any other person duly authorized by the Board to preside at a hearing. Several commenters expressed the view that neither Board members nor staff of the interested division should ever serve as hearing officers. After considering those comments, the Board adopted a final rule that excludes the possibility of any Board member or

staff of the interested division serving as a hearing officer.

Proposed Rule 5103(b) would have required that unless otherwise requested or permitted, the documents produced in response to an accounting board demand be the originals. Commenters stated that production of original documents, including workpapers, can be disruptive to ongoing audit engagements and suggested that the rule provide for production of copies rather than originals. To accommodate this concern, the Board modified the rule to permit production of copies unless otherwise specified in the accounting board demand.

In response to a comment on proposed Rule 5108, concerning the confidentiality of materials obtained by the Board, the Board deleted the phrase ''unless otherwise ordered by the Board or the Commission'' from the beginning of the rule. This change makes clear that the rule is not intended to suggest any Board authority to make materials public other than in a manner consistent with the Act.

With respect to proposed Rule 5110, commenters expressed concern about the prospect of a non-cooperation proceeding for providing testimony that ''omits material information.'' After consideration of the comments, the Board revised the scope of the rule on this point. The Board deleted the language concerning testimony that is false or misleading or that omits material information. In its place, the rule now uses the language of the federal perjury statute, 18 U.S.C. § 1623. The final rule provides for instituting a non-cooperation proceeding where it appears to the Board that a person may have ''knowingly made any false material declaration or made or used any other information, including any book, paper, document, record, recording, or other material, knowing the same to contain any false material declaration.''

Moreover, in response to a request for clarification, the Board added an additional point to the list of items that may warrant institution of non-cooperation proceedings. Specifically, the final rule states that the Board may authorize non-cooperation proceedings where it appears that a firm or associated person may have abused the Board's processes for the purpose of obstructing an investigation.

This new provision grew out of a comment made in connection with Rule 5402. The commenter suggested that the Board should impose fines for frivolous interlocutory appeals. The Board agreed that abuse of the Board's processes is a form of failing to ''otherwise cooperate'' and added this provision to Rule 5110 to provide notice that the Board will impose sanctions for this form of non-cooperation.

Rule 5200(c) provides that the Board will observe certain separation of functions principles. The proposed rule provided that any Board employee or agent engaged in investigative or prosecutorial functions for the Board in a proceeding could not, in that same proceeding or a factually related proceeding, participate or advise in the decision, or in Board review of the decision, except as a witness or counsel in the proceeding. One commenter suggested that this rule should clearly exclude all enforcement personnel from participating in the adjudication of a disciplinary proceeding, whether or not they had an investigative or prosecutorial role in the matter. The Board was persuaded that this represents a good policy choice and revised the rule accordingly. The final rule provides that neither the staff of the Division of Enforcement and Investigations, nor any other staff who engaged in investigative or prosecutorial functions on a matter, may participate or advise in the decision, or the review of the decision, except as a witness or counsel. In addition, the rule provides, as proposed, that a hearing officer may not be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for the Board.

One commenter expressed a concern that the proposed rules do not provide for the burdens of proof in a disciplinary proceeding. In response, the Board added a new Rule 5204(a). Rule 5204(a) provides that in any disciplinary proceeding instituted pursuant to Rule 5200(a)(1), Rule 5200(a)(2), or Rule 5200(a)(3), the interested division shall bear the burden of proving an alleged violation or failure to supervise by a preponderance of the evidence.

Rule 5304 concerns the imposition of summary suspensions for registered firms or associated persons that fail to pay a money penalty imposed by the Board. Rule 5304(a), as proposed, required only that the Board provide written notice at least seven days before any such suspension. One commenter understood the proposal to mean that a firm or associated person might have only seven days between the date the sanction becomes final and the date of summary suspension under the rule. The commenter suggested that the rule provide for at least 30 days between the sanction becoming final and the Board sending the seven-day notice.

The commenter's suggestion was consistent with what was intended by the proposal, and the Board modified the rule to make that intent explicit. The final rule allows a 30-day period for payment after a money penalty becomes final. If payment is not made in that 30-day period, the Board may send a notice that failure to make payment within seven days will result in summary suspension.

Proposed Rule 5401(c)(4) provided that an individual's withdrawal from representation of a party would be permitted only with the approval of the Board or the hearing officer. Commenters suggested that the rules should provide that permission to withdraw would not be unreasonably withheld.

The Board is sensitive to the importance of counsel being free to withdraw in appropriate circumstances, and the importance of a party being free to change counsel in appropriate circumstances. The Board is also mindful of the ways in which an ostensible desire to withdraw or to change counsel can be used to delay or disrupt proceedings. To provide some assurance of the limited scope within which the Board intends for the Board or hearing officer to withhold permission to withdraw, the Board adopted the commenters' suggestion that the rule provide that permission to withdraw would not be unreasonably withheld.

Rule 5403 prohibits a hearing officer from having *ex parte* communications with a person or party, except to the extent permitted by law or by the Board's rules for the disposition of *ex parte* matters. The proposed rule also prohibited a party from having *ex parte* communication with the Board or any Board member on a fact in issue, except as permitted by law or by the Board's rules. Commenters suggested that the restriction should extend beyond the interested division to any Board staff that has had substantial involvement in a matter. The Board has revised Rule 5403(b) to impose the restriction not only on a party (including the interested division) but also on any Board staff that substantially assists the interested division on the particular matter, whether before or during the hearing,

Rule 5420 provides that certain entities may seek leave to request a stay of a Board disciplinary proceeding. Under the proposed rule, the entities that could seek such a stay would have been the Commission, the United States Department of Justice or any United States Attorney's Office, and any criminal prosecutorial authority of a state or political subdivision of a state.

One commenter suggested that the list should be expanded to include an appropriate state regulatory authority. The Board agreed with that comment and modified the rule accordingly.

Rule 5422 governs the obligations of Board staff to make documents available to a party for inspection and copying. Under the rule, the staff's obligation varies according to whether the proceeding is commenced under Rule 5200(a)(1)–(2) for violations or failures reasonably to supervise, Rule 5200(a)(3) for non-cooperation, or Rule 5500 concerning disapproval of a registration application. In response to comments, the Board made several changes to Rule 5422. In particular, the Board revised the structure of the rule in response to suggestions that the rule should more closely track the Commission's approach with respect to so-called *Brady* material. The Board added provisions to reinforce the principle that material exculpatory evidence will not be withheld even if the confidential informant privilege or other good cause would otherwise justify withholding it. The Board also modified the rule to provide that documents made available in a non-cooperation proceeding will include any documents that contain material exculpatory evidence on the issue of non-cooperation. Finally, the Board revised the rule to require the Division to provide a privilege log with respect to a certain category of documents.

III. Date of Effectiveness of the Proposed Rules 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 Board consents, the Commission will:

(A) By order approve the proposed rules; or

(B) Institute proceedings to determine whether the proposed rules 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 rules are consistent with the Act.[7] Comments may be submitted electronically or by paper. Electronic comments may be submitted by: (1) Electronic form on the SEC Web site (*http://www.sec.gov*) or (2) e-mail to *rule-comments@sec.gov.* Mail paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. All submissions should refer to File No. PCAOB–2003–07; this file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC 20549. We do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All comments should be submitted on or before April 15, 2004.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

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BILLING CODE 8010–01–P

[7] The Commission notes, in connection with proposed Rule 5424(b), that the issuance of Commission subpoenas in connection with PCAOB disciplinary proceedings would be a novel and potentially complex arrangement, and the Commission staff has discussed with the PCAOB staff the need to develop and implement additional rules and procedures regarding the handling of subpoena requests. These additional rules and procedures would address, among other things, the steps that the parties to PCAOB proceedings would need to follow prior to applying for Commission subpoenas as well as the Commission's processes for handling such requests once they are received. We have discussed with the PCAOB staff the fact that Rule 5424(b) will not be available for use in PCAOB proceedings until such additional rules and procedures have been developed and implemented to the satisfaction of the Commission. Comments are specifically solicited on Rule 5424(b) in light of applicable statutory, due process and other legal considerations, including any relevant distinctions between the functions of the PCAOB and those of self-regulatory organizations.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49449; File No. SR–Amex–2004–04]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendments Nos. 1 and 2 Thereto by the American Stock Exchange LLC Relating to Auto-Ex for Exchange Traded Funds and Nasdaq Securities Traded on an Unlisted Basis

March 19, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 20, 2004, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex. On March 4, 2004, the Amex amended the proposed rule change.[3] On March 11, 2004, the Amex amended the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex seeks to revise its Auto-Ex procedures for Portfolio Depository Receipts, Index Fund Shares, Trust Issued Receipts (collectively referred to as ''Exchange Traded Funds'' or ''ETFs''), and Nasdaq securities admitted to trading on an unlisted basis. The text of the proposed rule change is set forth below. Proposed new language is in *italics*; proposed deletions are in [brackets].

* * * * *

Trading in Nasdaq National Market Securities

Rule 118 (a) through (k) no change

(l) & (m) (proposed in unapproved Amex rule filings)

(n) An institutional order is a limit order for a Nasdaq National Market Security of 10,000 shares or more transmitted to the order book electronically which is to be executed automatically in full at one price. If it is not executed automatically in full at one price, it is to be routed to the specialist for execution and may be partially executed. Unlike an all or none order, an institutional order has standing on the limit order book. An institutional order may not be entered for the proprietary account of a broker-dealer.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* letter from William Floyd-Jones, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, Office of Market Supervision (''OMS''), Commission, dated March 3, 2004 (''Amendment No. 1''). In Amendment No. 1, the Amex restated the proposed rule change in its entirety.

[4] *See* letter from William Floyd-Jones, Associate General Counsel, Amex, to Nancy Sanow, Assistant Director, OMS, Commission, dated March 11, 2004 (''Amendment No. 2''). In Amendment No. 2, the Amex restated the proposed rule change in its entirety.

[Automatic Execution for Nasdaq National Market Securities (Temporary)]

[Rule 118A–T. (a) An Auto-Ex eligible order in a Nasdaq National Market System security will be executed automatically at the Amex Published Quote (''APQ'') for such security in accordance with the provisions of this rule.]

[(b) An Auto-Ex eligible order for a Tier 1 Nasdaq National Market security must be a round lot, or partial round lot (''PRL''), market or marketable limit order for 1,000 shares or less received by the Exchange electronically. An Auto-Ex eligible order for a Tier 2 Nasdaq National Market security must be a round lot, or PRL, market or marketable limit order for 500 shares or less received by the Exchange electronically. For purposes of this Rule, a ''Tier 1'' Nasdaq National Market security is a stock with an average daily consolidated trading volume of over 10 million shares during the preceding calendar quarter, and a ''Tier 2'' Nasdaq National Market security is a stock with an average daily consolidated trading volume of 10 million shares or less during the preceding calendar quarter.]

[(c) The specialist will be the contra side to each Auto-Ex execution. In the event that the specialist trades as a result of an automatic execution at a price at which the specialist could have executed one or more limit orders on the book, the specialist shall immediately execute any such limit orders at the price of the Auto-Ex trade to the extent such booked orders would have been executed had the incoming order not been executed automatically.]

[(d) An Auto-Ex eligible order will be routed to the specialist and will not be automatically executed in the following situations:

(i) Auto-Ex will be turned-off for one or more securities when the specialist, in conjunction with a Floor Governor or two Floor Officials, determine that quotes are not reliable and the Exchange or the Nasdaq Stock Market is experiencing communications or systems problems, ''fast markets,'' or delays in the dissemination of quotes.

(ii) Auto-Ex will not occur if it would cause the election of a stop or stop limit order on the book, or it would cause a trade to occur through the price of an all or none order on the book.

(iii) Auto-Ex will not occur in a stock for 10 seconds after there has been an Auto-Ex trade in that security.

(iv) Auto-Ex will not occur in a stock when the spread in the Amex Published Quote in that security is equal to or greater than thirty cents.

(v) Auto-Ex will not occur in a stock when the Amex Published Quote on the opposite side of an incoming order is not at the NBBO for that security.

(vi) Auto-Ex will not occur when the size displayed in the APQ on the opposite side of an incoming order is less than the size of the incoming order.

(vii) Auto-Ex will not occur when an incoming order is larger than the applicable Tier 1 or Tier 2 size parameter for that stock.]

[(e) The Auto-Ex Enhancements Committee (''Committee'') will review a request from a specialist with respect to one or more securities to:

(i) Increase the size of Auto-Ex eligible orders above 1,000 share Tier 1 or 500 share Tier 2 parameters,

(ii) Reduce the duration of the 10-second pause between Auto-Ex executions, and/or

(iii) Increase the number of trades before the implementation of the 10-second pause in Auto-Ex described in paragraph (d)(iii) above.

The Committee may approve, disapprove or conditionally approve such requests. The Committee will balance the interests of investors, the specialist, and the Exchange in determining whether to grant a specialist's request to modify the Auto-Ex parameters specified in (i) through (iii) of paragraph (e) of this Rule. The Committee also will consider a request from a specialist to reduce Auto-Ex parameters that previously had been increased, provided, however, that the Committee may not reduce the Auto-Ex parameters below the floors stated in paragraphs (b) and (d) of this Rule. The Committee may delegate its authority to one or more Floor Governors. The Committee will meet promptly to review a Governor's decision to modify Auto-Ex parameters in the event that a Governor acts pursuant to delegated authority.]

[Automatic Execution for Exchange Traded Funds]

[Rule 128A. The Exchange shall determine the size and other parameters of orders eligible for execution by its Automatic Execution System (Auto-Ex). An Auto-Ex eligible order for any account in which the same person is directly or indirectly interested may only be entered at intervals of no less than 10 seconds between entry of each such order on the same side of the market in a security. Members and member organizations are responsible for establishing procedures to prevent orders in a security on the same side of the market for any account in which the same person is directly or indirectly interested from being entered at intervals of less than 10 seconds.]

[s s s Commentary ----------]

[.01 Auto-Ex eligible orders for Exchange Traded Funds (''ETFs'') must be round lot, market or marketable limit orders for 2,000 shares or less received by the Exchange electronically. 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. Notice concerning Auto-Ex eligibility criteria will be provided to members periodically via Exchange circulars and will be posted on the Exchange's web site.]

[.02 Upon the request of a specialist, the Auto-Ex Enhancements Committee (''Committee'') will review and approve, disapprove or conditionally approve requests to increase the size of Auto-Ex eligible orders above 2,000 shares. The Committee will balance the interests of investors, the specialist, Registered Options Traders in the crowd, and the Exchange in determining whether to grant a request to increase the size of Auto-Ex eligible orders above 2,000 shares. The Committee also will consider a request from a specialist to reduce the size of Auto-Ex eligible orders balancing the same interests that the Committee would consider in determining whether to increase the size of Auto-Ex eligible orders.]

[.03 Upon the request of a specialist, a Floor Governor may 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 if such action is appropriate in view of system problems or unusual market conditions. Any such change in the size of Auto-Ex eligible orders will be temporary and will only last until the end of the unusual market condition or the correction of the system problem.

Auto-Ex eligible orders will be routed to the specialist and will not be automatically executed in situations where the specialist in conjunction with a Floor Governor or two Floor Officials determine that quotes are not reliable and if the Exchange is experiencing communications or systems problems, ''fast markets,'' or delays in the dissemination of quotes.

Members and member organizations will be notified when the size of Auto-Ex eligible orders is adjusted due to system problems or unusual market conditions. Members and member organizations also will be notified when the Exchange has determined that quotes are not reliable and the Exchange is experiencing communications or systems problems, ''fast markets,'' or

delays in the dissemination of quotes prior to disengaging Auto-Ex.]

[.04 When the Amex establishes the NBBO (National Best Bid or Offer), Auto-Ex will be 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 (with respect to incoming sell orders), and less a programmable number of trading increments with respect to the Amex offer (with respect to incoming buy orders). The amount of price improvement relative to the APQ will be determined by the Committee.

When the Amex does not establish the NBBO, Auto-Ex will be 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. Auto-Ex will execute eligible incoming orders at an improved price relative to the APQ unless a trade through would result of an away ITS participant market. If a trade through would result, the orders will be routed to the Amex specialist for execution. The extent to which Auto-Ex will better the APQ in order to match or improve the NBBO (if the Amex does not establish the NBBO) will be determined by the Committee.

Auto-Ex will be unavailable (i) with respect to incoming sell orders when the published bid on the Amex is for 100 shares, and (ii) with respect to incoming buy orders when the published offer on the Amex is for 100 shares. Auto-Ex also will be unavailable when the spread between the bid and offer on the Amex exceeds a specified minimum or maximum value. The Committee will determine the spread in the APQ at which Auto-Ex will be unavailable.

The Committee will act upon the request of a specialist and will balance the interests of investors, the specialist, Registered Options Traders in the crowd, and the Exchange in determining (i) the amount of price improvement that will be programmed into Auto-Ex when the Amex establishes the NBBO, (ii) the extent to which Auto-Ex will better the APQ in order to match or improve the NBBO (if the Amex does not establish the NBBO), and (iii) the spread in the APQ at which Auto-Ex will be unavailable.]

[.05 Specialists and Registered Options Traders that sign-on to Auto-Ex will be automatically allocated the contra side of Auto-Ex trades for ETFs according to the following schedule:

Number of ROTs signed on to auto-ex in a crowd	Approximate 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'')
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 will be allocated to the specialist and Registered Options Traders signed-on to Auto-Ex will be randomly determined. Auto-Ex trades then will be automatically allocated in sequence on a rotating basis to the specialist and to the Registered Options Traders that have signed-on to 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 will divide the trade into lots of 100 shares each. Each lot will be considered a separate trade for purposes of determining target ratios and allocating trades within Auto-Ex.]

[.06 The Committee may delegate its authority to one or more Floor Governors. The Committee will meet promptly to review a Governor's decision in the event that a Governor acts pursuant to delegated authority.]

Automatic Execution

Rule 128A. (a) An Auto-Ex Eligible Order for an Auto-Ex Eligible Security will be executed automatically in accordance with the provisions of this rule.

(b) Definitions: Amex Published Quote (''APQ''). The Amex Published Quote is the highest bid and lowest offer disseminated by the American Stock Exchange.

Best Bid and Offer (''BBO''). The Best Bid and Offer is the highest bid and lowest offer disseminated by the national securities exchanges and facilities of national securities associations other than the Amex. Auto-Ex will disregard a bid or offer of less than 200 shares disseminated by any national securities exchange or facility of a national securities association in determining the BBO.

Auto-Ex Eligible Order. An Auto-Ex Eligible Order is a round lot or partial round lot market or marketable limit order delivered to the order book electronically. An Auto-Ex Eligible Order does not include an order update (*e.g., a ''cancel/replace'' and ''cancel/leaves'' order). An Auto-Ex Eligible Order does not include an order entered into the order book by the specialist. Orders on the book may be automatically matched against incoming Auto-Ex Eligible Orders as provided in this Rule.*

Auto-Ex Eligible Security. Auto-Ex Eligible Securities consist of Portfolio Depository Receipts, Index Fund Shares, Trust Issued Receipts and Nasdaq National Market Securities traded on the Exchange together with such other securities as may be designated as Auto-Ex Eligible Securities from time to time by the Exchange.

Auto-Ex. Auto-Ex is the system for automatically executing Auto-Ex Eligible Orders.

Auto-Ex Step-Up. Auto-Ex Step-Up is a functionality that allows Auto-Ex Eligible Orders to be automatically executed against the Specialist/Registered Trader Quantity at the APQ plus (in the case of a bid) or minus (in the case of an offer) a specified number of trading increments designated by the Auto-Ex Enhancements Committee necessary to match the BBO when the APQ is inferior to the BBO. Auto-Ex Step-Up is not available to orders for the proprietary account of a broker-dealer.

Auto-Ex Step-Up Amount. The Auto-Ex Step-Up Amount is the specified maximum number of trading increments necessary to attempt to match the BBO when the APQ is inferior to the BBO.

Auto-Ex Step-Up Size: The Auto-Ex Step-Up Size is the maximum size of an Auto-Ex Eligible Order that is eligible for Auto-Ex Step-Up.

Specialist/Registered Trader Quantity: The Specialist/Registered Trader

Quantity is the number of shares that the specialist and registered traders in a crowd signed on to Auto-Ex will purchase or sell through Auto-Ex executions.

Available Book Quantity: The Available Book Quantity is the number of shares on the order book at the APQ plus additional orders on the book that can be executed at or within the APQ minus shares on the book priced at or within the APQ that cannot be executed by their terms (e.g., all or none orders and tick sensitive orders).

Trade Threshold: The Trade Threshold is the number of Auto-Ex trades that the specialist and crowd will execute through Auto-Ex.

Maximum Spread Value: The Maximum Spread Value is the size of the spread at which Auto-Ex is automatically turned-off because the quote is too wide.

(c) Hours of Operation: Auto-Ex will be available for an Auto-Ex Eligible Security following the opening or reopening of a security on the Exchange once a trade has occurred and a quote has been disseminated in the security. Auto Ex will be turned-off at 3:59 p.m. For securities that trade until 4:15 p.m., Auto-Ex will be re-enabled at 4:01 p.m. and will continue to be available until 4:14 p.m.

(d) Interaction of Auto-Ex and Auction Market. (i) A bid or offer incorporated in the APQ shall not be deemed accepted by a member in the trading crowd and, as the result, no contract shall be created, until the specialist begins to enter the member's acceptance into the order book.

(ii) Auto-Ex will be turned-off on the bid or offer side of the market (as appropriate) in the event that (1) one or more brokers or registered traders in the trading crowd make a bid or offer within the APQ (a priority bid or offer), or (2) one or more brokers in the crowd make a bid or offer that is on parity with the APQ (a parity bid or offer). Auto-Ex will be turned-on again when all members signed-on to Auto-Ex in the crowd are on parity and no broker is making a parity bid or offer.

(e) Auto-Ex Enhancements Committee. The Auto-Ex Enhancements Committee will review, approve, disapprove, or conditionally approve specialist requests to take the following actions:

(i) Establish the Trade Threshold;

(ii) Establish the Specialist/Registered Trader Quantity;

(iii) Limit the size of Available Book Quantity;

(iv) Establish the Auto-Ex-Step-Up Size and Auto-Ex-Step-Up Amount in securities where there are Registered Traders in the crowd;

(v) Establish the Maximum Spread Value;

(vi) Establish the di-minimis trade through amount for securities that are listed in markets that have trade through rules.

The Committee will balance the interests of investors, the specialist, registered traders signed on to Auto-Ex, and the Exchange in considering such requests. In the event that the Committee changes one or more Auto-Ex parameters, the minutes of the Committee's meetings will state the change in market conditions, competitive environment or other circumstance(s) that caused the Committee to change the parameter(s). The Committee may delegate its authority to one or more Floor Governors. The Committee will meet promptly to review a Governor's decision in the event that a Governor acts pursuant to delegated authority.

(f) Determination of Execution Price: The price at which an Auto-Ex Eligible Order will be executed by Auto-Ex will be determined as follows:

(i) Auto-Ex will execute an Auto-Ex eligible order at the APQ (or better, as provided for in this Rule) when the APQ is equal to or better than the BBO as determined by the Exchange's order processing systems. Auto-Ex will not execute an order, and the order will be routed to the specialist for execution, if execution of the order at the APQ would result in a trade through of the BBO;

(ii) In the event that Auto-Ex Step-Up is engaged to match the BBO, Auto Ex will execute an Auto-Ex eligible order against the available Specialist/Registered Trader Quantity at the APQ plus (in the case of a bid) or minus (in the case of an offer) the lesser of (1) the Auto-Ex Step-Up Amount, or (2) the minimum number of trading increments necessary to match the BBO where the APQ is inferior to the BBO as determined by the Exchange's order processing systems. Auto-Ex will not execute an order, and the order will be routed to the specialist for execution, if (1) execution of the order at the APQ plus (or minus) the Auto-Ex Step-Up amount would result in a trade through of the BBO, or (2) the incoming order is larger than the Auto-Ex Step-Up size;

(iii) If programmed to do so, Auto-Ex will execute an Auto-Ex eligible order at the APQ when the APQ is inferior to the BBO as determined by the Exchange's order processing systems by a specified number of trading increments (the ''di-minimis trade through amount''). Auto-Ex will not execute an order, and the order will be routed to the specialist for execution, if execution of the order at the APQ would result in a trade through of the BBO by more than the di-minimis trade through amount.

Notwithstanding the foregoing, in the event that there are one or more executable limit orders on the order book on the opposite side of an Auto-Ex Eligible Order priced between the APQ, Auto-Ex will execute the incoming order against the order(s) on the order book at their limit price(s). In the event that there are one or more executable market orders in the order book on the opposite side of the incoming Auto-Ex-Eligible Order and the APQ spread is greater than the minimum trading variation, Auto-Ex will execute the incoming order against the resident market order(s) at the mid point between the best limit bid and offer or APQ (whichever is better), and, if this mid point value is not a trading interval, the price will be rounded up to the nearest trading interval.

(g) Auto-Ex Coming out of an Order Book Freeze. During an Order Book Freeze, messages coming into the order book (e.g., orders, status requests, cancels, cancel/replaces) queue and do not enter the order book. When the Order Book Freeze ends, Auto-Ex will be re-enabled immediately if all incoming orders are on the same side of the market. Auto-Ex will not be re-enabled, however, if there are orders on both sides of the market to allow the specialist to pair-off the orders to the extent possible. Automatic execution will resume once all messages in the queue are processed.

(h) Auto-Ex Size: Auto-Ex will execute Auto-Ex Eligible Orders up to the lesser of: (1) The size displayed in the APQ plus executable orders on the book within the APQ, or (2) the sum of the remaining Specialist/Registered Trader Quantity and Available Book Quantity. Notwithstanding the foregoing, Auto-Ex trades executed by the Auto-Ex Step-Up functionality are limited to the Auto-Ex Step-Up Size.

The specialist may determine to allow the partial execution by Auto-Ex of an Auto-Ex Eligible order in the event that the incoming order is larger than the size available through Auto-Ex.

The round lot portion of a partial round lot order will be executed as if it were a round lot order and the odd lot portion of the order will be executed as if it were an odd lot order.

(i) Contra Parties to Auto-Ex Trades. Auto-Ex will first allocate the contra side to an Auto-Ex trade to the Available Book Quantity in price/time priority. Auto-Ex will then allocate any portion of the Auto-Ex Eligible Order that remains unexecuted to the

available Specialist/Registered Trader Quantity in accordance with participation percentages (''target ratios'') determined by the ETF Trading Committee.

At the start of each trading day, the sequence in which shares will be allocated to the specialist and Registered Traders signed-on to Auto-Ex will be randomly determined. Auto-Ex shares then will be automatically allocated in sequence on a rotating basis to the specialist and to the Registered Traders that have signed-on to 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 will divide the trade into lots of 100 shares each. Each lot will be considered a separate trade for purposes of determining target ratios and allocating shares within Auto-Ex.

(j) Auto-Ex Unavailability. Auto-Ex will be unavailable in the following situations.

(i) Auto-Ex will not occur when the APQ is crossed with the BBO unless Auto-Ex is programmed to disregard the BBO in the case of a ''di-minimis trade through'' amount.

(ii) Auto-Ex will not occur when the Trade Threshold is exhausted and there is no Available Book Quantity.

(iii) Auto-Ex will not occur when the Specialist/Registered Trader Quantity is exhausted and there is no Available Book Quantity.

(iv) Auto-Ex will not occur when there is an open outgoing ITS commitment on behalf of a customer order.

(v) Auto-Ex will not occur on the Amex bid or offer (as appropriate) in the event that (1) one or more brokers or registered traders in the trading crowd make a bid or offer within the APQ (a priority bid or offer), or (2) one or more brokers in the crowd make a bid or offer that is on parity with the APQ (a parity bid or offer). Auto-Ex will be turned-on again when all members signed-on to Auto-Ex in the crowd are on parity and no broker is making a parity bid or offer.

(vi) Auto-Ex will not occur on the bid or offer (as appropriate) in the event that the APQ on that side of the market is for less than 200 shares.

(vii) Auto-Ex will not occur when there is insufficient size to fill the entire incoming order and partial executions of incoming Auto-Ex Eligible Orders are disallowed.

(viii) Auto-Ex will not occur when the order book on the Amex is locked or crossed with the APQ.

(ix) Auto-Ex will not occur with respect to an incoming Auto-Ex Eligible All Or None or Institutional Order in the event that there is insufficient size to execute the order according to its terms.

(x) Auto-Ex will not occur if the execution of the incoming order would elect a stop order on the order book.

(xi) Auto-Ex will not occur if the specialist is in the process of executing an order in the security.

(xii) Auto-Ex will not occur in one or more securities when the specialist, in conjunction with a Floor Governor or two Floor Officials, determine(s) that (1) quotes are not reliable, (2) the Exchange is experiencing communications or systems problems, ''Unusual Market Conditions'' as described in Amex Rule 115, or delays in the dissemination of quotes, or (3) the market(s) where the underlying securities trade (or Nasdaq with respect to Nasdaq National Market Securities) are experiencing communications or systems problems, ''Unusual Market Conditions'' as described in SEC Rule 11Ac1–1, or delays in the dissemination of quotes.

(xiii) Auto-Ex will not occur if it would cause a trade to occur through the price of an all or none order on the book.

(xiv) Auto-Ex will not occur if there are orders on both sides of the market when the order book comes out of a Freeze condition to allow the specialist to pair-off the orders.

(xv) Auto-Ex will not occur if the spread exceeds the Maximum Spread Value.

Auto-Ex Eligible Orders that are not automatically executed will be routed to the specialist for handling.

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II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change, as amended, 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 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 to permit the automatic execution of orders for Exchange Traded Funds (''ETFs'') on a six-month pilot program basis.[5] Since that time, the Exchange has renewed the ETF Auto-Ex pilot at six month intervals. On April 23, 2003, the Commission approved the Exchange's temporary Rule 118A–T to permit the automatic execution of orders for Nasdaq National Market securities traded on the Exchange pursuant to unlisted trading privileges.[6] The Exchange intended both the ETF and Nasdaq Auto-Ex initiatives to be interim steps that would be superceded by enhanced Auto-Ex technology. The current proposal embodies the Exchange's enhanced Auto-Ex technology which, unlike the earlier systems, would permit Auto-Ex to occur against orders on the book.[7]

To implement the enhanced Auto-Ex technology, the Exchange is proposing to rescind both of its current Auto-Ex for equity rules: Rule 118A–T (Automatic Execution for Nasdaq National Market Securities (Temporary)) and Rule 128A (Automatic Execution for Exchange Traded Funds and Trust Issued Receipts). In their place, the Exchange is proposing to adopt new Rule 128A (Automatic Execution). The proposed new rule would govern automatic execution of both ETFs and Nasdaq stocks traded on the Exchange. According to the Exchange, it does not intend at this time to extend the proposed new Auto-Ex procedures to other Amex traded equities although, according to the Exchange, it may do so in the future. The proposed new rule would not affect Auto-Ex for options.

Paragraph (a) of the proposed new rule would state the general principle that automatic execution would be governed by the provisions of the rule. It would state that an Auto-Ex Eligible Order for an Auto-Ex Eligible Security would be executed automatically in accordance with the terms of the rule.

Paragraph (b) of the proposed new rule would define terms used in the rule. ''Amex Published Quote'' (''APQ'') would be defined as the highest bid and lowest offer disseminated by the American Stock Exchange. The ''Best Bid and Offer'' (''BBO'') would be

[5] *See* Securities Exchange Act Release No. 44449 (June 19, 2001), 66 FR 33724 (June 25, 2001) (approving File No. SR–Amex–2001–29).

[6] *See* Securities Exchange Act Release No. 47728 (April 23, 2003), 68 FR 23348 (May 1, 2003) (SR–Amex–2003–16).

[7] The Commission notes that Amex's proposal would not be sufficient for Amex to be considered an ''automated order execution facility,'' as defined in Rule 600(b)(3) of proposed Regulation NMS because, among other things, it would not provide for an immediate automated response to all incoming subject orders. *See* Securities Exchange Act Release No. 49325 (February 26, 2004), 69 FR 11126 at 11203 (March 9, 2004).

defined as the highest bid and lowest offer disseminated by the national securities exchanges and facilities of national securities associations other than the Amex. The definition of ''BBO'' would provide that Auto-Ex would disregard a bid or offer of less than 200 shares disseminated by any national securities exchange or facility of a national securities association in determining the BBO since 100 share quotes may indicate that the quote is exhausted at that price level and are not subject to protection under the ITS Trade Through Rule.[8]

Paragraph (b) of the proposed new rule would define ''Auto-Ex Eligible Order'' as a round lot or partial round lot market or marketable limit order delivered to the order book electronically. The definition would provide that an Auto-Ex Eligible Order would not include an order update (*e.g.*, a ''cancel/replace'' and ''cancel/leaves'' order). The definition also would provide that an order, once it is on the book, would be able to be automatically matched against an incoming Auto-Ex Eligible Order. The definition would further provide that an agency order entered into the order book by the specialist would not be eligible for Auto-Ex.[9] ''Auto-Ex Eligible Securities'' would be defined by the proposed new rule as Portfolio Depository Receipts, Index Fund Shares, Trust Issued Receipts and Nasdaq National Market Securities traded on the Exchange.

Paragraph (b) of the proposed new rule would define terms used in connection with the ''Step-Up'' functionality of Auto-Ex. ''Auto-Ex Step-Up'' would be defined as a functionality that allows Auto-Ex Eligible Orders to be automatically executed at the APQ plus (in the case of a bid) or minus (in the case of an offer) a specified number of trading increments designated by the Auto-Ex Enhancements Committee [10] necessary to match the BBO when the APQ is inferior to the BBO. The definition would provide that Auto-Ex Step-Up would not be available to orders for the principal account of a broker-dealer since the purpose of the functionality would be to attract customer orders to the Exchange. The ''Auto-Ex Step-Up Amount'' would be defined as the specified number of trading increments necessary to attempt to match the BBO when the APQ is inferior to the BBO. ''Auto-Ex Step-Up Size'' would be defined as the maximum size of an Auto-Ex Eligible Order eligible for Auto-Ex Step-Up.

Paragraph (b) of the proposed new rule would define terms used in connection with determining the size and number of orders that would be able to be executed by Auto-Ex. ''Specialist/Registered Trader Quantity'' would be defined as the number of shares that the specialist and registered traders in a crowd signed on to Auto-Ex would purchase or sell through Auto-Ex executions. ''Available Book Quantity'' would be defined as the number of shares on the order book at the APQ plus additional orders on the book that would be able to be executed at or within the APQ minus shares on the book priced at or within the APQ that would not be able to be executed by their terms (*e.g.*, all or none orders and tick sensitive orders). ''Trade Threshold'' would be defined as the number of Auto-Ex trades that the specialist and crowd would execute through Auto-Ex. ''Maximum Spread Value'' would be the size of the spread at which Auto-Ex would be automatically turned-off because the quote is too wide.

Paragraph (c) of the proposed new rule would define the hours when Auto-Ex would be available. It would provide that Auto-Ex would be available for an Auto-Ex Eligible Security following the opening or reopening of a security on the Exchange once a trade has occurred and a quote has been disseminated in the security. It would further provide that Auto Ex would be turned off at 3:59 p.m. to facilitate the execution of at-the-close orders under the Exchange's closing procedures.[11] For securities that trade until 4:15 p.m., the proposed new rule would provide that Auto-Ex would be turned on again at 4:01 p.m. and would continue to be available until 4:14 p.m. when it would be turned off for the rest of the day to facilitate the execution of at-the-close orders in securities that trade until 4:15 p.m. under the Exchange's closing procedures.

Paragraph (d) of the proposed new rule would set forth principles of how Auto-Ex would operate in conjunction with the Exchange's ''open outcry'' auction market. Sub-paragraph (i) would provide that a bid or offer incorporated in the APQ would not be deemed accepted by a member in the trading crowd, and the acceptance, therefore, would not create a binding contract, until the specialist began to enter the member's acceptance into the order book. Amex believes that this would address situations where an order on the book establishes the APQ, and a member in the crowd (a broker, registered trader, or specialist) verbally accepts the bid or offer represented by the order on the book (thus forming a contract under the Exchange's auction market rules [12]), but an Auto-Ex Eligible Order takes the bid or offer before the specialist can process the member's acceptance. Amex believes that sub-paragraph (i) would address this potential double liability scenario by providing that a contract is not formed until the specialist begins to enter the member's acceptance into the book. At this point, messages would not be able to enter the book until the specialist finishes entering the acceptance, and an Auto-Ex Eligible Order would not be able to take the bid or offer ahead of the member who had previously accepted the bid or offer. According to Amex, subparagraph (i) thus is intended to limit the possibility of double liability in securities subject to Auto-Ex that would exist if a contract were formed upon the verbal acceptance of a bid or offer.

Sub-paragraph (ii) of Paragraph (d) would provide that Auto-Ex would be turned off on the bid or offer side of the market (as appropriate) in the event that one or more brokers or registered traders in the trading crowd make a bid or offer within the APQ (a priority bid or offer). This would allow a price improving member in the crowd with a priority bid or offer to obtain an execution at his or her improved price without having an Auto-Ex Eligible Order trade through the priority bid or offer. Sub-paragraph (ii) of Paragraph (d) also would provide that Auto-Ex would be turned off on the bid or offer side of the market (as appropriate) in the event that one or more brokers in the crowd have a bid or offer on parity with the APQ (a parity bid or offer). According to Amex, this would allow brokers on parity with the specialist and traders in the crowd to participate on trades where they are

[8] *See, e.g.*, Amex Rule 236(b)(3)(A).

[9] Specialists may not place orders for their principal account on the order book.

[10] The Auto-Ex Enhancements 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.

[11] *See* Amex Rules 109(d), Commentary .02 to Rule 109, Commentary .01 to Rule 118, 131(e), Commentaries .02 and .03 to Rule 131, Rule 156(c), and Commentary .01 to Rule 156. *See also* Securities Exchange Act Release Nos. 41877 (September 14, 1999), 64 FR 51566 (September 23, 1999) (SR–Amex–99–32); 40123 (June 24, 1998), 63 FR 36280 (July 2, 1998) (SR–Amex–98–10); 35660 (May 2, 1995), 60 FR 22592 (May 8, 1995) (SR–Amex–95–09); and 29312 (June 14, 1991), 56 FR 28583 (June 21, 1991) (SR–Amex–90–32).

[12] Amex Rule 128 currently provides that: ''All bids and offers made and accepted in accordance with these Rules shall constitute binding contracts but shall be subject to the exercise by the Board of Governors of the powers in respect thereto vested in said Board by the Constitution of the Exchange and the Rules of the Exchange.''

entitled to participate. As described within, Auto-Ex would be re-enabled when all members signed-on to Auto-Ex are on parity and no broker is making a parity bid or offer.

Paragraph (e) of the proposed rule would describe the role of the Auto-Ex Enhancements Committee in the operation of Auto-Ex. It would provide that the Committee would review, approve, disapprove, or conditionally approve specialist requests to take the following actions: (i) establish the Trade Threshold, (ii) establish the Specialist/Registered Trader Quantity, (iii) limit the size of Available Book Quantity, (iv) establish the Auto-Ex-Step-Up Size and Auto-Ex-Step-Up Amount where there are Registered Traders in the crowd, (v) establish the Maximum Spread Value, and (vi) establish the *de minimis* trade through amount for securities that are listed in markets that have trade through rules. The proposed new rule would require the Committee to balance the interests of investors, the specialist, registered traders signed on to Auto-Ex, and the Exchange in considering such requests. In the event that the Committee were to change one or more Auto-Ex parameters, the minutes of the Committee's meetings would state the change in market conditions, competitive environment or other circumstances that caused the Committee to change the parameter(s) in question. The proposed rule also would provide that the Committee would be able to delegate its authority to one or more Floor Governors, and that the Committee would meet promptly to review a Governor's decision in the event that a Governor were to act pursuant to delegated authority.

According to Amex, the Auto-Ex Enhancement Committee has existed since 2001 and has been responsible for reviewing Auto-Ex parameters for both Amex traded options, ETFs and Nasdaq UTP. [13] According to Amex, the Committee consists of all Floor Governors and the heads of the three floor associations (or their designees). It has been the Exchange's experience that the Auto-Ex parameters, once set, are changed infrequently.

Paragraph (f) of the proposed new rule would describe how the price of Auto-Ex executions would be determined. Except as described below, Auto-Ex would execute an Auto-Ex eligible order at the APQ when the APQ is equal to or better than the BBO as determined by the Exchange's order processing systems. Auto-Ex would not execute an order, and the order would be routed to the specialist for execution, if execution of the order at the APQ would result in a trade through of the BBO except in cases where the ''*de minimis* trade-through'' functionality would be used as described below.

In the event that Auto-Ex Step-Up was engaged, Auto Ex would execute an Auto-Ex eligible order at the APQ plus (in the case of a bid) or minus (in the case of an offer) the maximum Auto-Ex Step-Up Amount necessary to match the BBO where the APQ would be inferior to the BBO as determined by the Exchange's order processing systems. Auto-Ex would not execute an order, and the order would be routed to the specialist for execution, if execution of the order at the APQ plus the maximum Auto-Ex Step-Up amount would result in a trade through of the BBO or the incoming order would be larger than the Auto-Ex Step-Up size.

Under the proposed *de minimis* trade through functionality, Auto-Ex would be able to execute an Auto-Ex eligible order at the APQ when the APQ is inferior to the BBO as determined by the Exchange's order processing systems by a specified number of trading increments (the ''*de minimis* trade through amount''). Auto-Ex would not execute an order, and the order would be routed to the specialist for execution, if execution of the order at the APQ would result in a trade through of the BBO by more than the *de minimis* trade through amount. The *de minimis* trade through functionality currently only would be used for SPY, DIA and QQQ and Nasdaq National Market Securities.

Paragraph (f) of the proposed rule would provide that if there were one or more executable limit orders on the order book priced between the APQ on the opposite side of an incoming Auto-Ex Eligible Order, Auto-Ex would execute the incoming order against the order(s) on the order book at their limit price(s) in price time priority. In the event that there were one or more executable market orders in the order book on the opposite side of the incoming Auto-Ex-Eligible Order and the APQ spread was greater than the minimum trading variation, Auto-Ex would execute the incoming order against the resident market order(s) at the mid point between the best limit bid and offer or APQ (whichever is better) in price time priority. If this mid point value was not a trading interval, the price would be rounded up to the nearest trading interval. According to Amex, this functionality would ensure that customer orders would be able to automatically interact with one another to the greatest extent possible.

Paragraph (g) of the proposed rule would discuss the availability of Auto-Ex in a security when the security is coming out of an Order Book Freeze. According to Amex, during the time of an Order Book Freeze, messages being sent to the order book (*e.g.*, orders, status requests, cancels, cancel/replaces) queue and do not enter the order book.[14] When the Order Book Freeze ends, Auto-Ex would be re-enabled immediately if all incoming orders were on the same side of the market. Auto-Ex would not be re-enabled, however, if there were orders on both sides of the market. This would allow the specialist to pair-off the incoming orders so that they would be able to interact to the greatest extent possible. Automatic execution would resume once all messages in the queue are processed.

Paragraph (h) of the proposed rule would discuss Auto-Ex size. It would provide that Auto-Ex would execute Auto-Ex Eligible Orders up to the lesser of: (1) The size displayed in the APQ plus executable orders on the book within the APQ, or (2) the sum of the remaining Specialist/Registered Trader Quantity and Available Book Quantity. As previously noted, Auto-Ex trades executed by the Auto-Ex Step-Up functionality would be limited to the Auto-Ex Step-Up Size.

Paragraph (h) of the proposed rule would provide that the specialist would be able to determine to allow the partial execution by Auto-Ex of an Auto-Ex Eligible order in the event that the incoming order was larger than the size available through Auto-Ex. Paragraph (h) also would provide that the round lot portion of a partial round lot order would be executed as if it were a round lot order, and the odd lot portion of the order would be executed as if it were an odd lot order.

Paragraph (i) of the proposed rule would discuss the allocation of the other side of Auto-Ex trades either to orders on the book or to the specialist and registered traders signed-on to Auto-Ex. Under the proposed Rule, Auto-Ex would first allocate the contra side to an Auto-Ex trade to the Available Book Quantity in price/time priority. Auto-Ex would then allocate any portion of the Auto-Ex Eligible Order that remained unexecuted to the available Specialist/Registered Trader Quantity in accordance with participation percentages (''target

[13] The role of the Auto-Ex Enhancements Committee is described in Commentary .01 to Amex Rule 933 (listed options), Commentary .02 to Amex Rule 128A (ETFs), and Amex Rule 118A–T(e) (Nasdaq securities traded on an unlisted basis).

[14] According to Amex, messages in the queue are not visible to the specialist until the Freeze ends and the messages enter the book.

ratios'') determined by the ETF Trading Committee.[15]

At the start of each trading day, the sequence in which shares would be allocated to the specialist and Registered Traders signed-on to Auto-Ex would be randomly determined. Auto-Ex trades then would be automatically allocated in sequence on a rotating basis to the specialist and to the Registered Traders that have signed-on to 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 was greater than 100 shares, Auto-Ex would divide the trade into lots of 100 shares each. Each lot would be considered a separate trade for purposes of determining target ratios and allocating shares within Auto-Ex.

Paragraph (j) of the proposed Rule would discuss the situations in which Auto-Ex would be unavailable and would state that orders would be routed to the specialist for execution in these situations. Subparagraph (i) of paragraph (j) would provide that Auto-Ex would not occur when the APQ is crossed with the BBO unless (as discussed above) Auto-Ex was programmed to disregard the BBO in the case of a ''*de minimis* trade through'' amount. Auto-Ex would continue to occur when the APQ is locked with the BBO at the ''lock'' price. Subparagraph (ii) would provide that Auto-Ex would not occur when the Trade Threshold is exhausted and there is no Available Book Quantity. Subparagraph (iii) would provide that Auto-Ex would not occur when the Specialist/Registered Trader Quantity is exhausted and there is inadequate Available Book Quantity.

Subparagraph (iv) would provide that Auto-Ex would not occur when there is an open outgoing ITS commitment on behalf of a customer order. This would allow the specialist to send a commitment to an away market on behalf of a customer order without the customer order being executed automatically while the specialist is waiting for a response to the outgoing commitment. This feature would not apply to Nasdaq National Market Securities. Subparagraph (v) provides that Auto-Ex would not occur on the bid or offer (as appropriate) in the event that (1) one or more brokers or registered traders in the trading crowd have made a bid or offer within the APQ (a priority bid or offer), or (2) one or more brokers in the crowd have made a bid or offer that is on parity with the APQ (a parity bid or offer). This would allow a member in the crowd that improves the APQ to execute at the improved price without having an Auto-Ex trade occur through the improved bid or offer, and it would allow brokers on parity with the specialist and traders in the crowd to participate on trades where they are entitled to participate. Subparagraph (vi) would provide that Auto-Ex would not occur on the bid or offer (as appropriate) in the event that the APQ on that side of the market was for less than 200 shares. According to Amex, a quote of 100 shares may signify that the quote is exhausted at that price level and is not subject to protection under the ITS Trade Through Rule.

Subparagraph (vii) would provide that Auto-Ex would not occur when there is insufficient size to fill the entire incoming Auto-Ex Eligible Order and partial executions of incoming Auto-Ex Eligible Orders are disallowed. Subparagraph (viii) would provide that Auto-Ex would not occur when the order book on the Amex is locked or crossed with the APQ. This would prevent automatic executions in faulty markets. Subparagraph (ix) would provide that Auto-Ex would not occur with respect to an incoming Auto-Ex Eligible All or None or Institutional Order in the event that there is insufficient size to execute the All or None or Institutional Order according to its terms. Subparagraph (x) would provide that Auto-Ex would not occur if the execution of the incoming order would elect one or more stop orders on the order book to prevent the automatic election of stop orders.

Subparagraph (xi) would provide that Auto-Ex would not occur if the specialist is in the process of executing an order in the security. As previously discussed, this would prevent double liability and allow the specialist to maintain an orderly market by executing trades in proper time sequence in accordance with the rules of the auction market. Subparagraph (xii) would provide that Auto-Ex would not occur in one or more securities when the specialist, in conjunction with a Floor Governor or two Floor Officials, determine(s) that (1) quotes are not reliable, (2) the Exchange is experiencing communications or systems problems, ''Unusual Market Conditions'' as described in Amex Rule 115, or delays in the dissemination of quotes, or (3) the market(s) where the underlying securities trade are experiencing communications or systems problems, ''Unusual Market Conditions'' as described in Commission Rule 11Ac1–1, or delays in the dissemination of quotes. The Exchange believes that Auto-Ex should not occur in these circumstances since the APQ and BBO may not correctly reflect the forces of supply and demand. Subparagraph (xiii) would provide that Auto-Ex would not occur if it would cause a trade to occur through the price of an all or none order on the book. Subparagraph (xiv) would provide that Auto-Ex would not occur if there are orders on both sides of the market when the order book comes out of a freeze condition. This would allow the specialist to pair-off the orders so that they can interact. Subparagraph (xv) would provide that Auto-Ex would not occur if the spread in the security exceeds the Maximum Spread Value.

The Exchange also is proposing to amend Rule 118 to create a new type of limit order, called an ''institutional order'' that would be used for customer orders of 10,000 shares or more in Nasdaq National Market Securities. This new order (which is not available for other securities traded on the Exchange) must be executed automatically in full at one price. If it is not executed automatically in full at one price, it is to be routed to the specialist for execution and may be partially executed. Unlike an all or none order, an institutional order will have standing on the book since it may be executed in part once it is on the book.

The Exchange anticipates that it may require up to three months to complete the implementation of the new Auto-Ex technology to all affected securities following Commission approval of this proposal.

2. Statutory Basis

The Amex believes that the proposed rule change, as amended, is consistent with Section 6(b) of the Act[16] in general and furthers the objectives of Section 6(b)(5)[17] 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

[15] The ETF Trading Committee was proposed in File No. SR–Amex–2002–35. *See* Securities Exchange Act Release Nos. 49058 (January 12, 2004), 69 FR 2754 (January 20, 2004) (notice); and 49396 (March 11, 2004), 69 FR 12719 (March 17, 2004) (approval order). The Committee is composed of the Exchange's four Floor Governors, the Chairmen (or their designee) of the Specialists Association, the Options Market Makers Association and the Floor Brokers Association and three members of the Exchange's senior staff. Since Nasdaq National Market Securities traded on the Amex are not traded by registered traders, the Specialist/Registered Trader Quantity with respect to Nasdaq National Market Securities traded on the Amex would consist solely of specialist interest.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

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.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change, as amended, will impose no burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received by the Exchange on the proposed rule change, as amended.

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, as amended, or

B. Institute proceedings to determine whether the proposed rule change, as amended, should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov.* All comment letters should refer to File No. SR–Amex–2004–04. This file number should be included on the subject line if e-mail is used. To help the Commission process and review comments more efficiently, comments should be sent in hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File No. SR–Amex–2004–04 and should be submitted by April 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[18]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–6705 Filed 3–24–04; 8:45 am]

BILLING CODE 8010–01–U

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–49446; File No. SR–DTC–2004–02]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Termination of the Global Corporate Action Hub as a DTC Service

March 18, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on March 15, 2004, The Depository Trust Company (''DTC'') 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 primarily by DTC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change would allow DTC to terminate the Global Corporate Action Hub (''GCAH'') as a DTC service.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC 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. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On April 18, 2002, the Commission issued an order approving DTC's implementation of GCAH.[3] Since that time, however, DTC has not offered the service and has determined not to offer the service in the future. The purpose of the proposed rule change is to terminate GCAH as a DTC service offering. For purposes of efficiency and enhanced customer service, Global Asset Solutions LLC, a wholly-owned subsidiary of The Depository Trust & Clearing Corporation which offers services similar in nature to GCAH, will be offering the service under the name ''Global Corporate Action Messaging Service.''

The proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[4] and the rules and regulations thereunder applicable to DTC because it will allow for more efficient allocation of DTC's resources. The proposed rule change will be implemented consistently with the safeguarding of securities and funds in DTC's custody or control or for which it is responsible since DTC has never offered GCAH.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no adverse impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change will take effect upon filing pursuant to Section

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] Securities Exchange Act Release No. 45780 (April 18, 2002), 67 FR 20562 (April 25, 2002) [File No. SR–DTC–2001–04] (order approving DTC's implementation of GCAH).

[4] 15 U.S.C. 78q–1(b)(3)(F).

19(b)(3)(A)(iii) of the Act[5] and Rule 19b–4(f)(4)[6] thereunder because the proposed rule effects a change in an existing service of DTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using GCAH because DTC has never offered GCAH. At any time within sixty days of the filing of such 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. Comments may also be submitted electronically at the following e-mail address: *rule-comments@sec.gov*. All comment letters should refer to File No. SR–DTC–2004–02. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, comments should be sent in either hardcopy or by e-mail but not by both methods. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of such filing also will be available for inspection and copying at the principal office of DTC. Copies of the proposed rule change and all subsequent amendments are also available at *www.dtc.org.* All submissions should refer to File No. SR–DTC–2004–02 and should be submitted by April 15, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–6707 Filed 3–24–04; 8:45 am]

BILLING CODE 8010–01–P

[5] 15 U.S.C. 78s(b)(3)(A)(iii).

[6] 17 CFR 240.19b–4(f)(4).

[7] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before May 24, 2004.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Veronica Johnson, Program Analyst, Office of Business Development, Small Business Administration, 409 3rd Street SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Veronica Johnson, Program Analyst, 202–619–0472 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION: *Title:* ''8(a) Annual Update.''

Description of Respondents: 8(a) Business Owners.

Form No.: 1450.

Annual Responses: 6,942.

Annual Burden: 13,884.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Carol Greenfield, Grants Management Specialist, Office of Procurement & Grants Management, Small Business Administration, 409 3rd Street SW., Suite 5000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Carol Greenfield, Grants Management Specialist, 202–205–7090 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Notice of Award.''

Description of Respondents: Participating Colleges.

Form No.: 1222.

Annual Responses: 477.

Annual Burden: 34,191.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Vanessa Piccioni, Management Analyst, Office of Small Business Development Centers, Small Business Administration, 409 3rd Street SW., Suite 5000, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Vanessa Piccioni, Management Analyst, 202–205–6705 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Other Funding under the SBDC Umbrella.''

Description of Respondents: SBA Small Business Development Centers.

Form No.: 2186.

Annual Responses: 58.

Annual Burden: 29.

Title: ''Grant/Cooperative Agreement Cost Sharing Proposal.''

Description of Respondents: Grants Management Offices.

Form No.: 1224.

Annual Responses: 477.

Annual Burden: 34,191.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Sandra Johnston, Program Analyst, Office of Small Business Development Centers, Small Business Administration, 409 3rd Street SW., Suite 8300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Sandra Johnston, Program Analyst, 202–205–7528 or Curtis B. Rich, Management Analyst, 202–205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Application for Pool of Guaranteed Interest.''

Description of Respondents: SBA Loan Pool Assemblers.

Form No.: 1454.

Annual Responses: 475.

Annual Burden: 1,425.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E4–681 Filed 3–24–04; 8:45 a.m.]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 4668]

Bureau of Political-Military Affairs: Directorate of Defense Trade Controls; Notifications to the Congress of Proposed Commercial Export Licenses

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Department of State has forwarded the attached Notifications of Proposed Export Licenses to the Congress on the dates shown on the attachments pursuant to sections 36(c) and 36(d) and in compliance with section 36(f) of the Arms Export Control Act (22 U.S.C. 2776).

EFFECTIVE DATE: As shown on each of the eight letters.

FOR FURTHER INFORMATION CONTACT: Mr. Peter J. Berry, Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State (202–663–2700).

SUPPLEMENTARY INFORMATION: Section 36(f) of the Arms Export Control Act mandates that notifications to the Congress pursuant to sections 36(c) and 36(d) must be published in the **Federal Register** when they are transmitted to Congress or as soon thereafter as practicable.

Dated: March 16, 2004.

Peter J. Berry,

Director, Office of Defense Trade Controls Licensing, Directorate of Defense Trade Controls, Bureau of Political-Military Affairs, Department of State.

January 30, 2004.

The Honorable

J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of defense services, technical data and defense articles to Mexico to support the manufacture and assembly of electrical connectors for military aircraft, military ground vehicles, military ships and missile systems in the United States.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DTC 127–03

January 30, 2004.

The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export of unclassified technical data and assistance to Jordan for the installation and maintenance of the Integrated Fire Control System (IFCS) for the AB9B1 M60 Tank Upgrade Program for use by the Jordanian Armed Forces.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 128–03.

January 30, 2004.

The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification involves the export of classified and unclassified technical data and assistance to Japan, necessary for the manufacture of the Standard Flight Data Recorder for end-use by the Japanese Defense Agency.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 129–03.

February 10, 2004.

The Honorable J. Dennis Hastert, *Speaker of the House of Representatives.*

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting herewith certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification concerns exports of technical data and defense services to design, build and provide two commercial communication broadcasting satellites to Australia and Singapore, and update existing ground control stations in Perth and Sydney Australia.

The United States Government is prepared to license the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 126–03.

March 1, 2004.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed extension of the license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia, Ukraine and Norway related to the launch of commercial satellites from the Pacific Ocean utilizing a modified oil platform beyond the period specified in DTC 023–03 dated February 28, 2003, DTC 002–03 dated January 24, 2003; DTC 148–02 dated July 26, 2002; DTC 123–02 dated May 22, 2002; DTC 023–02 dated May 1, 2002; DTC 048–01 dated April 30, 2001; DTC 026–00 dated May 19, 2000; DTC 124–99 dated November 10, 1999; DTC 006–99 dated April 16, 1999; and DTC 016–97 dated July 25, 1997.

The United States Government is prepared to extend the license for the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,

Paul V. Kelly,

Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 015–04.

March 1, 2004.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed extension of the license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transactions contained in the attached certification concern future commercial activities with Russia and Kazakhstan related to the Proton Space Launch Vehicle beyond those specified in DTC 022–03 dated February 28, 2003; DTC 001–03 dated January 24, 2003; DTC 147–02 dated July 26, 2002; DTC 182–02 dated June 27, 2002; DTC 124–02 dated May 22, 2002; DTC 022–02 dated May 1, 2002; DTC 038–01 dated April 30, 2001; DTC 034–01 dated March 1, 2001; DTC 014–01 dated March 7, 2000; DTC 098–99 dated August 5, 1999; and DTC 039–98 dated March 19, 1998.

The United States Government is prepared to extend the license for the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary,
Legislative Affairs.

Enclosure: Transmittal No. DTC 016–04.

March 1, 2004.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed extension of the license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more.

The transaction contained in the attached certification concerns exports of technical data and defense services for cooperation in the co-development of Japan's Galaxy Express (formerly J–1) space launch vehicle program beyond the period specified in DTC 024–03.

The United States Government is prepared to extend the license for the export of these items having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 017–04.

March 5, 2004.

The Honorable J. Dennis Hastert, Speaker of the House of Representatives.

Dear Mr. Speaker: Pursuant to Section 36(c) of the Arms Export Control Act, I am transmitting, herewith, certification of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more.

The transaction contained in the attached certification involves the export and launch of a commercial communications satellite from Kazakhstan.

The United States Government is prepared to license the export of this item having taken into account political, military, economic, human rights and arms control considerations.

More detailed information is contained in the formal certification which, though unclassified, contains business information submitted to the Department of State by the applicant, publication of which could cause competitive harm to the United States firm concerned.

Sincerely,
Paul V. Kelly,
Assistant Secretary, Legislative Affairs.

Enclosure: Transmittal No. DDTC 131–03.

[FR Doc. 04–6714 Filed 3–24–04; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF STATE

[Public Notice 4672]

Culturally Significant Objects Imported for Exhibition Determinations: ''Manet's Le dejeuner sur l'herbe''

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 [79 Stat. 985; 22 U.S.C. 2459], Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 [112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*], Delegation of Authority No. 234 of October 1, 1999 [64 FR 56014], Delegation of Authority No. 236 of October 19, 1999 [64 FR 57920], as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the object to be included in the exhibition, ''Manet's Le dejeuner sur l'herbe,'' imported from abroad for temporary exhibition within the United States, is of cultural significance. The object is imported pursuant to a loan agreement with a foreign lender. I also determine that the exhibition or display of the exhibit object at the J. Paul Getty Museum, Los Angeles, California, from on or about April 27, 2004, to on or about September 26, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, contact Paul W. Manning, Attorney-Adviser, Office of the Legal Adviser, 202/619–5997, and the address is United States Department of State, SA–44, Room 700, 301 4th Street, SW., Washington, DC 20547–0001.

Dated: March 18, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–6711 Filed 3–24–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4671]

Culturally Significant Objects Imported for Exhibition Determinations: ''Masters of Florence: Glory and Genius at the Court of the Medici''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459),Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, and Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Masters of Florence: Glory and Genius at the Court of the Medici,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner. I also determine that the exhibition or display of the exhibit objects at Wonders: The Memphis International Cultural Series, Memphis, TN from on or about April 23, 2004 to on or about October 3, 2004, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Carol B. Epstein, Attorney-Adviser, Office of the Legal Adviser, Department of State, (telephone: 202/619–6981). The address is Department of State, SA–44, 301 4th

Street, SW., Room 700, Washington, DC 20547–0001.

Dated: March 19, 2004.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–6712 Filed 3–24–04; 8:45 am]

BILLING CODE 4710–08–P

DEPARTMENT OF STATE

[Public Notice 4608]

Renewal of Defense Trade Advisory Group Charter

AGENCY: Department of State.

ACTION: Notice.

DATES: March 25, 2004.

The Charter of the Defense Trade Advisory Group (DTAG) is being renewed for a two-year period. The membership of this advisory committee consists of private sector defense trade specialists appointed by the Assistant Secretary of State for Political-Military Affairs who advise the Department on policies, regulations, and technical issues affecting defense trade.

FOR FURTHER INFORMATION CONTACT: Mary F. Sweeney, DTAG Secretariat, U.S. Department of State, Office of Defense Trade Controls Management (PM/DTCM), Room 1200, SA–1, Washington, DC 20522–0112, (202) 663–2865, FAX (202) 663–261–8199.

Dated: March 18, 2004.

Michael T. Dixon,

Executive Secretary, Defense Trade Advisory Group, Department of State.

[FR Doc. 04–6716 Filed 3–24–04; 8:45 am]

BILLING CODE 4710–25–U

DEPARTMENT OF STATE

[Public Notice 4670]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: Central and Eastern European Professional Exchanges and Training Program for Albania, Bulgaria, Croatia, Kosovo, Macedonia, Serbia and Montenegro, and Slovenia

SUMMARY: The Europe/Eurasia division of the Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs announces an open competition for Central and Eastern European Professional Exchanges and Training Programs for Albania, Bulgaria, Croatia, Kosovo, Macedonia, Romania, Serbia and Montenegro, and Slovenia. The office anticipates awarding approximately three grants under this overall competition. 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 proposals.

Announcement Title and Number: All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/EUR–04–46.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, ECA/PE/C/EUR, Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Attention: Central and Eastern Europe Professional Exchanges and Training Program, telephone number: 202–619–5327, fax number 202–619–4350 or *scotthc@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.

For specific inquiries, please contact Bureau program officers by phone or e-mail: Brent Beemer (202) 401–6887 (*beemerbt@state.gov*) and Henry Scott (202) 619–5327 (*scotthc@state.gov*).

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/RFGPs.* Please read all information before downloading.

General Program Guidelines: Applicants should identify the 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. Specific information about the counterpart organizations' activities and accomplishments should be included in the section on Institutional Capacity. Proposals should contain letters of support tailored to the project being proposed from foreign-country partner organizations.

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 and country;
- Experienced staff with language facility and a commitment by the staff to monitor projects locally to ensure implementation;
- A clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant; and
- A plan that outlines activities that will take place after the Bureau grant concludes.

Proposal narratives should clearly demonstrate an organization's commitment to consult closely with the Public Affairs Section, and when required, other officers at the U.S. Embassy. Proposal narratives must confirm that all materials developed for the project will acknowledge Bureau funding for the program as well as a commitment to invite representatives of the Embassy and/or Consulate to participate in various program sessions/site visits. Please note that this will be a formal requirement in all final grant awards.

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 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. Proposals that include U.S.-based training will receive the highest priority.

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 with committed people within each country, and become active in a practical and valuable way.

3. Site visits by U.S. facilitators/experts to monitor projects in the region and to provide additional training and consultations as needed.

Activities 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 when they are a small part of a larger project in duration 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. The Office also does not support academic research or fund faculty or student fellowships.

Selection of Participants: Where applicable, all grant proposals should clearly describe the type of persons who will participate in the program as well as the participant selection process. For programs that include U.S. internships, applicants should submit letters of support from host institutions. In the selection of foreign participants, the Bureau and U.S. Embassies will review all participant nominations and may accept or refuse participants recommended by grantee institutions. When American participants are selected, grantee institutions must provide their names and brief biographical data to the Office of Citizen Exchanges. 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 and provision to the Bureau of data on participants and program activities.)

Evaluation: In general, evaluation should occur throughout the project. The evaluation should 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 identified resources, advocates, and financial support for the 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 must be conducted at the end of each component, should measure the impact of the activities and should obtain participants' feedback on the program content and administration. A detailed evaluation will be conducted at the conclusion of the project and a report will be submitted to the Department of State Bureau of Educational and Cultural Affairs. When possible, the evaluation should be conducted by an independent evaluator.

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 as required. As a minimum, the data must include the following:

(1) 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.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA/PE/C/EUR Program Officer at least three work days prior to the official opening of the activity.

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 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 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 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 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 62. If the applicant has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR 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.

Program Information

Overview

The Bureau welcomes proposals that respond directly to the themes and countries listed below. Given budgetary considerations, projects in countries and for themes other than those listed will not be eligible for consideration and will be ruled technically ineligible. No guarantee is made or implied that grants will be awarded in all categories.

For this competition, both single country and multi-country projects are eligible for support. In order to prevent duplication of effort, proposals should reflect an understanding of the work of international agencies so that projects complement—not duplicate—other assistance programs.

Two-way exchanges will be given the highest priority. Applicants should carefully review the following recommendations for proposals in Central and Eastern European countries.

To be eligible for a grant award under this competition, the proposed professional training and exchange projects must address one of the following specific themes.

Themes

- Professional Librarian Training for Kosovo (Kosovo only).
- Media Training (Regional Program for Albania, Bulgaria, Croatia, Macedonia, Serbia and Montenegro, and Slovenia).

Professional Librarian Training for Kosovo

The Bureau is accepting proposals for a project that will produce a cadre of

professionals from Kosovo who will effectively manage a university library. The Bureau envisions a two-part project that will train a minimum of nine individuals who will work at the University of Pristina Central Library. Applicants should propose a project that provides both U.S.-based and Kosovo-based activities.

The U.S.-based component should last approximately five months, beginning with classroom-style training sessions, followed by a hands-on professional internship at a U.S. university or college library. By participating in the training and internships, participants should acquire the skills and experience that are needed to run a state-of-the-art university library. Participants should learn how to work with e-reference services, the Online Public-Access Catalog, WWW search engines, e-books, e-journals, and the digital library, as well as know how to use Web development tools.

The Kosovo-based component should consist of a follow-up, on-site training and assessment visit by U.S. trainers. While in Pristina, the trainers should propose to meet with representatives of the Public Affairs Section (PAS) at the U.S. Office Pristina before and after completing the training.

The project should prepare participants to work in a virtual library environment, train fellow colleagues in the use of electronic resources, and identify and promote e-resources useful for students and faculty of the university.

The University of Pristina and the Ministry of Education, who are working in tandem to set up the University of Pristina Central Library, should serve as in-country partner organizations and will assist in the recruitment and selection of participants, as well as provide logistical support for in-country activities. Individuals targeted for the training program should be residents of Kosovo and recent graduates of institutions of higher learning, preferably with degrees in areas other than library science. While participants must be proficient in English, knowledge of other languages may prove beneficial since participants will potentially be using e-resources that are in languages other than English. Representatives of PAS will provide final approval of all individuals who are nominated for participation. Applicants are strongly encouraged to contact the U.S. Office Pristina for specific guidance before submitting proposals.

Project funding: The total funding available for this project is approximately $325,000. The Bureau anticipates awarding one grant for this project. For more information on this topic, please contact Henry Scott at (202) 619–5327 *scotthc@state.gov*.

Media Training

Multi-country projects that include Albania, Bulgaria, Croatia, Macedonia, Serbia and Montenegro, and Slovenia

The Bureau is seeking proposals that will provide training for journalists, editors and media managers from Albania, Bulgaria, Croatia, Macedonia, Serbia and Montenegro, and Slovenia. The program should include an orientation session lasting approximately four days; an internship assignment of approximately five weeks in a small to medium-sized media organization; and a two- to three-day debriefing. Projects should include both English-speaking and non-English-speaking participants; proposals should clearly describe what provisions would be made for non-English speakers. ECA will consider proposals to shorten the internships assignment in order to accommodate interpreting services for non-English speakers. ECA strongly encourages the use of locally hired interpreters. Those applicants that opt to find their own interpreters should submit a budget reflecting those costs and should demonstrate in their proposal narrative the ability to competently address interpreting requirements.

Proposals should outline hands-on, practical internships for the participants. A list of media establishments willing to host the participants as well as tentative letters of commitment should be included in the proposal. A sample program schedule or outline of a similar program that the organization has conducted in the past should also be submitted. Follow-up activities such as in-region workshops or consultations are also strongly encouraged.

Participant Selection: Please note that the winning applicant must consult closely with the Public Affairs Offices at the respective U.S. embassies during program implementation. Embassies will nominate all participants for the program.

The Bureau anticipates funding no more than two grants for this theme, averaging approximately $240,000 each. Approximately 37 participants will be funded through this RFGP. Each proposal should accommodate approximately 17–20 participants and should be regional in focus. ECA will consider proposals that include several distinct exchanges during the life of the grant, but all exchange groups should include participants from at least three countries.

Tentative participant numbers and needs are:

Albania: Two participants. One English-speaker and one non-English speaker.

Bulgaria: Six participants. Three English speakers and three non-English speakers.

Croatia: Four participants. English-speakers only.

Macedonia: Ten participants. Five English and five non-English speakers.

Serbia and Montenegro: Thirteen participants total. For Serbia—four English speakers and four non-English speakers. For Montenegro—five non-English speakers.

Slovenia: Two participants. English speakers only.

Once projects are funded, ECA will work with the grantees to solicit more detailed information on the needs and interests of individual participants. For more information on this topic, please contact Brent Beemer at (202) 401–6887 or *beemerbt@state.gov.*

Overall Budget Guidelines

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. Since it is anticipated that all grants awarded under this competition will far exceed $60,000 in Bureau funding, organizations that cannot demonstrate at least four years experience in conducting international exchanges are ineligible to apply under this competition.

Budget Guidelines and Cost Sharing Requirements

Applicants must submit a comprehensive budget for the entire program and must provide a summary budget as well as breakdowns reflecting both administrative and program budgets in the proposal. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines and formatting instructions.

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. While there is no minimum requirement, applicants are strongly encouraged to provide cost sharing to the fullest extent possible. State Department Review Panels will consider cost sharing seriously when evaluating all proposals.

The following are deemed allowable program costs:

1. Travel. International and domestic airfare (per the ''Fly America Act''), ground transportation, and visas for U.S. participants. (J–1 visas for Bureau-supported participants from Eurasia to travel to the U.S. are issued at no charge.)

2. Per Diem. For U.S.-based programming, organizations should use the published Federal per diem rates for individual U.S. cities. For activities in Eurasia, the Bureau strongly encourages applicants to budget realistic costs that reflect the local economy. Domestic per diem rates may be accessed at: *http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd03d.html*. Foreign per diem rates can be accessed at: *http://www.state.gov/m/a/als/prdm/*.

3. Interpreters. For U.S.-based activities, ECA strongly encourages applicants to hire their own locally-based interpreters. However, applicants may ask the Bureau to assign U.S. Department of State interpreters, which will decrease the amount of the award. Typically, one interpreter is provided for every four visitors that require interpreting. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: Published Federal per diem rates (both ''lodging'' and ''M&IE''); ''home-program-home'' transportation in the amount of $400 per interpreter; reimbursement for taxi fares; and cell phone usage at $10 per week. If the applicant uses State Department interpreters, salary expenses will be covered by the Bureau and should not be part of an applicant's proposed budget. Bureau funds cannot support interpreters who accompany delegations from their home country or travel internationally.

4. Book and cultural allowance. Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers or participants are not eligible to receive these benefits.

5. Consultants. Consultants may be used to provide specialized expertise or to make presentations. Daily honoraria cannot 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. Such subcontracts should detail the division of responsibilities and proposed costs. 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. The Bureau strongly discourages the use of automatic translation software for the preparation of training materials or any information distributed to the group of participants or network of organizations. Costs for high-quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to the Bureau.

8. Equipment. Proposals may include limited costs to purchase equipment for Eurasia-based programming such as computers, fax machines, and copy machines. Costs for furniture are not allowed. Equipment costs must be kept to a minimum.

9. Working meal. Only one working meal may be provided 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. The allowance may be used for incidental expenses incurred during international travel.

11. Health Insurance. Foreign participants will be covered under the terms of a Bureau-sponsored health insurance policy. The premium is paid by the Bureau directly to the insurance company. Applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

12. Wire transfer fees. When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed by host governments on these transfers.

13. In-country travel costs for visa processing purposes. Given the new requirements associated with obtaining J–1 visas for Bureau-supported participants, applicants should include costs for participant and/or in-country partner travel and shipping to U.S. embassies or consulates for visa processing purposes, such as interviews and delivery/pick up of DS–2019 forms.

14. Administrative Costs. Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from the Bureau. Proposals should show strong administrative cost-sharing contributions from the applicant, the in-country partner and other sources.

New OMB Requirement

An OMB policy directive published in the **Federal Register** on Friday, June 27, 2003, requires that all organizations applying for Federal grants or cooperative agreements must provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for all Federal grants or cooperative agreements on or after October 1, 2003. The complete OMB policy directive can be referenced at *http://www.whitehouse.gov/omb/fedreg/062703_grant_identifier.pdf.* Please also visit the ECA Web site at *http://exchanges.state.gov/education/rfgps/menu.htm* for additional information on how to comply with this new directive.

Shipment and Deadline for Proposals

Important Note: The deadline for this competition is May 7, 2004. In light of recent events and heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.*, DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages *may not* be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Applicants must follow all instructions in the Solicitation Package. The original and 14 copies (total of 15 copies, secured with binder clips) of the application should be sent to: U.S.

Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/EUR–04–46, 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 Sections at the U.S. embassies for their 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. Pub. L. 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.'' Pub. L. 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. All eligible proposals will be reviewed by the program office, as well as the Public Affairs Sections 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 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:

1. *Program Planning and Ability To Achieve Program Objectives:* Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the target countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of in-country partners should be clearly described.

2. *Institutional Capacity:* The proposal should include (1) the U.S. institution's mission and date of establishment; (2) detailed information about the in-country partner institution's capacity and the history of the U.S. and in-country partnership; (3) an outline of prior awards—U.S. government and private support received for the target theme/region; and (4) descriptions of experienced staff members who will implement the program. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country. 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.

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total funds requested from the Bureau. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, the in-country partner, and other sources should be included in the budget request. Proposal budgets that do not provide cost-sharing will be deemed not competitive in this category.

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 venues and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI).

5. *Evaluation:* Proposals should include a detailed plan to monitor and evaluate the program. A draft survey questionnaire plus a description of a methodology that will link outcomes to original project objectives should be provided. Successful applicants will be expected to submit intermediate reports after each project component concludes or on a quarterly basis.

6. *Post-Grant Activities:* Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities should not appear in the proposal budget, but should be outlined in the narrative.

Authority: Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' It is anticipated that funding for this competition will be made available from FY–2003 Support for Eastern European Democracies (SEED) Act of 1989 Act resources carried over into FY–2004 for obligation, pending the availability of funds.

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: March 16, 2004.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–6713 Filed 3–24–04; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 4669]

Bureau of Educational and Cultural Affairs Request for Grant Proposals: U.S.-Russia Volunteer Initiative for Historical and Cultural Preservation

SUMMARY: The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs (ECA) invites applicants to submit proposals for programs that promote volunteerism and cooperation between the United States and the Russian Federation. 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 to conduct international volunteer programs for young professionals from the United States and the Russian Federation to work on cultural and historical preservation projects.

Important Note: This Request for Grant Proposals contains language in the ''Shipment and Deadline for Proposals'' section that is significantly different from that used in the past. Please pay special attention to procedural changes as outlined below.

Announcement Title and Number: All correspondence with ECA concerning this RFGP should reference the above title and number ECA/PE/C/EUR–04–50.

FOR FURTHER INFORMATION CONTACT: The Office of Citizen Exchanges, ECA/PE/C/EUR, Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, Attention: U.S.-Russia Volunteer Initiative-Historical/Cultural Preservation, telephone number: 202–619–5330, fax number 202–619–435, or *GeorgeMD@state.gov* to request a Solicitation Package. The Solicitation Package consists of the Request for Grant Proposals (RFGP), the Proposal Submission Instructions, and ECA's Diversity Statement. Please specify Bureau Program Officer Michael George on all inquiries and correspondence.

Please read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from ECA's Web site at *http://exchanges.state.gov/education/RFGPs*. Please read all information before downloading.

General Program Guidelines: In September 2003, President George W. Bush and President Vladimir Putin highlighted the need for closer cooperation between the U.S. and Russia in social and humanitarian fields and for greater contact among young people of both countries. As a result, the U.S. and Russian governments developed the U.S.-Russia Volunteer Initiative (USRVI) to engage private individuals, organizations, and businesses in both countries in cooperative volunteer activities. The program seeks to encourage cooperation among young professionals from the United States and Russia under the premise that people-to-people contacts broaden awareness of shared interests and common values between countries.

The principal objectives of the overall U.S.-Russia Volunteer Initiative are:

- To foster volunteerism in Russia and the United States by encouraging collaboration on a range of issues of interest to both societies;
- To develop substantive and sustainable linkages between Russian and U.S. non-governmental organizations, voluntary service and professional associations, government entities, and the business sector;
- To promote understanding of different approaches to problems common to both the United States and Russia; and
- To eventually apply U.S. and Russian expertise toward socioeconomic and democratic development in third countries.

The U.S. government will provide funding for pilot projects in three themes of mutual U.S.-Russian interest and expertise: information and communication technology, HIV/AIDS prevention, and historical/cultural preservation. This Request for Grant Proposals (RFGP) covers the historical/cultural preservation theme only.

ECA and the U.S. Agency for International Development (USAID) will oversee USRVI components. ECA will select the U.S. implementing organization for the historical/cultural preservation theme, and USAID will issue a separate solicitation for projects in the information and communication technology and HIV/AIDS prevention themes (USAID's program information and Request for Applications may be found at *http://www.fedgrants.gov/Applicants/AID/OM/MOS/postdate_1.html*). The Russian government has identified the Russian Union of Youth as the primary implementing organization for the USRVI in Russia. A bi-national Steering Committee will coordinate activities between the Russian Union of Youth and U.S. implementing organizations in all thematic areas. Proposals should demonstrate a willingness to consult closely with the designated program officer at ECA, the Public Affairs Section (PAS) at the U.S. embassy in Moscow, and the USRVI Steering Committee. Proposals must express a willingness to coordinate activities in Russia with the Russian Union of Youth to the extent requested by ECA, PAS, and the Steering Committee.

Volunteer Initiative for Historical/Cultural Preservation

ECA seeks proposals that would foster volunteerism and cooperation between young professionals from the United States and Russia in the field of historical and cultural preservation. Proposals should include a two-way exchange that includes reciprocal volunteer experiences in U.S. and Russian communities for mixed teams of U.S. and Russian volunteers. Programs should focus on historic structures, districts, or sites outside of major cities in the U.S. and Russia.

ECA funding available for USRVI historical and cultural preservation programs is approximately $125,000. ECA anticipates awarding one grant for this competition.

The goals of the U.S.-Russia Volunteer Initiative for Historical and Cultural Preservation are:

(1) To foster volunteerism in Russia and the U.S. through collaboration on

historical and cultural preservation projects in both countries;

(2) To develop professional and personal linkages between Russian and U.S. volunteers, host institutions, and communities that will lead to sustained interaction;

(3) To promote understanding of preservation policies and techniques used in the United States and Russia; and

(4) To eventually contribute U.S. and Russian volunteer expertise to historical and cultural preservation efforts in third countries.

Final grant awards will require formal acknowledgement of ECA funding for the program in all materials. ECA will require successful applicants to invite representatives of the U.S. embassy in Moscow or U.S. consulates to participate in program sessions/site visits.

Selection of Participants

Volunteers must be young professionals (ages 18–30) who are citizens of either the U.S. or Russia. Proposals should clearly describe the participant recruitment and merit-based selection process. Ideally, participants would have language skills that are sufficient and appropriate for their volunteer placements. ECA, PAS/U.S. Embassy Moscow, and the USRVP Steering Committee retain the right to review all participant nominations and to accept or refuse participants recommended by grantee institutions. For Russian participants, priority for exchange components will be given to those who have not previously traveled to the United States.

Successful applicants must agree to submit the names of proposed Russian participants to ECA and PAS approximately eight weeks in advance of the scheduled start of U.S.-based activities. Once participants are approved, ECA will issue DS–2019 forms for participants traveling to the U.S. and will forward these forms to PAS for visa processing. ECA will enter all participant data into the SEVIS system. Programs must comply with J–1 visa regulations. See the section below on requirements for maintenance of and provision to ECA of data on participants and program activities.

Suggested Program Designs

ECA supports exchanges and training programs that enhance linkages and partnerships between the U.S. and other countries and that offer practical information and experience to assist individuals and groups with their professional responsibilities. Strong proposals usually have the following characteristics:

- An assessment of project needs that is relevant to the target country or region (proposals that request resources for an initial needs assessment may be deemed less competitive);
- A clear, convincing plan showing how ECA-funded activities will achieve results;
- Schedules for each program activity;
- A description of participant selection processes;
- Letters of support from local and U.S. partners (proposals that illustrate an ability to arrange volunteer placements with letters of support from prospective host institutions will receive higher priority);
- A timeline for the entire grant period;
- An outline of relevant expertise in cultural and historical preservation and regional knowledge;
- An outline of relevant experience managing exchange, internship, or volunteer programs for participants from/in Russia or other countries in Eurasia or Eastern Europe;
- Resumes of experienced staff who have demonstrated a commitment to monitor projects and ensure implementation;
- A comprehensive evaluation plan to determine whether program outcomes respond effectively to issues identified in the needs assessment; and
- A post-grant plan demonstrating the grantee organization's commitment to maintaining contacts initiated through the program. Applicants should discuss ways that U.S. and Russian volunteers or host institutions could collaborate on projects in third countries after the ECA–funded grant has concluded. (*See* Review Criterion #6 below for more information on post-grant activities.)

Proposals must focus on international volunteer exchanges between the United States and Russia. ECA anticipates that the first exchanges would begin in August 2004. Exchanges must provide an individualized volunteer project that each participant can complete with local host organizations in the U.S. and Russia. Volunteers may be placed individually or in teams. Projects may cover a range of activities, including historical documentation, building restoration, archaeological site management, conservation and historical preservation activities, and the preparation of interpretive materials for the public. Programs should enable volunteers to contribute their knowledge and skills to benefit their own and other communities. Volunteers should also gain a better understanding of the host country's architectural or cultural heritage from their experience. Examples of appropriate projects include, but are not limited to:

- Community outreach campaigns for conservation of endangered sites or structures;
- Information campaigns to increase public interest in places of historic/cultural significance;
- Development of interpretive exhibits on local areas or monuments;
- Community-based initiatives to harmonize economic development with the historic character or cultural significance of local districts or sites.

Participants should have networking and information sharing opportunities throughout the grant period. ECA encourages applicants to include training-of-trainer (TOT) workshops in their program plan. These activities should help participants strengthen their professional and volunteer skills, share their experiences with committed people, and become active in a practical and valuable way in their home countries.

ECA anticipates that each volunteer exchange will be between one and three months in duration. Grantee organizations must describe the method of covering meals, lodging, and incidental expenses for volunteers in both the U.S. and Russia. ECA encourages applicants to arrange homestays for volunteers; applicants who propose to do so should describe the recruitment, selection, and volunteer matching procedures for host families. Proposals should address language and interpreting issues.

Programs should propose to work with a range of host institutions where volunteer efforts are welcome and can make a difference. Such institutions may include, but are not limited to, State historic preservation offices, local historical organizations, cultural and professional associations, government agencies, and volunteer organizations. Proposals should include a plan to designate a local facilitator or mentor for the duration of each placement. Host organizations should include volunteers in as many different aspects of the work and activities of the institution as possible. Volunteers should be expected to work to the same professional standards as the rest of the staff, and they should be afforded opportunities to meet with other preservation professionals. Proposals should list the responsibilities of the applicant, subcontractors, partner organizations, and local host organizations.

Applicants may propose to work with partner organizations in Russia in order to conduct volunteer programs for U.S.

participants. Such partnerships should assist Russian organizations' institutional capacity and stability. Overseas partner organizations must agree to work within the USRVI program framework involving ECA, PAS, the Russian Union for Youth, and the USRVI Steering Committee mentioned above.

Activities Ineligible for Support

The Office of Citizen Exchanges 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 when they are a small part of a larger project in duration that is receiving Bureau funding from this competition. 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. The Office of Citizen Exchanges does not support academic research or fund faculty or student fellowships.

Program Data Requirements

Successful applicants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with ECA as required. As a minimum, the data must include the following:

(1) 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.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. The ECA Program Officer must receive final schedules for Russian and U.S. activities at least three work days prior to the official opening of the activity.

Evaluation

In order to assess and demonstrate the impact of this program, ECA asks that all proposals include a comprehensive evaluation plan. Proposals must clearly state program objectives that directly respond to the goals included under ''General Program Guidelines'' above. Each program objective should meet the following criteria:

- Focus on a single purpose and a produce a single result;
- Be realistic;
- Focus on the result of each activity, rather than the activity itself;
- Include some means of measuring success; and
- State a timeframe for achieving results.

Evaluations must demonstrate whether the project has met its stated objectives through comparison to baseline data or control groups identified in the proposal's needs assessment. Evaluation plans may collect quantitative and qualitative data on program results, and these should include at least two means of data collection. Appropriate means of data collection might include written evaluations, interviews, surveys of persons impacted by participants or their work, audits of participants' individual projects, or field observations. Evaluation plans must describe how the applicant will tabulate qualitative data, where the data will be kept, who will have access to such data, and how it will be reported to ECA. If the proposal calls for an outside evaluation, the proposal should include the above information as well as a description of the evaluator's experience. An evaluation report will be due at the end of the program that provides the following information:

(1) A 2–3 page narrative description of the extent to which the program met its objectives;

(2) Summary data in tabular and graphic form that demonstrates these conclusions;

(3) Tabulated raw data for each performance indicator, which may include demographic data for cross-referencing, where appropriate; and

(4) Examples of all data collection instruments used in the evaluation.

Proposals should also include a plan for collecting feedback from participants and stakeholders during the course of the program in order to make mid-course corrections in program content and administration. Proposals should describe how the applicant would apply this information in conducting the program. This information will be required in program interim reports.

Budget Guidelines

Bureau grant guidelines require that organizations with less than four years experience in conducting international exchanges be limited to $60,000 in Bureau funding. Since ECA anticipates awarding one grant that exceeds this amount, organizations that cannot demonstrate at least four years experience in conducting international exchanges are ineligible to apply under this competition.

Applicants must submit a comprehensive budget for the entire program that includes a summary budget as well as breakdowns reflecting both administrative and program budgets in the proposal. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification. Please refer to the Proposal Submission Instructions (PSI) for complete budget guidelines and formatting instructions.

Allowable program costs include the following:

1. *Travel:* International and domestic airfare (per the ''Fly America Act''), ground transportation, and visas for U.S. participants. J–1 visas for ECA-supported participants from Russia to travel to the U.S. are issued at no charge.

2. *Per Diem:* Organizations should not exceed the published Federal per diem rates for individual U.S. cities. ECA strongly encourages applicants to budget realistic amounts that reflect local costs. ECA encourages applicants to arrange volunteer lodging in homestays rather than hotels. Domestic per diem rates may be accessed at: *http://policyworks.gov/org/main/mt/homepage/mtt/perdiem/perd04d.html.* Foreign per diem rates can be accessed at: *http://www.state.gov/m/a/als/prdm/.*

3. *Interpreters:* ECA anticipates that participants will have language skills appropriate for their placement. In cases when applicants can justify the use of interpretation, ECA strongly encourages the use of locally based interpreters. However, applicants may ask ECA to assign U.S. Department of State interpreters for U.S. components, which will decrease the amount of the award. When an applicant proposes to use State Department interpreters, the following expenses should be included in the budget: published Federal per diem rates (both ''lodging'' and ''M&IE''); ''home-program-home'' transportation in the average amount of $400 per interpreter; reimbursement for taxi fares; and cell phone usage at $10 per week. If the applicant uses State Department interpreters, salary expenses will be covered by ECA and should not be part of an applicant's proposed budget. ECA funds cannot support interpreters who accompany delegations from their home country or travel internationally.

4. *Book and cultural allowance:* Foreign participants are entitled to a one-time cultural allowance of $150 per person, plus a book allowance of $50. Interpreters should be reimbursed up to $150 for expenses when they escort participants to cultural events. U.S. program staff, trainers, or participants are not eligible to receive these allowances.

5. *Consultants:* Consultants may provide specialized expertise or to make

presentations. Daily honoraria may not exceed $250 per day.

6. *Subcontractors:* Subcontracting organizations may be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal. Subcontracts should detail the division of responsibilities and proposed costs. Subcontracts should be itemized in the budget.

7. *Room rental:* Room rental may not exceed $250 per day.

8. *Materials development:* Proposals may contain costs to purchase, develop and translate materials for participants. ECA strongly discourages the use of automatic translation software for the preparation of training materials or any information distributed to the group of participants or network of organizations. Costs for high-quality translation of materials should be anticipated and included in the budget. Grantee organizations should expect to submit a copy of all program materials to ECA.

9. *Equipment:* Equipment costs must be kept to a minimum and must have a clear connection to program activities. Costs for furniture are not allowed.

10. *Working meal:* Only one working meal may be provided 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. For the purposes of working meals, interpreters may be counted as participants.

11. *Return travel allowance:* A return travel allowance of $70 for each Russian participant may be included in the budget. The allowance may be used for incidental expenses incurred during international travel.

12. *Health Insurance:* Foreign participants will be covered under the terms of a Bureau-sponsored health insurance policy. ECA pays the premium directly to the insurance company. Applicants are permitted to include costs for travel insurance for U.S. participants in the budget.

13. *Wire transfer fees:* When necessary, applicants may include costs to transfer funds to partner organizations overseas. Grantees are urged to research applicable taxes that may be imposed by host governments on these transfers.

14. *In-country travel costs for visa processing purposes:* Given the new requirements associated with obtaining J–1 visas for Bureau-supported participants, applicants should include costs for participant and/or in-country partner travel and shipping to U.S. embassies or consulates for visa processing purposes, such as interviews and delivery/pick up of DS–2019 forms.

15. *Administrative Costs:* Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct and indirect costs per detailed instructions in the Application Package. While there is no rigid ratio of administrative to program costs, priority will be given to proposals whose administrative costs are less than twenty-five (25) percent of the total requested from ECA.

Cost Sharing Requirements

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. Applicants are strongly encouraged to provide cost sharing to the fullest extent possible. State Department Review Panels will consider cost sharing seriously when evaluating all proposals.

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 and the Public Affairs Section of the U.S. embassy in Moscow will review all eligible proposals. Eligible proposals will be subject to compliance with Federal and ECA 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 ECA'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. *Program Planning and Ability to Achieve Program Objectives:* Program objectives should be stated clearly and should respond to the program goals outlined in this announcement. The proposal should clearly describe how each activity would achieve the program objectives. The narrative should provide details on the substance of the program. Detailed, sample agendas should illustrate program content and the pace of each component of the program. The proposal should also include a timetable for completion of major tasks. The proposal should clearly describe the roles and responsibilities of subcontractors and proposed partner organizations in Russia and the United States. Proposals should demonstrate a willingness to consult closely with the designated program officer at ECA, the Public Affairs Section (PAS) at the U.S. embassy in Moscow, and the USRVI Steering Committee.

2. *Institutional Capacity:* The proposal should reflect the institution's expertise in the subject area, knowledge of the conditions in the target region, and logistical ability to conduct a two-way exchange program. The proposal should provide information about the organization's past experience arranging international internships or volunteer placements, as well as on prior awards received from the U.S. government or the private sector in historical/cultural preservation. The proposal should include descriptions of experienced staff members who will implement the program and any other institutional resources the applicant can offer for use in the proposed program. 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. ECA will consider the past performance of prior grant recipients and the demonstrated potential of new applicants. The proposal should also provide detailed information about the capacity of partner institutions and the history of those partnerships.

3. *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total funds requested from ECA. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost-sharing, including contributions from the applicant, the in-country partner, and other sources should be included in the budget request. Proposal budgets that do not provide cost sharing will be deemed less competitive in this category.

4. *Support of Diversity:* Proposals should demonstrate substantive support of ECA's policy on diversity in both program administration (selection of participants, program venues and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource

materials and follow-up activities). ECA encourages applicants to structure cultural activities as meaningful discussions with Russian participants about U.S. diversity rather than visits to landmarks. Applicants should refer to ECA's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI).

5. *Evaluation:* Evaluation plans should focus on links between project objectives and results. Proposals should include specific information on means of data collection, data storage, how the information will be presented to ECA, and draft data collection instruments. See the ''Evaluation'' section (above) for more information on the components of a competitive evaluation plan. Successful applicants must submit interim reports after the conclusion of each project component or on a quarterly basis, whichever is less frequent. A final evaluation of the program will be required at the end of the grant period.

6. *Post-Grant Activities:* Applicants should provide a plan to conduct activities after the ECA-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Proposals that describe how U.S. and Russian volunteers would collaborate on historical preservation efforts in third countries after the grant period will receive higher ratings in this criterion. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of ECA. Costs for these activities should not appear in the proposal budget, but should be outlined in the narrative.

New OMB Requirement

An OMB policy directive published in the **Federal Register** on Friday, June 27, 2003, requires that all organizations applying for Federal grants or cooperative agreements must provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying for all Federal grants or cooperative agreements on or after October 1, 2003. The complete OMB policy directive can be referenced at *http://www.whitehouse.gov/omb/fedreg/062703_grant_identifier.pdf.* Please also visit the ECA Web site at *http://exchanges.state.gov/education/rfgps/menu.htm* for additional information on how to comply with this new directive.

Shipment and Deadline for Proposals

Important Note: The deadline for this competition is April 23, 2004. In light of recent events and heightened security measures, proposal submissions must be sent via a nationally recognized overnight delivery service (*i.e.,* DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, *etc.*) and be shipped no later than the above deadline. The delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Applicants must follow all instructions in the Solicitation Package. The original and ten (10) copies of the proposal should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/EUR–04–50, 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. ECA will provide these files electronically to the Public Affairs Section at the U.S. embassy in Moscow for its review.

Diversity, Freedom and Democracy Guidelines

Pursuant to ECA'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,'' ECA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106–113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

Adherence to All Regulations Governing the J Visa

The Bureau of Educational and Cultural Affairs is placing renewed emphasis on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantees and sponsors to all regulations governing the J visa. Therefore, proposals should demonstrate the applicant's capacity to meet all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR 62, 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 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.

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 ECA that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. ECA 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: March 17, 2004.

Patricia S. Harrison,

Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. 04–6715 Filed 3–24–04; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of denials.

SUMMARY: The FMCSA announces its denial of 17 applications from individuals who requested an exemption from the Federal diabetes standards applicable to interstate truck drivers and the reasons for the denials. The FMCSA has statutory authority to exempt individuals from diabetes standards if the exemptions granted will not compromise safety. The agency has concluded that granting these exemptions does not provide a level of safety that will equal or exceed the level of safety maintained without the exemptions for these commercial motor vehicle drivers.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra Zywokarte, Office of Bus and Truck Standards and Operations, (MC–PSD), (202) 366–2987, Department of Transportation, FMCSA, 400 Seventh Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may grant an exemption from the Federal diabetes standards for commercial drivers with insulin-treated diabetes mellitus for a renewable 2-year period if it finds such an exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such an exemption (49 CFR 391.41(b)(3)).

Accordingly, FMCSA evaluated 17 individual exemption requests on their merits and made a determination that these applicants do not satisfy the criteria established to demonstrate that granting an exemption is likely to achieve an equal or greater level of safety than exists without the exemption. Each applicant has, prior to this notice, received a letter of final disposition on his/her individual exemption request. Those decision letters fully outlined the basis for the denial and constitute final agency action. The list published today summarizes the agency's recent denials as required under 49 U.S.C. 31315(b)(4) by periodically publishing names and reasons for denials.

The following 4 applicants lacked sufficient recent driving experience under normal highway operating conditions over the previous three years that would serve as an adequate predictor of future safe performance:

Boyum, Allan C.
Smith, Andrew P.
Dorris, Boyd A.
Erickson, Ronald J.

One applicant, Mr. Charles E. Williams, does not have any experience operating a commercial motor vehicle (CMV) and therefore presented no evidence from which FMCSA can conclude that granting the exemption is likely to achieve a level of safety equal to that existing without the exemption.

The following 6 applicants do not have 3 years of experience driving a CMV on public highways with insulin-treated diabetes mellitus:

Corsaro, Joseph G.
Izzi, Anthony
Mays, James
Nunnally, Derril W.
Rardin, Pierce E.
Thomas, Jr., Joseph

One applicant, Mr. Robert H. Thompson, Jr., does not have recent experience driving a CMV. Applicants must have driven for at least the three years preceding application.

One applicant, Mr. Glenn A. Kotzer, had a hypoglycemic episode resulting in loss of consciousness or requiring the assistance of another person in March 2003. Applicants do not qualify for an exemption if they have had more than two hypoglycemic reactions resulting in loss of consciousness or requiring the assistance of another person in the past 5 years. Applicants must have one year of stability following any such episode.

One applicant, Mr. David Arnette, has other medical conditions making him otherwise unqualified under the Federal Motor Carrier Safety Regulations. Applicants must meet all other physical qualifications standards in 49 CFR 391.41(b)(1–13).

Two applicants, Mr. Johnathan Akins and Mr. John A. Herbert, do not have verifiable proof of commercial driving experience over the past 3 years under normal highway operating conditions that would serve as an adequate predictor of future safe performance.

One applicant from Canada, Mr. Kevin R. Durham, applied for an exemption. The medical reciprocity agreement between the United States and Canada prohibits U.S. and Canadian CMV drivers who are insulin-using-diabetics from trans-border operations. In addition, an exemption from the diabetes standards is valid for operations only within the United States. It does not exempt the driver from the physical qualification standards of any bordering jurisdiction.

Issued on: March 22, 2004.

Rose A. McMurray,

Associate Administrator for Policy and Program Development.

[FR Doc. 04–6700 Filed 3–24–04; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34487]

Greenville County Economic Development Corporation—Petition for Declaratory Order

AGENCY: Surface Transportation Board, DOT.

ACTION: Institution of declaratory order proceeding; request for comments.

SUMMARY: The Surface Transportation Board is instituting a declaratory order proceeding and requesting comments on the following question: whether the preemption provisions of 49 U.S.C. 10501(b)(2) preclude a state court from hearing a lawsuit alleging that a railroad has failed to carry out its common carrier obligation to provide service.

DATES: Any interested person may file with the Board written comments concerning this issue by March 31, 2004. Replies will be due on April 7, 2004.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Finance Docket No. 34487 to: Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, send one copy of any comments to: Andrew J. White, Jr., Haynsworth Sinkler Boyd, PA, 75 Beattie Place, 11th Floor, P.O. Box 2048, Greenville, SC 29602 (counsel for Greenville County Economic Development Corporation); and Jason Elliott, Law Offices of John S. Simmons, LLC, 1711 Pickens Street, P.O. Box 5, Columbia, SC 29202 (counsel for Groome & Associates, Inc.).

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 565–1600. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at: (800) 877–8339.]

SUPPLEMENTARY INFORMATION: In Finance Docket No. 33752, *Greenville County Economic Development Corporation—Acquisition Exemption—South Carolina Central Railroad Company, Inc., Carolina Piedmont Division,* the Greenville County Economic Development Corporation (GCEDC) acquired an 11.8 mile unabandoned rail line between Greenville and Travelers Rest, S.C. (Served June 3, 1999). On June 30, 2003, in Docket No. AB–490X, *Greenville County Economic Development Corporation—Discontinuance of Service Exemption—in Greenville County, SC,* GCEDC sought to use the Board's class exemption procedures to obtain authorization to discontinue service over a line of railroad that it had acquired in 1999. In response, Lee Groome and Groome & Associates, Inc. (Groome), indicated that it had unsuccessfully sought service over the line, and that it was pursuing an action against GCEDC in South Carolina state court. Finding that Groome had raised sufficient concerns to make it inappropriate for GCEDC to use the expedited class exemption procedures—which are reserved for routine, noncontroversial matters—in a decision issued January 29, 2004, the Board dismissed the notice of exemption. The Board held that, to obtain discontinuance authority, GCEDC would have to proceed by filing a petition for an individual exemption under 49 U.S.C. 10502 or a full application under 49 U.S.C. 10903, either of which would permit the issues to be examined more fully on a more thoroughly developed record.

The Board in its decision did not address the state court proceeding other than to note that it provided an indication that the discontinuance matter was not uncontroversial. Subsequently, however, in a letter dated March 11, 2004, Andrew J. White, Jr., counsel for GCEDC, did raise questions about the state court's jurisdiction in light of the Federal preemption of state law embodied in 49 U.S.C. 10501(b). Among other things, Mr. White furnished the agency with a recent decision issued in the Greenville County Court of Common Pleas in *Groome & Associates, Inc., and Lee Groome* v. *Greenville County Economic Development Corporation*, Civil Case No. 01–CP–23–2351 (filed Feb. 13, 2004). In that decision, the court rejected GCEDC's argument that the court lacks jurisdiction to hear claims for damages resulting from failure to provide service (*Id.* at 4); cited various provisions of the South Carolina Code as support for its authority to act (*Id.*); found it ''significant that the STB has made [its] ruling dismissing the carrier's action with full knowledge of the pending state court litigation,'' which, the court concluded, indicates that the Board ''does not find the state court litigation to be offensive and apparently does not intend to preempt the jurisdiction of the state court in this matter'' (*Id.* at 5); and determined that it ''is for a jury to determine whether the defendant had fully complied with [its] common carrier obligations to provide rail service on the contested line.'' *Id.*

Mr. White's letter will be treated as a petition for declaratory order and placed in the docket and on the Board's Web site, and a declaratory order proceeding will be instituted. It should be noted that, in disallowing use of the class exemption for the sought discontinuance, the Board has not addressed the merits of either the service dispute or the discontinuance. In this proceeding, however, the Board will not address any merits issues, but rather will look at a single question, which was not expressly or impliedly addressed in the decision on the discontinuance: whether the preemption provisions of 49 U.S.C. 10501(b)(2) preclude a state court from hearing a lawsuit alleging that a railroad has failed to carry out its common carrier obligation to provide service.

Under 49 U.S.C. 10501(b), the Board has exclusive jurisdiction over ''transportation by rail carriers,'' and the remedies provided in the Interstate Commerce Act (IC Act), which the Board administers, ''preempt [other] remedies provided under Federal or State law.'' Several courts have interpreted this provision and have found that it is extremely broad. *See, e.g., CSX Transp., Inc.* v. *Georgia Public Service Commission*, 944 F. Supp 1573, 1581 (N.D. Ga. 1996); *Friberg* v. *Kansas City S. Ry.,* 267 F.3d 439, 443 (5th Cir. 2001). The Board has interpreted it in a variety of cases as well. *See, e.g., Joint Petition for Decl. Order—Boston & Maine Corp. & Town of Ayer, MA,* STB Finance Docket No. 33971 (STB served May 1, 2001) (*Ayer*),[1] 2001 STB LEXIS 435 (collecting court cases). But although at least one federal court of appeals has addressed the preemptive effect of section 10501(b) on state court actions in cases involving the common carrier obligation—*see Pejepscot Industrial Park* v. *Maine Central Railroad*, 215 F.3d 195, 204–05 (1st Cir. 2000) (''Congress intended only to preempt state law and remedies,'' but did not intend to oust concurrent federal district court jurisdiction over common carrier obligation claims under the IC Act)—the matter has never been formally brought before the Board, and so the Board has never ruled on it.

Accordingly, by this notice, the Board is requesting comments on this matter. Board decisions and notices are available on our Web site at *www.stb.dot.gov*.

Decided: March 22, 2004.

By the Board, Chairman Nober.

Vernon A. Williams,

Secretary.

[FR Doc. 04–6802 Filed 3–24–04; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–30–95]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995,

[1] *Aff'd, Boston & Maine Corp. v. Town of Ayer, 206 F. Supp. 2d 128 (D. Mass. 2002), rev'd solely on attorneys' fee issue*, 330 F.3d 12 (1st Cir. 2003).

Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–30–95 (TD 8672), Reporting of Nonpayroll Withheld Tax Liabilities (§ 31.6011(a)–4).

DATES: Written comments should be received on or before May 24, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Reporting of Nonpayroll Withheld Tax Liabilities.

OMB Number: 1545–1413.

Regulation Project Number: IA–30–95.

Abstract: This regulation relates to the reporting of nonpayroll withheld income taxes under section 6011 of the Internal Revenue Code. The regulations require a person to file Form 945, Annual Return of Withheld Federal Income Tax, only for a calendar year in which the person is required to withhold Federal income tax from nonpayroll payments.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households, business or other for-profit organizations, not-for-profit institutions, farms, and Federal, State, local or tribal governments.

The burden for the collection of information is reflected in the burden for Form 945, Annual Return of Withheld Federal Income Tax.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 17, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–6625 Filed 3–24–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–55–89]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–55–89 (TD 8566), General Asset Accounts Under the Accelerated Cost Recovery System (§ 1.168(i)-1).

DATES: Written comments should be received on or before May 24, 2004 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6407, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: General Asset Accounts Under the Accelerated Cost Recovery System.

OMB Number: 1545–1331.

Regulation Project Number: PS–55–89.

Abstract: Section 168(i)(4) of the Internal Revenue Code authorizes the Secretary of the Treasury to provide rules under which a taxpayer may elect to account for property in one or more general asset accounts for depreciation purposes. The regulations describe the time and manner of making the election described in Code section 168(i)(4). Basic information regarding this election is necessary to monitor compliance with the rules of Code section 168.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations and farms.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 15 minutes.

Estimated Total Annual Burden Hours: 250.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of

information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: March 18, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–6730 Filed 3–24–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Renewable Electricity Production Credit, Publication of Inflation Adjustment Factor and Reference Prices for Calendar Year 2004

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Publication of inflation adjustment factor and reference prices for calendar year 2004 as required by section 45(d)(2)(A) (26 U.S.C. 45(d)(2)(A)).

SUMMARY: The 2004 inflation adjustment factor and reference prices are used in determining the availability of the renewable electricity production credit under section 45(a).

DATES: The 2004 inflation adjustment factor and reference prices apply to calendar year 2004 sales of kilowatt hours of electricity produced in the United States or a possession thereof from qualified energy resources.

Inflation Adjustment Factor: The inflation adjustment factor for calendar year 2004 is 1.2230.

Reference Prices: The reference prices for calendar year 2004 are 3.24¢ per kilowatt hour for facilities producing electricity from wind and 0¢ per kilowatt hour for facilities producing electricity from closed-loop biomass and poultry waste.

Because the 2004 reference prices for electricity produced from wind, closed-loop biomass, and poultry waste energy resources do not exceed 8¢ multiplied by the inflation adjustment factor, the phaseout of the credit provided in section 45(b)(1) does not apply to electricity sold during calendar year 2004.

Credit Amount: As required by section 45(b)(2), the 1.5¢ amount in section 45(a)(1) is adjusted by multiplying such amount by the inflation adjustment factor for the calendar year in which the sale occurs. If any amount as increased under the preceding sentence is not a multiple of 0.1¢, such amount is rounded to the nearest multiple of 0.1¢. Under the calculation required by section 45(b)(2), the renewable electricity production credit for calendar year 2004 under section 45(a) is 1.8¢ per kilowatt hour on the sale of electricity produced from wind, closed-loop biomass, and poultry waste energy resources.

FOR FURTHER INFORMATION CONTACT: David A. Selig, IRS, CC:PSI:5, 1111 Constitution Ave., NW., Washington, DC 20224, (202) 622–3040 (not a toll-free call).

Heather C. Maloy,

Associate Chief Counsel (Passthroughs & Special Industries).

[FR Doc. 04–6624 Filed 3–24–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Recruitment Notice for the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice.

SUMMARY: Notice for recruitment of IRS Taxpayer Advocacy Panel (TAP) members and alternates.

DATES: April 1–April 30, 2004.

FOR FURTHER INFORMATION CONTACT: Bernard Coston at (202) 622–5007.

SUPPLEMENTARY INFORMATION: Notice is hereby given the Department of Treasury and the Internal Revenue Service (IRS) are inviting individuals to help improve the nation's tax agency by applying to be members and alternates of the TAP. The mission of the TAP is to provide citizen input into enhancing IRS customer satisfaction and service by identifying problems and making recommendations for improvement with IRS systems and procedures; elevating the identified problems to the appropriate IRS official. The TAP serves as an advisory body to the Secretary of the Treasury, the Commissioner of Internal Revenue and the National Taxpayer Advocate. TAP members will participate in subcommittees comprised of 10 to 17 members who channel their feedback to the IRS.

The IRS is seeking applicants who have an interest in good government, a personal commitment to volunteer approximately 100 to 300 hours a year, and a desire to help improve IRS customer service. To the extent possible, the IRS would like to ensure a balanced TAP membership representing a cross-section of the taxpaying public throughout the United States. Potential candidates must be U.S. citizens, compliant with Federal, State and Local taxes, and be able to pass a background investigation.

For the TAP to be most effective, members should have experience in some of the following areas: experience helping people resolve problems with a government organization; experience formulating and presenting proposals; knowledge of taxpayer concerns; experience representing the interests of your community, state or region; experience working with people from diverse backgrounds; and experience in helping people resolve disputes.

Interested applicants should visit the TAP Web site at *www.improveirs.org* to complete the on-line application or call the toll free number, 1–866–602–2223 to complete the initial phone screen and request that an application be mailed. The opening date for submission will be April 1, 2004 and the deadline for returning applications will be April 30, 2004. The most qualified candidates will complete a panel interview. Finalists will be ranked by experience and suitability. The Secretary of Treasury will review the recommended candidates and make final selections.

Questions regarding the selection of TAP members may be directed to Bernard Coston, Director, Taxpayer Advocacy Panel, Internal Revenue Service, 1111 Constitution Avenue NW., Room 7704, Washington, DC 20224, (202) 622–5007.

Dated: March 18, 2004.

Bernard Coston,

Director, Taxpayer Advocacy Panel.

[FR Doc. 04–6731 Filed 3–24–04; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0118]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, has submitted the

collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 26, 2004.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, fax (202) 273–5981 or e-mail: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0118.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0118'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Title: Transfer of Scholastic Credit (Schools), VA Form Letter 22–315.

Type of Review: Extension of a currently approved collection.

Abstract: When a student receiving VA education benefits is enrolled at two training institutions, the institution at which the student pursues his or her approved program of education must verify that courses pursued at a second or supplemental institution will be accepted at full credit toward the student's course objective. Educational payment for courses pursued at the second institution is not payable until evidence is received verifying that the student is pursuing his or her approved program while enrolled in these courses. VA Form Letter 22–315 serves as this certification of acceptance. The form letter is sent to the student requesting that they have the certifying official of his or her primary institution to list the course or courses pursued at the second institution for which the primary institution will give full credit. Without this information, benefits cannot be authorized for any courses pursued at other than the primary institution.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** notice with a 60-day comment period soliciting comments on this collection of information was published on December 15, 2003, at pages 69773–69774.

Affected Public: Not-for-profit institutions, and State, local or tribal government.

Estimated Annual Burden: 3,550 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 21,300.

Dated: March 16, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–6626 Filed 3–24–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0578]

Agency Information Collection Activities Under OMB Review

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–21), this notice announces that the Veterans Health Administration (VHA), Department of Veterans Affairs, has submitted the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and includes the actual data collection instrument.

DATES: Comments must be submitted on or before April 26, 2004.

FOR FURTHER INFORMATION OR A COPY OF THE SUBMISSION CONTACT: Denise McLamb, Records Management Service (005E3), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 273–8030, FAX (202) 273–5981 or e-mail to: *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0578.''

Send comments and recommendations concerning any aspect of the information collection to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503, (202) 395–7316. Please refer to ''OMB Control No. 2900–0578'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Titles:

a. Health Care for Certain Children of Vietnam Veterans—Spina Bifida and Covered Birth Defects—Regulation.

b. Claim for Miscellaneous Expenses, VA Form 10–7959e.

OMB Control Number: 2900–0578.

Type of Review: Extension of a currently approved collection.

Abstract: VA's medical regulations 38 CFR part 17 (17.900 through 17.905) established regulations regarding provision of health care for women Vietnam veterans' children born with spina bifida and certain other covered birth defects. The information collected will be used to determine whether to approve requests for preauthorization of certain health care services and benefits for children of Vietnam veterans; the appropriateness of billings for such services; and to make decisions during the review and appeal process.

Beneficiaries complete VA Form 10–7959e to claim payment/reimbursement of expenses related to spina bifida and certain covered birth defects. Health care providers complete standard billing forms such as: Uniform Billing-Forms (UB) 92, and HCFA 1500, Medicare Health Insurance Claims Form. Without the requested information VA will be unable to determine the correct amount to reimburse providers for their services or beneficiaries for covered expenses.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on December 10, 2003, at page 68972.

Affected Public: Individuals or households.

Estimated Total Annual Burden: 3,400 hours.

Estimated Average Burden Per Respondent: 6½ minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 31,400.

Dated: March 15, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–6627 Filed 3–24–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0495]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on the information needed to determine whether a surviving spouse is entitled to dependency and indemnity compensation benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 24, 2004.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0495'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Titles: Marital Status Questionnaire, VA Form 21–0537.

OMB Control Number: 2900–0495.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 21–0537 is used to confirm the marital status of a surviving spouse receiving dependency and indemnity compensation benefits (DIC). If a surviving spouse remarries, he or she is no longer entitled to DIC unless the marriage began after age 57 or has been terminated.

Affected Public: Individuals or households.

Estimated Annual Burden: 189 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 2,270.

Dated: March 16, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–6628 Filed 3–24–04; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0020]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a claimant's eligibility to receive the proceeds of a veteran's Government Life Insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before May 24, 2004.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *irmnkess@vba.va.gov.* Please refer to ''OMB Control No. 2900–0020'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C., 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Designation of Beneficiary, Government Life Insurance, VA Form 29–336.

OMB Control Number: 2900–0020.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–336 is used by the insured to designate a beneficiary and select an optional settlement to be used when the Government Life Insurance matures by death.

Affected Public: Individuals or households.

Estimated Annual Burden: 13,917 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 83,500.

Dated: March 16, 2004.

By direction of the Secretary.

Loise Russell,

Director, Records Management Service.

[FR Doc. 04–6629 Filed 3–24–04; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Thursday,
March 25, 2004

Part II

Department of Health and Human Services

Centers for Disease Control and Prevention

Health Promotion and Disease Prevention Research Centers Special Interest Projects Competitive Supplements; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Health Promotion and Disease Prevention Research Centers Special Interest Projects Competitive Supplements

Announcement Type: Competing Supplements.

Funding Opportunity Number: 04003–FY04 Comp Supp.

Catalog of Federal Domestic Assistance Number: 93.135.

Key Dates:

Letter of Intent Deadline: May 7, 2004.

Application Deadline: May 25, 2004.

I. Funding Opportunity Description

Authority: This program is authorized under sections 301(a), 317(k)(2) and 1706 [42 U.S.C. 241(a), 247b(k)(2) and 300 u–5] of the Public Health Service Act, as amended.

Purpose: The purpose of the Prevention Research Centers (PRC) program's Special Interest Projects (SIPs) is to support supplemental projects in health promotion and disease prevention research that (1) focus on the major causes of death and disability, (2) improve public health practice within communities, and (3) cultivate effective state and local public health programs. One of the major focuses of this supplemental funding program is to design, test, and disseminate effective prevention research strategies.

This program addresses the department-wide initiative, Steps to a HealthierUS, which advances the HealthierUS goal of helping Americans live longer, better and healthier lives by focusing on the importance of prevention. The Steps focus areas supported by this program are the following: Physical Activity and Fitness; Nutrition and Overweight; Cancer; Diabetes; and other areas addressed by ''Healthy People 2010,'' such as Access to Quality Health Services, Disability and Secondary Conditions, Educational and Community-Based Programs, and Health Communications.

Measurable outcomes of the program will be in alignment with the following performance goal for the National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP): to support prevention research to develop sustainable and transferable community-based behavioral interventions.

Research Objectives: Research objectives are described for each special interest project in section IX of this announcement.

Recipient Activities: Awardee activities for this program are described for each special interest project in section IX of this announcement. Consistent with the nature of the cooperative agreement funding mechanism, awardees are expected to collaborate with CDC staff on research activities associated with these projects.

CDC Activities: CDC activities for this program are described for each special interest project in section IX of this announcement. Consistent with the nature of the cooperative agreement funding mechanism, CDC staff is expected to be substantially involved in the program activities, above and beyond routine grant monitoring. This may include technical assistance in the design or direction of activities to develop research protocols.

II. Award Information

Type of Award: Cooperative Agreement.

Fiscal Year Funds: 2004.

Approximate Total Funding: $18,000,000.

Approximate Number of Awards: 26 Special Interest Projects.

Approximate Average Award: $ Amount Varies (see each individual special interest project description in section IX). Before application submission, it is imperative that the Principal Investigator critically evaluate whether the proposed budget is commensurable with the scope of work and provide thorough justification for any amounts requested. If CDC's Secondary Review Panel determines that funding discrepancies exist for any approved SIP application, the panel will make funding recommendations to the CDC/NCCDPHP Director for review.

Floor of Award Range: None.

Ceiling of Award Range: CDC will accept and review applications with budgets greater than the ceiling of the award range.

Anticipated Award Date: September 15, 2004.

Budget Period Length: 12 months.

Project Period Length: Projects range in length from a minimum of 1 year to a maximum of 5 years. Throughout the project period, CDC's commitment to continuation of awards will be as described below.

Continuation of Funding

Continuation of awards within an approved project period will be conditioned on the availability of funds, evidence of satisfactory progress by the recipient (as documented in required reports), and the determination that continued funding is in the best interest of the Federal Government.

Funding Preferences

If applicable for a particular special interest project, funding preference will be based on maintaining an equitable geographic distribution of centers and for the distribution of centers among areas containing a wide range of population groups.

III. Eligibility Information

III.1. Eligible applicants: All applicants who have applied for and have been considered eligible for Program Announcement 04003 may submit an application for the special interest project competitive supplements announcement.

Please note, however, only those applicants who have been *selected* as Prevention Research Centers under Program Announcement 04003 will be considered eligible to compete for the Special Interest Project supplements funding. That is, only applicants who are selected to receive a Notice of Grant award in September 2004 for Program Announcement 04003 will be considered eligible to receive funding for the special interest project competitive supplements.

III.2. Cost Sharing or Matching: Matching funds are not required for this program.

III.3. Other Eligibility Requirements: Submission of a Letter of Intent (LOI) on or before the LOI deadline.

III.4. Individuals Eligible to Become Principal Investigators: Individuals with the skills, knowledge, and resources necessary to conduct the proposed research are invited to work with their institutions to develop an application. Individuals from underrepresented racial or ethnic groups as well as individuals with disabilities are always encouraged to apply for CDC programs.

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.

IV. Application and Submission Information

IV.1. How to Obtain Application Forms and Form Instructions: To apply for this funding opportunity, use application form PHS 398 (OMB number 0925–0001 rev. 5/2001). Forms and instructions are available in an interactive format on the CDC Web site, at the following Internet address: *http://www.cdc.gov/od/pgo/forminfo.htm.*

Forms and instructions are also available in an interactive format on the

National Institutes of Health (NIH) Web site at the following Internet address: *http://grants.nih.gov/grants/funding/phs398/phs398.html*.

Applicants that do not have access to the Internet or have difficulty accessing the forms online can receive the application forms through the mail by contacting the CDC Procurement and Grants Office Technical Information Management Section (PGO–TIM) staff at (770) 488–2700.

IV.2. Content and Form of Submission:

Letter of Intent (LOI): Potential applicants are required to send a LOI stating intent to apply for a specific SIP. The LOI will be used to gauge the level of interest in this program and help program prepare for the Special Emphasis Panel. If an LOI is not received by the LOI deadline, applicant will be considered ineligible for this announcement.

The LOI must be written in the following format:

- Maximum number of pages: one.
- Font size: 12-point unreduced.
- Double spaced.
- Paper size: 8.5 by 11 inches.
- Page margin size: One inch.
- Printed only on one side of page.
- Written in plain language, avoiding jargon.

The LOI must contain the following information:

- Title and number of the Special Interest Project applying for;
- Name, address, E-mail address, and telephone number of the Principal Investigator;
- Participating institution or Prevention Research Center.

Application: A separate application must be submitted for each SIP. Applications must clearly indicate which SIP the applicant is applying for.

Follow the PHS 398 application instructions for content and formatting of the application. For assistance with the PHS 398 application form, contact PGO–TIM staff at (770) 488–2700, or contact GrantsInfo at Telephone (301) 435–0714 or E-mail: *GrantsInfo@nih.gov*.

Applicants' research plan should address activities to be conducted over the entire project period specified.

Applicants are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the Federal government. The DUNS number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, go online at *http://www.dunandbradstreet.com* or call 1–866–705–5711.

For more information, see the CDC web site at *http://www.cdc.gov/od/pgo/funding/pubcommt.htm*. Enter the DUNS number on line 11 of the face page of the PHS 398 application form.

IV.3. Submission Dates and Times:

LOI Deadline Date: The LOI must be received by 4 p.m. Eastern Time, May 7, 2004. Submit an electronic copy of the LOI to Jean Smith at e-mail address *JNSmith@cdc.gov*.

Application Deadline Date: Applications for SIPs must be received by CDC no later than 4 p.m. on May 25, 2004.

Explanation of Application Deadline: Applications must be received in the CDC Procurement and Grants Office by 4 p.m. Eastern Time on the deadline date. For applications sent via the U.S. Postal Service or commercial delivery service, you must ensure that the carrier guarantees delivery of the application by the closing date and time. If CDC receives an application after the deadline due to (1) carrier error (the carrier accepted the package with a guarantee for delivery by the closing date and time) or (2) significant weather delays or natural disasters, applicants will be given the opportunity to submit documentation of the carrier's guarantee. If the documentation verifies a carrier problem, CDC will consider the application as having been received by the deadline.

This announcement is the definitive guide on application submission address and deadline. It supersedes information provided in the application instructions. If an application does not meet the deadline above, it will not be eligible for review and will be discarded. Applicants will be notified if an application did not meet the submission requirements.

Otherwise, CDC will not notify applicant upon receipt of application. For questions regarding application receipt, first contact the carrier. If a question persists, contact the PGO–TIM staff at (770) 488–2700. To allow time for applications to be processed and logged, please wait two to three days after the application deadline before calling.

IV.4. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

IV.5. Funding restrictions: Restrictions that must be taken into account in the budget should follow funding instructions provided for each special interest project in section IX. Applicants requesting indirect costs must include a copy of the indirect cost rate agreement. If the indirect cost rate is a provisional rate, the agreement should be less than 12 months old.

IV.6. Other Submission Requirements:

LOI Submission Address: Submit the LOI by e-mail to Jean Smith at *JNSmith@cdc.gov*.

Application Submission Address: Submit the original and five copies of the application by mail or express delivery service to Technical Information Management—PA# 04003, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341.

Applications may not be submitted electronically at this time.

V. Application Review Information

V.1. Criteria: Provide measures of effectiveness that will demonstrate the accomplishment of the objectives of the cooperative agreement; these measures will be an element of evaluation. Measures of effectiveness must relate to the performance goals stated in the Purpose section of this announcement. These measures must be objective, quantitative, and appropriate for measuring the intended outcome.

Calculation of Scores: The reviewers will provide an overall score for each application with 1=highest (best) and 5=lowest by using a 1 to 5 scale in increments of 0.1. The reviewers' scores for each application will then be averaged and multiplied by 100 to obtain a priority score for the application.

Evaluation Criteria: Non-Research SIPs

The relative importance and applicability of any category will differ by the focus of the project being solicited. Specific questions listed below within each category serve as examples of the type of information the applicant may wish to address.

1. Significance

(a) Does this project address an important public health problem?

(b) If the aims of the project are achieved, how will public health be advanced from the project proposed?

(c) To what extent will the project incorporate prior research findings and recommended practices?

2. Approach

(a) Does the applicant demonstrate an understanding of the community and cultural contexts, and current public health and other literature as well as other information sources relevant to the proposed project?

(b) Are the conceptual framework, design, methods, activities, and plans for dissemination fully developed, well integrated, and appropriate to achieve the aims of the project?

(c) Are there adequate procedures in place for recruiting the desired number of project participants? (if applicable)

(d) Does the proposed approach explain areas of flexibility as well as procedures that would be used in responding to conditions that require changes in methods or focus as needed?

(e) Does the applicant acknowledge potential problem areas and consider alternative tactics?

(f) Is there an appropriate work plan and time line included?

(g) Does the project incorporate evaluation activities, including measurement of progress toward achieving the stated objectives?

(h) Does the project include appropriate community involvement in all phases of program development?

3. Innovation

(a) Are the aims clear?

(b) Is this work innovative or does it build upon previous work?

4. Staff

(a) Is there evidence that the proposed project director has demonstrated knowledge, experience, and ability in planning and managing projects that are similar to the proposed project in complexity, scope, and participatory focus? (Ability includes the percentage of time each person will devote to each project/activity.)

(b) Is there evidence that the proposed project staff has demonstrated knowledge, experience, and ability in implementing similar projects?

5. Environment/Collaborations

(a) Is there evidence that the proposed project will be conducted through partnerships with representatives of community-based organizations, private and public sector institutions, State and local health departments, and/or academia, as appropriate?

(b) Does the project process allow for partners to apply their knowledge and contribute to the project's planning, implementation, and evaluation?

(c) Is there evidence of sufficient institutional support (*e.g.,* space, equipment, support from senior faculty, *etc.*)?

(d) Is there an appropriate degree of commitment and cooperation of potential partners as evidenced by letters detailing the nature and extent of their involvement?

6. Target Population (Gender and Minorities)

(a) Are characteristics of the target population(s) well described?

(b) Are there adequate plans to included both genders, minorities, and their subgroups as appropriate for the goals of the project?

(c) Are the plans for recruitment and retention of project participants satisfactory?

7. Budget (Reviewed But Not Scored)

The extent to which the budget is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the funding.

Evaluation Criteria: Research SIPs

The relative importance and applicability of any category will differ by the focus of the project being solicited. Specific questions listed below within each category serve as examples of the information the applicant may wish to address.

1. Significance

(a) Does this project address an important public health problem?

(b) If the aims of the study are achieved, how will scientific public health knowledge be advanced from the research proposed, considering issues such as internal validity and generalizability?

(c) To what extent will the results of the study be useful in promoting the adoption of effective public health prevention and intervention programs and policies?

2. Approach

(a) Does the applicant demonstrate an understanding of the community and cultural contexts, and current public health and other scientific literature and theories as well as other information sources relevant to the proposed project?

(b) Are the conceptual framework, design, methods, analyses, and translation plan scientifically strong, well integrated, and appropriate to achieve the aims of the project and to ensure the sustainability of effective interventions?

(c) Does the proposed approach explain areas of flexibility as well as procedures that would be used in responding to conditions that require changes in research methods or focus as needed?

(d) Does the applicant acknowledge potential problem areas and consider alternative tactics?

(e) Is there an appropriate work plan and time line included?

(f) Does the project incorporate evaluation activities, including measurement of progress toward achieving the stated objectives?

(g) does the project include appropriate community involvement in data collection, analyses, dissemination of results, and participation in sustainable program development?

3. Innovation

(a) Are the aims clear?

(b) Is this work innovative or does it build upon previous work?

(c) Does the project challenge existing paradigms or develop new methodologies or technologies?

(d) Does the applicant propose creative research translation approaches or methods?

4. Investigators

(a) Is there evidence that the proposed project director has demonstrated knowledge, experience, and ability in planning and managing research projects that are similar to the proposed project in complexity, scope, and participatory focus? (Ability includes the percentage of time each person will devote to each project/activity.)

(b) Is there evidence that the proposed project staff has demonstrated knowledge, experience, and ability in implementing the proposed research?

(c) Is there evidence that prior research findings from investigators have been translated and adopted into public health practice or policy?

(d) Is there evidence that community-based staff has demonstrated knowledge, experience, and ability to assist in the implementation of the proposed research, develops relationships with community members, and cultivates community participation?

5. Environment/Collaborations

(a) Is there evidence that proposed research and translation activities will be conducted through partnerships with representatives of community-based organizations, private and public sector institutions, State and local health departments, and/or academia, as appropriate?

(b) Does the research process allow for research partners to apply their knowledge and contribute to the project's planning, implementation, and evaluation?

(c) Is there evidence of sufficient institutional support (*e.g.*, space, equipment, support from senior faculty, *etc.*)?

(d) Is there an appropriate degree of commitment and cooperation of potential partners as evidenced by letters detailing the nature and extent of their involvement?

6. Target Population (Gender and Minorities)

(a) Are characteristics of the target population(s) well described?

(b) Are there adequate plans to include both genders, minorities, and their subgroups as appropriate for the scientific goals of the research?

(c) Are the plans for recruitment and retention of research participants satisfactory?

(d) To what extent has the applicant met the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research? This includes: (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) the proposed justification when representation is limited or absent; (3) a statement as to whether the design of the study is adequate to measure differences when warranted; (4) a statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

7. Budget (Reviewed But Not Scored)

The extent to which the budget is clearly explained, adequately justified, reasonable, sufficient for the proposed project activities, and consistent with the intended use of the funding.

8. Protection of Human Subjects From Research Risks

Does the application adequately address the requirements of title 45 CFR part 46 for the protection of human subjects? This will not be scored; however, an application can be disapproved if the research risks are sufficiently serious and protection against risks is so inadequate as to make the entire application unacceptable.

9. Inclusion of Women and Minorities in Research

Does the application adequately address the CDC policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research? This policy includes (1) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (2) The proposed justification when representation is limited or absent; (3) A statement as to whether the design of the study is adequate to measure differences when warranted; and (4) A statement as to whether the plans for recruitment and outreach for study participants include the process of establishing partnerships with communities and recognition of mutual benefits.

V.2. Review and Selection Process: Applications will be reviewed for completeness by the Procurement and Grants Office (PGO), and for responsiveness by NCCDPHP. Incomplete applications and applications that are non-responsive to the eligibility criteria will not advance through the review process. Applicants will be notified that their application did not meet submission requirements.

Applications that are complete and responsive will be evaluated for scientific and technical merit by an appropriate peer review group or charter study section convened by NCCDPHP in accordance with the appropriate review criteria listed above. As part of the initial merit review, all applications may:

- Undergo a process in which only those applications deemed to have the highest scientific merit, generally the top half of the applications under review, will be discussed and assigned a priority score.
- Receive a written critique.
- Receive a second level review by the NCCDPHP Internal Review Panel.

Award Criteria: Criteria that will be used to make award decisions include:

- Scientific merit (as determined by peer review).
- Availability of funds.
- Programmatic priorities.
- Specific language provided within each special interest project description below.

V.3. Anticipated Announcement and Award Dates: September 15, 2004.

VI. Award Administration Information

VI.1. Award Notices: Successful applicants will receive a Notice of Grant Award (NGA) from the CDC Procurement and Grants Office. The NGA shall be the only binding, authorizing document between the recipient and CDC. The NGA will be signed by an authorized Grants Management Officer, and mailed to the recipient fiscal officer identified in the application.

VI.2. Administrative and National Policy Requirements: 45 CFR part 74 and part 92.

For more information on the Code of Federal Regulations, see the National Archives and Records Administration at the following Internet address: *http://www.access.gpo.gov/nara/cfr/cfr-table-search.html.*

The following additional requirements apply to this project:

- AR–1 Human Subjects Requirements.
- AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research.
- 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–22 Research Integrity.

Additional information on these requirements can be found on the CDC web site at the following Internet address: *http://www.cdc.gov/od/pgo/funding/ARS.htm.*

VI.3. Reporting Requirements: Funded applicants must provide CDC with an original plus two copies of the following reports:

1. Interim progress report, (PHS 2590, OMB Number 0925–0001, rev. 5/2001) no less than 90 days before the end of the budget period.

The progress report will serve as a non-competing continuation application.

It must contain the following elements:

a. Current Budget Period Activities Objectives.

b. Current Budget Period Financial Progress.

c. New Budget Period Program Proposed Activity Objectives.

d. Budget.

e. Additional Requested Information.

f. Measures of Effectiveness.

2. Financial status report, no more than 90 days after the end of the budget period.

3. Final financial and performance reports, no more than 90 days after the end of the project period.

These reports must be mailed to the Grants Management Specialist listed in the ''Agency Contacts'' section of this announcement.

VII. Agency Contacts

For general questions about this announcement, contact: Technical Information Management Section, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: (770) 488–2700.

For financial, grants management, or budget assistance, contact: Lucy Picciolo, Grants Management Specialist, CDC Procurement and Grants Office, 2920 Brandywine Road, Atlanta, GA 30341, Telephone: (770) 488–2683. e-mail: *LPicciolo@cdc.gov.*

For Program technical assistance, contact: Margaret Kaniewski, Project Officer, Prevention Research Centers Office, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 4770 Buford Highway, Northeast, MS K45, Atlanta, GA 30341–3724, Telephone: (770) 488–5919, e-mail address: *MKaniewski@cdc.gov.*

VIII. Other Information

A forum for questions and answers between CDC and applicants during the application process will be available as a LISTSERV, a system that allows for creating, managing, and controlling mailing lists on a network or the Internet. The mailing list, which will be titled PREV–CENTERS is a closed list available only to persons and entities associated with the application process for Announcement Number 04003.

To subscribe to the LISTSERV, the applicant must send an e-mail message to *LISTSERV@LISTSERV.CDC.GOV* with the following command in the body of the message: subscribe PREV–CENTERS. There is no need to write a ''Subject'' or anything else in the message. The subscriber will then receive a welcome e-mail message and instructions on how to use commands for the LISTSERV. After the applicant is subscribed, questions about this announcement and the special interest projects may be sent to the following e-mail address: *PREV–CENTERS@listserv.cdc.gov.*

Do not post confidential information on the LISTSERV because all members receive the messages and the replies. All confidential matters should be conducted through direct e-mail, paper correspondence, or telephone.

Please use the PREV–CENTERS LISTSERV exclusively for posting questions about the application process for Announcement Number 04003. Questions will be accepted until the application deadline. All subscribers to the list will be deleted after the application due date.

IX. New Special Interest Projects (SIPs)

SIP 1–04

Project Title: Effectiveness of population-based interventions to promote oral health.

Project Description: In 2002 the Task Force on Community Preventive Services published a systematic review of the evidence of effectiveness of selected population-based interventions to prevent oral diseases and promote oral health, and identified gaps in knowledge for oral disease- or condition-specific interventions. Population-based interventions can bring about change by (1) providing information and education to communities on current issues, such as prevention of dental caries (tooth decay) and periodontal diseases; (2) changing laws and policies to improve and protect health and well-being, such as mandatory fluoridation laws; (3) altering the environment to enhance health and encourage healthy behaviors, for example, through community water fluoridation; (4) implementing health system changes, such as provider reminder systems to reduce missed prevention opportunities; and (5) making preventive services available in non-traditional settings, such as schools, worksites, and community centers. The Task Force recognized the need to develop and evaluate approaches that (a) influence environments and behavior at the individual, family, organizational, and community levels, and (b) consist of multiple components and targets of change. Applicants are encouraged to review gaps in knowledge for oral health promotion and disease prevention that were identified by the Task Force. (See Truman BI, Gooch BF, Sulemana I, *et al.* and the Task Force on Community Preventive Services. Reviews of Evidence on Interventions to Prevent Dental Caries, Oral and Pharyngeal Cancers, and Sport-Related Craniofacial Injuries. Am J Prev Med 2002;23(1s): 21–54. Available at: *http://www.thecommunityguide.org/pubs/default.htm).* Applicants also are encouraged to review all interventions recommended by the Task Force across a range of topics (*e.g.*, vaccine-preventable diseases, diabetes, physical activity) and levels (*e.g.*, policy/law, health care system, worksite, and general population) to consider the applicability and feasibility of these interventions for promoting oral health. (Summaries of recommended interventions are available at: *http://www.thecommunityguide.org/pubs/default.htm).* These funds will not be used to support determinant research (*i.e.*, research that examines risk factors for oral diseases).

Consistent with CDC's priority to translate science into public health practice, funds will be available to support applied research on the effectiveness of interventions to reduce oral diseases and conditions and promote oral health at the community or population level. High priority will be placed on approaches that seek to reduce disparities in oral health and improve quality of life among older adults, the poor, and some members of racial and ethnic minority groups. It is expected that the applicant will build on their effective relationships with communities to develop investigator-initiated research that reflects the health priorities of the communities they serve and demonstrates community participation in the design, conduct, and interpretation of the studies.

Project Activities: Applications should address the following:

1. Describe a study to assess the effectiveness of a well-defined intervention or combination of interventions to promote oral health.

2. Show that the interventions are innovative and well supported by promising findings in the health promotion literature.

3. Describe the proposed setting and study population. Ensure that the study population has documented oral health needs.

4. Describe appropriate methods to assess the effectiveness of each intervention or combination of interventions at the individual or community level, as appropriate.

5. Provide evidence for the feasibility of the research design.

6. Ensure the suitability of the study design for assessing effectiveness and consistency with design standards (*i.e.* concurrent or before-after comparison) established by the Guide to Community Preventive Services. (See Briss PA, Zasa S, Pappaioanou M, *et al.* Developing an Evidence-based Guide to Community Preventive Services-methods. Am J Prev Med 2000;18(1s):35–43. Available at: *http://www.thecommunityguide.org/pubs/default.htm).*

7. Include specific, measurable time-framed objectives for the three-year study period.

8. Identify key project staff. For each person describe their demonstrated knowledge, experience, and ability in planning and conducting intervention research of similar complexity and scope to that described in this proposal.

9. Describe the established resources and expertise available to the research staff for conducting intervention research in a timely fashion.

10. Demonstrate that the project leverages the resources, central research theme, and established linkages of the Prevention Research Center.

Preference will be given to applicants who:

(1) Demonstrate experience in the area of analytical epidemiology or community-based studies.

(2) Have completed earlier exploratory studies related to the topic(s) of interest.

(3) Propose prospective measurement of exposure and outcome and concurrent comparison group(s).

(4) Provide record of having published similar research in peer-reviewed scientific journals.

(5) Implement the study in settings (*e.g.*, workplaces, senior centers, childcare centers) that reach at-risk populations.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 20 pages. Supporting materials included in the appendices should not exceed 20 pages.

Availability of Funds: Approximately $1,000,000 will be available to fund up to four Prevention Research Centers for the first year of a three-year funding period. Each award will be made for no more than $250,000. Funding may vary and is subject to change.

Research Status: It is expected that these projects will be non-exempt research. CDC staff will not serve as co-investigators on these projects, but will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. Applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 2–04

Project Title: The feasibility of a population-based family cohort study to assess the impact of familial and genomic factors on population health

Project Description: The purpose of this project is to fund pilot studies to assess the feasibility of assembling a state-based representative sample of newborns and their families for the purpose of:

(1) Using residual newborn blood spots (leftover blood spots from newborn screening programs) from state programs to assess the prevalence of selected genetic variants of public health significance in the United States and among different racial/ethnic subgroups.

(2) Using newborn blood spots to assess the relationship between genetic variants and selected childhood outcomes (*e.g.* birth defects, low birth weight, infant mortality, developmental disabilities) by linking to various state-based surveillance and information systems.

(3) Recruiting a family cohort composed of child, parents, and grandparents to study the relation between genetic variation and the prevalence of adult health outcomes and other risk factors.

(4) Using this family cohort to assess levels of familial risks for selected chronic diseases based on a core family history tool and to study associations between familial risks and prevalence of risk factors and genetic variants.

(5) Recruiting this family cohort for a longitudinal study of health and disease.

(6) Defining and studying the ethical, legal and social implications of using newborn blood spots to assemble a cohort for population-based family studies.

An immense gap currently exists between the scientific products of the Human Genome Project and their application to the treatment and prevention of disease. The challenge for public health is to translate genomic research findings into information that can be used for more effective health policies and programs. One priority for CDC and its partners in the next 3–5 years is to conduct public health research to better understand genomic factors in the health of populations. Epidemiologic studies are needed of genotype prevalence, gene-disease associations, and gene-environment interactions to examine individual susceptibility to diseases related to infections, environmental exposures, and behaviors. Knowing which subgroups or individuals in the population are more likely to get sick may be useful for targeting behavioral or pharmaceutical interventions and reducing the population burden of various diseases. Understanding the population prevalence of the thousands of genetic variants in different population groups and geographic locations and their associations with health and disease is crucial for planning screening programs and guiding future research.

Most discoveries of gene variants and their association with disease are based on studies of a few high-risk families or selected groups. Highly penetrant gene variants have been identified that are transmitted through families in recognizable mendelian patterns resulting in mostly rare diseases but also some common diseases like breast and colorectal cancer (*e.g.*, BRCA1 and APC). Fortunately, these deleterious gene variants are rare in the population. For the majority of families, genetic susceptibility is transmitted through many low penetrant genes that interact with environmental factors to increase the risk of disease. For example, polymorphisms for genes that code for carcinogen metabolizing enzymes (*e.g.*, NAT2 and MGMT) can increase the risk of cancer. Population-based studies are needed to estimate the frequency of gene variants, environmental exposures, and disease/disability outcomes in different subgroups of the population and explore the interactions between gene variants and exposures that influence outcomes. Advantages of a cohort study design are the ability to study rare exposures (gene variants); establish temporal relationships between gene variants, environmental exposures and disease; and study the multiple effects of a single gene variant or exposure. A family-based study design will allow the study of three generations and common age-associated diseases such as developmental disabilities, heart disease, and Alzheimer's. This can be accomplished in a shorter time frame than following individuals from birth through the life stages. In addition, family-based studies can be used to evaluate the clinical validity (predictive value) of family medical history and can be used to determine the genetic etiology of certain traits or diseases.

A large-scale family-based cohort study will be complex and resource intensive so it is important that the feasibility of this study design be determined first through smaller pilot studies. For example, there are several options and methods for identifying and recruiting the index child; blood spots from state newborn screening programs could be used as the initial sampling frame or ongoing population-based studies of newborns could be used as the foundation for developing the family cohort. Additional issues to consider are:

- The feasibility of identifying, locating, and contacting parents and grandparents of the index child.
- The feasibility of linking individuals with existing administrative databases and obtaining information from medical records.
- Obstacles and incentives for participation in research that includes DNA analysis.
- Models for community participation and public education about genomic studies.
- Providing informed consent and assurances of privacy and confidentiality.
- Options and methods for biologic specimen collection (DNA sources), processing, and storage.
- Methods for selecting genes (and variants) to be studied.
- Options for laboratory and bioinformatics technology for genotyping.

Project activities: Approximately 2 to 3 pilot studies will be funded to address the feasibility of a collaborative family-based cohort study as described by the six activities numbered above. Pilot study activities might include the following:

1. Identifying a random sample of approximately 10,000 newborns using residual newborn blood spots from state programs (options for sample selection and over-sampling of minority groups or infants with selected outcomes should be considered).

2. Assessing the prevalence of selected genetic variants from the blood spots or other DNA sources.

3. Linking the newborn blood spots to state-based surveillance and information systems.

4. Taking a 10% sample (~1000) of the blood spots and contacting the parents and grandparents about participating in a study.

5. Administering a questionnaire (risk factors and personal and family medical history) and collecting buccal cells (cells scraped from the inside of the cheek) from the parents and grandparents.

6. Obtaining health outcome information for participants from medical records.

7. Following up study participants at 6 months and 1 year post-enrollment.

8. Analyzing the questionnaire and DNA data.

Particular attention should be given to the ethical, legal, and social implications of using newborn blood spots as the basis of a family-based cohort study design; standardized and in-depth documentation of reasons for non-participation; resources and effort required to identify and contact parents and grandparents; ability to re-contact and follow the cohort over time; technological and laboratory issues concerning DNA collection, storage and processing; and the application of the processes on a much larger scale.

Preference will be given to:

1. Collaborations between state health departments and academic institutions;

2. Applicants who are knowledgeable and experienced in Epidemiological and community-based research;

3. Applicants with the capacity for doing genomics research that might include DNA banking, genetic-related IRB issues, and the use of genetic epidemiological methods.

Project Proposal length and Supporting Materials: Proposed narratives are limited to 20 pages. Supporting materials included in the appendices should not exceed 30 pages.

Availability of Funds: Two to three Prevention Research Centers will be funded at approximately $300,000–$400,000 per center per year for three years. Funding may vary and is subject to change. Preference will be given to funding applicants that will aid in providing geographic diversity for the feasibility studies.

Research Status: It is expected that projects will be non-exempt research. CDC staff will serve as co-investigators on these projects and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. It is expected that this project will require CDC IRB approval. The CDC IRB will review and approve the protocol initially and on an annual basis until the research project is completed. Applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 3–04

Project Title: Healthy Passages: A Community-based Longitudinal Study of Adolescent Health.

Project Description: Healthy Passages is a longitudinal study conducted in three communities—Houston, Texas; Birmingham, Alabama; and Los Angeles, California. Healthy Passages will help us understand why some youth engage in healthful behaviors while others engage in risky behaviors that affect their health, education, and social well being. Funds are available to support implementation of the full study among a cohort of 1,750 fifth-grade youth in each community.

A limited number of health risk behaviors, generally established during childhood and adolescence, account for the overwhelming majority of immediate and long-term morbidity, mortality, disability, and social problems among adolescents and young adults. These behaviors include carrying a weapon, physical fighting, attempted suicide, drinking when driving, and unprotected sexual intercourse. In addition, use of tobacco, unhealthy dietary behaviors, and physical inactivity, behaviors also established during childhood and adolescence, contribute substantially to morbidity and mortality in adulthood.

Previous and on-going longitudinal surveys and research studies have made important contributions to understanding the association between health risk behaviors and their determinants. However, these studies are often limited in scope, limited in duration, or assess participants at infrequent intervals. In addition, although previous research has shown differences in health outcomes across racial and ethnic groups of youth, the sources of those differences have yet to be systematically investigated.

The objectives of the project are as follows:

• Fund three Healthy Passages Research Centers (HPRC) in geographically distinct metropolitan areas to (1) establish and assess on a biennial basis a cohort of youth from age 10 (fifth grade) through age 20; and (2) identify the etiological factors, including individual, family, school, and community influences, that predict health risk behaviors and related health outcomes and are important for understanding disparities in health outcomes across racially and ethnically diverse populations.

• Implement a collaborative research study among the funded HPRCs for implementation of the study design, development of study instruments for each wave of data collection, and dissemination of study results through peer reviewed publications and presentations at scientific meetings.

• Sustain the collaboration between the funded HPRCs and CDC on the development and implementation of the study.

• Participate in quarterly project meetings that include key staff members from each HPRC and key CDC staff.

Project Activities: Applicants should address the following project activities:

1. Significance:

• Identify and justify the health risk behaviors and health, educational, and social outcomes to be measured.

• Identify and justify the etiologic factors thought to influence health risk behaviors and health, educational, and social outcomes. Etiologic factors should include factors at the individual, family, school, and community levels.

• Describe research goals, objectives, and research questions.

• Describe how study results can be used to develop effective strategies for promoting adolescent health across a broad range of social institutions.

• Describe how study results will be important in understanding disparities in health outcomes across racially and ethnically diverse populations.

2. Approach:

• Describe the conceptual framework and how the framework incorporates health risk behaviors; health, educational, and social outcomes; and etiological factors.

• Describe plans for instrument development, data collection, data management, and data analysis.

• Describe the plans for training data collectors.

• Describe the quality assurance evaluation and monitoring for all research activities.

• Describe plans for data handling and storage, assurance of confidentiality, and linkage of data across occasions.

• Describe the potential limitations of the study.

• Identify the project work plan and timeline.

• Describe the community involvement in the research project.

• Provide a clear dissemination plan to work collaboratively with the other HPRCs and CDC to ensure that analysis and production of peer-reviewed papers, presentations, and reports are developed in a timely manner.

3. Innovation:

• Describe how the proposed research builds upon pilot studies.

• Describe how the proposed research will translate into the development of effective policies and programs.

4. Investigators:

• Describe the research team and demonstrate that the proposed research staff represent an interdisciplinary team of behavioral and social scientists, epidemiologists, and statisticians with the scientific training and previous scientific and practical experience needed to conduct the research.

• Provide evidence that the Principal Investigator has successfully participated in collaborative, multicenter research projects, longitudinal studies, and research studies related to the health of youth.

• Demonstrate the adequacy of the proposed staff to carry out all project activities (*i.e.*, sufficient in number, percentage of time commitment to this and other projects, and qualifications).

5. Environment and collaborations:

• Describe the involvement of community-based organizations and key members of the targeted population in a Community Advisory Committee and provide letters of support describing their role in the proposed research activities.

• Describe facilities and systems for data security and maintenance of participant confidentiality.

• Describe institutional support in terms of space, equipment, *etc.*

6.Target population:

• Provide evidence of the ability to recruit and enroll 1,750 10-year-old (fifth grade) children divided between at least two of the three major race/ethnic groups (white, African-American, and Hispanic).

• Provide information on the sampling strategy to assure appropriate representation by gender and race/ethnicity.

• Describe plans to obtain participation of adequate numbers of the targeted population.

• Provide a detailed plan of the expected sample attrition, how study participants will be tracked, and what strategies will be used to increase retention.

7. Budget:

• Provide a detailed line-item budget for year 1 that is adequately justified, sufficient for project activities, and consistent with the intended use of the funds.

8. Human subjects:

• Provide evidence that the applicant complies with DHHS regulations regarding the protection of human subjects.

Preference will be given to applicants who:

1. Have extensive experience in conducting longitudinal studies among children and adolescents;

2. Can demonstrate pilot studies to inform implementation of the longitudinal study;

3 .Can provide a record of scientific publications from similar studies.

Project Proposal Length and Supporting Materials: Proposal narratives are limited to 20 pages. Supporting materials included in appendices should include survey instruments and consent forms for year 1 data collection, biographical sketches, and letters of support.

Availability of Funds: Approximately $3,600,000 is available to fund up to three Prevention Research Centers in the first year of a 5-year project period. Individual awards are expected to range from $1,100,000 to $1,300,000. Funding may vary and is subject to change.

Research Status: Healthy Passages is non-exempt research. CDC staff will serve as co-investigators on these projects and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. Healthy Passages has CDC IRB approval. The CDC IRB reviews and approves the protocol on an annual basis until the project is completed. As applicable, applicants should provide a federal-wide assurance registration number.

SIP 4–04

Project Title: Evaluation of abstinence-only and abstinence-plus programs to prevent HIV, STD, and pregnancy among middle school students.

Project Description: Beginning in the 1990s, the prevalence of sexual intercourse decreased among high school students, particularly among males, African Americans, and whites. In addition, the number of adolescents using condoms at last intercourse increased. Despite these improvements, adolescents continue to be at risk for HIV infection, other sexually transmitted diseases (STD), and pregnancy. Between 1994 and 2000, 14% of HIV cases were diagnosed among youth aged 13–24; one in every four cases of STD diagnosed annually in the United States occurs among teenagers; and in 1997, 840,000 pregnancies occurred among 15 to 19 year olds in the United States.

Starting in the 1990s, major legislative initiatives have funded both abstinence-only and abstinence-plus programs to prevent HIV, STD, and pregnancy among adolescents. The efficacy of both kinds of programs and their role in the decrease in sexual risk behaviors among youth has been debated. Further studies are necessary to explore the relative efficacy of these approaches. Funds are available to support a five-year evaluation project to test the efficacy of an abstinence-only sexual risk reduction program for middle school students relative to a comparable abstinence-plus program and relative to standard care.

For purposes of this announcement, abstinence-only programs emphasize sexual abstinence (that is, refraining from vaginal, oral, and anal sexual activity). Abstinence interventions should address all of the following elements; however, programs need not place equal emphasis on each of the following: (1) Teaches abstinence from sexual activity outside of marriage as the expected standard for all school age children; (2) teaches that abstinence is the only certain way to avoid out-of-wedlock pregnancy, STD, and other health problems; (3) teaches that a monogamous relationship in context of marriage is the expected standard of human sexual activity; (4) teaches that sexual activity outside of marriage is likely to have harmful effects; (5) teaches that bearing children out-of-wedlock is likely to have harmful consequences; (6) teaches young people how to avoid sexual advances and how alcohol and drug use increases vulnerability to sexual advances; (7) teaches the importance of attaining self-sufficiency before engaging in sexual activity; and (8) teaches the gains to be realized by abstaining from sexual activity. (*See http://www.mchb.hrsa.gov/programs/adolescents/statefs.htm* for information on Title V Abstinence Education criteria and for ordering information for the Title V guidance.)

Abstinence-plus programs include information and skills related to abstinence, condom and other barrier use, and contraception. Abstinence-plus programs address avoiding or reducing sexual risk behaviors and address specific antecedents of sexual risk behaviors such as reducing social pressures to engage in sexual activity; or increasing negotiation and communication skills. Abstinence-plus programs, for purposes of this announcement, do not include clinically-based programs, or programs that focus on offering clinical services to adolescents.

Project Activities: Applicants should address the following:

1. Describe a study that includes a developmental phase in which known, effective interventions are adapted and pilot-tested for use in equivalent

abstinence-only and abstinence-plus arms of the study, and a comparison or standard care intervention is specified. This study may include, but is not limited to: (a) Adapting existing interventions based on sound behavior change theory or from empirically supported interventions for middle school students. The proposed interventions may be adapted to become equivalent school-based abstinence-only and abstinence-plus interventions. The proposed interventions may include multiple booster sessions. Interventions may include innovative components such as parent or family involvement, youth asset development, community service learning, or mentoring by youth or adults. Interventions should be targeted toward youth in communities disproportionately affected by HIV, STD, or unintended pregnancy; (b) Convening panels consisting of individuals from participating communities, and programmatic and evaluation experts experienced in abstinence-only and abstinence-plus interventions to provide input on the content, and assessment of, the developed interventions; (c) Pilot-testing interventions and data collection instruments among youth comparable to those proposed as participants in the evaluation study.

2. Describe a study that includes an evaluation phase to test the efficacy of these interventions relative to a standard care control or comparison group. This portion of the study may include, but is not limited to: (a) Designing and conducting a longitudinal experimental or quasi-experimental study with follow-up of participants for short period of time (*e.g.* minimum of 24 months), including clear conceptualization of the control or comparison group consisting of standard care in schools or a standard control intervention; (b) Proposing a population of middle-school students in communities disproportionately affected by HIV, STD, or teen pregnancy to participate in the study; (c) Determining the primary outcomes of the study that include, but are not limited to, sexual risk behaviors, intentions to engage in sexual risk behaviors, and biological markers for STD; (d) Determining secondary outcomes of the study that would include psychosocial outcomes (such as self-efficacy, attitudes, normative beliefs), and knowledge; intervening variables that may identify sub-populations for whom the interventions have particular impact; and unique outcomes appropriate to intervention components; (e) Outlining plans to sustain interventions in the target community that are found to be efficacious; and (f) Outlining plans to disseminate research results.

In addition, applicants should address the following issues:

1. *Significance:* Describe the extent to which the proposed research addresses important public health issues, and how it will advance knowledge about sexual risk interventions through generalizable and internally valid research.

2. *Approach:* Describe the following: the proposed interventions to be adapted and the process of adaptation and consultation, including community input in all phases of the proposed research; the proposed evaluation design including a conceptual framework based on behavior change theory or empirical findings, and a description of the sample size, matching or randomization plan, statistical power, longitudinal data management plan, and statistical analyses; anticipated problems and methods used to respond to them; plans to sustain efficacious programs; plans to disseminate findings; and a proposed work plan and timeline.

3. *Innovation:* Describe the following: how the proposed research builds upon prior research and what innovative programmatic and research components are proposed, including creative program adaptation approaches and methods.

4. *Investigators:* Describe the following: experience of proposed staff in program adaptation and in conducting all phases of behavioral intervention evaluations for adolescents; experience in working with schools and school-based interventions; current commitments of proposed staff and the percent of time that each staff member will devote to the project; prior experience in working with community members and program staff and researchers who represent a broad spectrum of policy outlooks and programmatic approaches.

5. *Environment/Collaborations:* Describe the following: experience in forming partnerships with community members; experience in forming partnerships with programmatic staff and researchers who are experienced with abstinence-only and abstinence-plus research; evidence of support for the proposed research from community, programmatic, and research collaborators; methods to create and maintain productive collaboration; institutional support including resources such as space and equipment; letters of support from proposed collaborators.

6. *Target Population:* Describe the following: demographic characteristics and sexual risk behaviors among the proposed intervention participants, and disproportionate impact of HIV, other STD, or pregnancy on the proposed community; plan to include both genders and ethnic minorities as appropriate to the proposed research; plans to recruit and retain participants; plans to longitudinally link participants' responses; and plans to meet CDC policy requirements regarding the inclusion of women and ethnic and racial groups.

7. *Budget:* Provide a clear budget, and provide a narrative that adequately justifies expenditures as reasonable, sufficient for the proposed project activities, and consistent with the intended use of the funding.

Project Proposal Length and Supporting Material: Applications should not exceed 20 pages, and appendices should not exceed 30 pages; the appendices should include biographic sketches, position descriptions of staff (if needed), letters of support, proposed membership lists of panels, and other evidence as consistent with the proposal.

Availability of Funds: Approximately $1,000,000 is available to fund one Prevention Research Center in the first year of a 5-year project. Funding may vary and is subject to change.

Research Status: This project is anticipated to be non-exempt research. CDC staff will serve as co-investigators on this project and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. This project will require CDC Institutional Review Board (IRB) approval. The CDC IRB reviews and approves the protocol on an annual basis until the project is completed. As applicable, applicants should provide a federal-wide assurance registration number. Additional clearances, such as certificates of confidentiality, may also be needed.

SIP 5–04

Project Title: Establishment of a Physical Activity Policy Research Network (PAPN)—Participating Network Center.

Project Description: Significant improvements in public health have been achieved through health policy interventions in areas such as tobacco control and injury prevention. Currently, research is being conducted through the Prevention Research Centers (PRC) addressing physical activity. However this research has a primary focus on identifying environmental, social or individual correlates of participation in physical

activity where physical activity or disease endpoints are the outcome measures. The Physical Activity and Health Branch, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion seeks to support the creation of a Physical Activity Policy Research Network to foster understanding of the effectiveness of health policies related to increasing physical activity in communities. The network, which would have long-term sustainability for physical activity policy research, will have one lead center and several participating centers. This particular project is for the participating centers only.

PRCs are housed within schools of public health, medicine, or osteopathy, which primarily work with stakeholders within those traditional fields of public health. This current structure poses a barrier to the potential non-traditional, transdisciplinary nature of physical activity policy research. In addition to traditional public health partnerships, this proposed network would establish active and productive collaborations with non-traditional partners including researchers and practitioners in political science, law, architecture, and urban planning and design. The network will rely on cross-disciplinary collaboration to achieve its objectives.

Recently, accomplishments have been made toward developing a framework for physical activity public health policy research. This framework was developed through a series of three CDC workshops that gathered information and opinions from national experts. During these workshops, the following priorities were identified as critical to future physical activity policy research: (1) Schools; (2) Worksites; (3) Parks and Public Spaces; (4) Walkability; (5) Safety and Crime; (6) Economic Factors; and (7) Liability. Participants also concluded that policy research involves more than just understanding whether or not a policy is effective. Policy research can involve (1) identifying policies that affect physical activity levels; (2) identifying determinants of why some policies are adopted and others are not; (3) research on how to implement a policy so that it is effective; and (4) the outcomes of policy implementation. Research is lacking on understanding the contribution of health policies to increasing community physical activity levels.

Project Activities: Applicants should address the following:

1. Discuss how the center would collaborate with the PAPN Lead Coordinating Center and CDC to advance a physical activity research policy agenda.

2. Identify resources in areas relevant to public health and physical activity within or available to your PRC. Discuss how these resources could be involved in and enhanced through the proposed network. Discuss the potential and need for collaboration with community-based organizations and public health departments to enhance dissemination and impact of policy research.

3. Document that your center will work with the other PAPN network centers in prioritizing and choosing topics for research, intervention or translation.

4. Describe how your center will work with the PAPN network and other partners to develop evidence-based interventions that can be implemented in communities.

Centers are expected to actively participate in the network and to identify and develop one pilot project in physical activity policy. Applicants should develop collaborative projects for creation and evaluation of physical activity policy frameworks in one or more of the following policy research areas:

1. Transportation planning and urban design models that incorporate valid measures of active transport such as walking, bicycling, and other forms of physical activity.

2. Links between transportation and urban design policies and community levels of physical activity.

3. Surveillance techniques to assess and track key indicators of policies that promote or inhibit physical activity.

4. Case studies of school setting within a community and the effect on physical activity and correlates (*e.g.*, community, social interaction, transportation, health, and economic impact).

5. Detailed review and analysis of the economic impact of smart growth and traditional neighborhood design as they relate to physical activity.

The project results are expected to include the following:

1. Development of a multidisciplinary physical activity policy research network.

2. Satisfactory progress in each of the five areas of interest outlined above.

3. Communication of progress and findings through meetings and publications.

4. Plans for network sustainability and growth.

Research results should help inform activities of CDC-funded state programs for promoting physical activity. Issues related to diversity, social equity, and health disparities should be built into the core policy agenda. Multiple traditional and non-traditional partnerships necessary for a successful project should be addressed.

Preference will be given to applicants that document or demonstrate the ability to establish formal working agreements with multiple disciplines such as law, economics, political science, architecture, and urban design and that include a state health department as part of the project team.

Project Proposal Length and Supporting Material: Application proposals should not exceed 20 pages, excluding appendices and supporting materials. Appendices should not exceed a total of 30 pages.

Availability of Funds: Three to five centers will receive funding to be part of the physical activity policy network. Funding will be up to $60,000 per center, per year for a period of three years. The composition of the working group and the individual projects proposed by the sites cannot be known in advance; therefore, some sites may be asked to revise their scope of work so that (1) two or more sites collaborate on a policy research project and/or (2) policy research areas deemed a priority by the network and CDC are assigned to at least one PRC. Funding may vary and is subject to change.

Research Status: The operations of the network itself will not involve research on human subjects. However, the pilot projects chosen may involve IRB review. CDC staff will assist network centers in making human subject determinations.

SIP 6–04

Project Title: Establishment of a Physical Activity Policy Research Network (PAPN)—Lead Coordinating Center.

Project Description: Significant improvements in public health have been achieved through health policy interventions in areas such as tobacco control and injury prevention. Currently, research is being conducted through the Prevention Research Centers (PRC) addressing physical activity. However this research has a primary focus on identifying environmental, social or individual correlates of participation in physical activity where physical activity or disease endpoints are the outcome measures. The Physical Activity and Health Branch, Division of Nutrition and Physical Activity, National Center for Chronic Disease Prevention and Health Promotion seek to support the creation of a Physical Activity Policy Research Network designed to foster advances in understanding the effectiveness of health policies related

to increasing physical activity in communities and with long-term sustainability for physical activity policy research. This Special Interest Project would provide the funding necessary for one PRC to take the leadership responsibility in coordinating the Physical Activity Policy Research Network described in SIP 5–04.

PRCs are housed within schools of public health, medicine, or osteopathy, which primarily work with stakeholders within those traditional fields of public health. This current structure poses a barrier to the potential non-traditional, transdisciplinary nature of physical activity policy research. In addition to traditional public health partnerships, this proposed network would establish active and productive collaborations with non-traditional partners including researchers and practitioners in political science, law, architecture, urban planning and design. The network will rely on cross-discipline collaboration to achieve this objective.

Recently, substantial accomplishments have been made toward developing a preliminary framework for physical activity public health policy research. This framework was developed through a series of three CDC workshops that gathered information and opinions from national experts. During these workshops, the following priorities were identified as critical to future physical activity policy research: (1) Schools; (2) Worksites; (3) Parks and Public Spaces; (4) Walkability; (5) Safety and Crime; (6) Economic Factors; and (7) Liability. Participants also concluded that policy research involves more than just understanding whether or not a policy is effective. Policy research can involve: (1) Identifying policies that affect physical activity levels; (2) identifying determinants of why some policies are adopted and others are not; (3) research on how to implement a policy so that it is effective; and (4) the outcomes of policy implementation. Research is lacking on understanding the contribution of health policies to increasing community physical activity levels.

Project Activities: Applicants should address the following:

1. Explain the organization and interaction of the Coordinating and Collaborating centers. Discuss the relationship with relevant CDC activities. Define performance expectations for the network.

2. Explain how the proposed PAPN would draw on community collaborations to enhance physical activity public health policy research. Discuss additional partners who may have a stake in the work. Address the dissemination of relevant information beyond the scientific literature, specifically to communities.

3. Describe how the network Coordinating Center will provide leadership in fostering and growing the network. Indicate how this growth will be assessed and monitored during the project period.

4. Describe how the Coordinating Center will represent and promote the PAPN and its member centers within the PRCs and to external partners.

5. Describe how the Coordinating Center will participate as a general member of the PAPN, including identifying established resources in areas relevant to public health and physical activity within or available to the PRC, and how you will work with the other network centers to prioritize topics for research and intervention development.

6. Describe the process by which each member center's contributions, including individual roles and responsibilities for the projects and activities, will be determined.

Preference for the Coordinating Center will be given to: Applicants who can document or demonstrate the ability to (1) manage multi-discipline, multi-site initiatives and (2) establish formal working agreements with disciplines such as law, economics, political science, and architecture and urban design and that include a state health department as part of the project team. The Coordinating Center will be expected to coordinate the PAPN, document network results, and plan and coordinate a meeting at which the work of other network members will be presented. The Coordinating Center will also coordinate any activities undertaken with partners external to the network. Working with CDC, the Coordinating Center will divide the work among the members of the network.

Project Proposal Length and Supporting Material: Application proposals should not exceed 20 pages, excluding appendices and supporting materials. Appendices should not exceed a total of 30 pages.

Availability of Funds: Approximately $30,000 is available to support one Lead Coordinating Center per year for a three-year period. Applicants applying for this SIP 6–04 as the Coordinating Center must apply as a PAPN participating center under SIP 5–04. The applicant selected as the Coordinating Center will have an approximate total budget of $90,000 annually ($30,000 for leadership and coordination; $60,000 for network member activities). The composition of the working group and the individual projects proposed by the sites cannot be known in advance; therefore, some sites may be asked to revise their scope of work so that (1) two or more sites collaborate on a policy research project and/or (2) policy research areas deemed a priority by the network and CDC are assigned to at least one PRC. Funding may vary and is subject to change.

Research Status: The operations of the network itself will not involve research on human subjects. However, the pilot projects chosen may involve IRB review. CDC staff will assist network centers in making human subject determinations.

SIP 7–04

Project Title: Investigation of the role of school-based physical activity on indicators of academic performance among elementary school children

Project Description: Schools are a natural environment for physical activity promotion. Most children are enrolled in schools where facilities and infrastructure exist to help promote physical activity. Recent successes in improving physical education training and delivery for elementary school children are examples of what is possible in targeting schools for physical activity programs.

The literature on the role that physical activity may play in academic achievement is sparse. Academic achievement can be assessed in a variety of ways, including distal outcomes for standardized test scores, or more proximal outcomes such as acute learning, time-on-task, disruptive behavior, daily attendance, *etc.* School-based physical activity need not be limited to only physical education curriculum, but should also include multiple inputs such as environmental supports (equipment and infrastructure), classroom activities, after-school activities and intramural/interscholastic activities. The intent of this project is to seek to study the effects on the role physical activity may play in academic or classroom settings.

Project Activities: The overall objective of this project is to support the design, conduct, and evaluation of an experimental investigation into the role that physical activity may play in academic performance and its associated indicators among elementary school children.

Preference will be given to applicants with demonstrated experience in school based physical activity interventions. An adequate cross-section of grade levels in elementary schools is desired. Applicants should take a broad

approach to defining key outcomes of interest of academic achievement and include both distal and proximal variables. Physical activity efforts should focus not only on physical education, but other potential exposures as well such as classroom, after-school, recess, and sports participation.

It is expected that applicants/investigators will design, conduct, and evaluate an experimental investigation into the role that physical activity may play in academic performance and its associated indicators among elementary school children. All aspects of the design, including conceptualization, sample size estimation, intervention design, data collection and analysis, and reporting will be the responsibility of the applicant/investigator(s). Design characteristics should include the ability to evaluate a dose-response effect if one exists.

Project Proposal Length and Supporting Material: Application proposals should not exceed 20 pages, excluding appendices and supporting materials. Appendices should not exceed a total of 30 pages.

Availability of Funds: It is anticipated that $400,000-$450,000 per year for up to three years will be available to fund one Prevention Research Center for this project. Funding may vary and is subject to change.

Research Status: It is expected that this will be non-exempt research. CDC staff will not serve as co-investigators on this project but will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. As applicable, applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 8–04

Project Title: Development of a Brief Physical Activity Assessment Tool for Use in Medical Settings as a Patient Chart Variable.

Project Description: Despite recommendations for health care providers to counsel patients to be physically active (including Healthy People 2010 health objectives for the nation), there are few health care settings with physical activity chart variables or recordkeeping systems to evaluate or track patients' physical activity habits. Such information may be beneficial for physicians and other health care providers to identify patients at risk from inactivity, or with health conditions (*e.g.*, obesity, hypertension, hyperlipdemia, cardiovascular disease, diabetes, low/abnormal bone density levels, *etc.*) that may be improved by increased participation in physical activity. A physical activity chart variable may also yield data that health plans can use to determine the economic burden of physical inactivity specific to their own patient population. Furthermore, a physical activity chart variable may serve as a catalyst for physicians/providers to triage patients' to obtain an in-depth physical activity assessment or to physical activity program. Although protocols are available to assist health care providers do physical activity assessment and counseling, these standardized procedures are perceived by some in the health care field to be too lengthy for use during routine medical care practice. Thus, there is a need for physicians and other health care providers to rapidly assess a patient's physical activity level, and at minimum, provide a patient with a recommendation to increase physical activity when warranted.

The purpose of the proposed funding is to support the development of a ''rapid assessment'' physical activity tool that can be used as a chart variable. It can be incorporated into a health care system infrastructure to allow for the assessment and tracking of patients' physical activity behaviors, prompt provider recommendations to patients to be active, and monitoring economic factors of economic.

Project Activities: Funding will be awarded to develop a valid and reliable rapid assessment tool to be used as a physical activity patient chart variable, with patients 18 years and older. An empirical or intuitive approach to item development may be used. *Year 1 activities* are to (1) develop an assessment tool (chart variable), and (2) plan and conduct a study to determine the validity and reliability of the item(s)/assessment tool. *Year 2 activities* are to plan and conduct a feasibility study using the item(s)/assessment tool in clinical settings. These activities will result in the following study outcomes: (1) The PI will take the lead on the development and feasibility testing of a valid and reliable physical activity chart variable that can be used in standard medical care practice (including publication of scientific articles). (2) A physical activity chart variable will be available for use in health care settings (a) to monitor the physical activity behavior of patients and prompt recommendations for patients to increase physical activity, and (b) to link a physical activity chart variable to health, medical care utilization, and medical expenditure outcomes.

Project Proposed Length and Supporting Materials: Application proposals should not exceed 15 pages excluding appendices and supporting materials. Appendices should not exceed a total of 10 pages.

Availability of Funds: One PRC will be funded for this project, for a two-year period. Approximately $232,750 is available for the two-year period. It is anticipated that year one costs may be lower than year two costs, both years totaling to $232,750.

Research Status: It is expected that this will be non-exempt research. CDC staff will not serve as co-investigators on this project but will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. Applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 9–04

Project Title: Investigation of Pedometers and Step Counters for Physical Activity Promotion.

Project Description: Physical activity levels in the U.S. currently are measured with national surveys (telephone or interview) that require respondents to characterize their usual level of leisure time, occupational, household and transportation related physical activity. Respondents are further asked to characterize the intensity of participation (moderate or vigorous). Data from these national surveys indicate fewer than 50% of U.S. adults are currently active at levels thought to promote and maintain health.

Walking is the most frequently reported source of physical activity among U.S. adults. Recently, community and individual physical activity promotion programs have emerged that rely on the accumulation of daily steps toward a target goal as a prime physical activity strategy. These programs rely on either a static daily goal (*e.g.*, 10,000 steps each day) or on a progressive goal (*e.g.*, an additional 2,000 steps each day from baseline). Regardless of the program, electronic pedometers and step counters are used to help participants monitor their daily step accumulation and as a behavioral tool for prompting and goal setting.

Despite recent studies, there are few health outcomes data on which to base daily step recommendations. More specifically, there is a paucity of information on how (or if) step counters and pedometers can be used to promote congruence with physical activity recommendations based on scientific evidence of their relation to health outcomes (*e.g.*, CDC/ACSM physical activity recommendations). Existing

step accumulation programs do not specifically promote intensity (*e.g.*, at least moderate-intensity) or duration (*e.g.*, at least 8–10 minute continuous bouts); both of which are central tenets of evidence-based public health recommendations for physical activity promotion. The purpose of this project is to generate scientific research to help understand the role that step counters and pedometers play in helping to promote existing physical activity recommendations.

Project Activities: The overall objective of the project is to support the design, conduct, and evaluation of scientific assessments of the utility of electronic step counters and pedometers in helping to promote physical activity recommendations for adults. Investigators on the project, working closely with CDC staff, will design evaluation studies to meet this objective.

Preference will be given to applicants who have documented skills in physical activity promotion programs which include step counters and/or pedometers. Proposals should consider aspects of both physical activity intensity and duration as they may relate to daily accumulation of steps. Aspects of the uses of electronic step counters and pedometers for population physical activity assessment and individual interventions should be considered.

All aspects of the design, including conceptualization, sample size estimation, intervention design, data collection and analysis, and reporting will be the responsibility of the investigators. An adequate cross-section of a variety of settings is desirable as is diversity in age, gender, and race or ethnicity of the populations examined. Design characteristics should include the ability to evaluate a dose-response effect if one exists. Also of interest are behavioral aspects of pedometer use and potential health outcomes associated with their use as physical activity promotion tools.

Project Proposal Length and Supporting Material: Application proposals should not exceed 20 pages, excluding appendices and supporting materials. Appendices should not exceed a total of 30 pages.

Availability of Funds: It is anticipated that up to $200,000 per year for 3 years will be available to fund one Prevention Research Center. Funding may vary and is subject to change.

Research Status: It is anticipated that this project will be non-exempt research. Human subject research will be involved and CDC IRB approval will be required. CDC staff will serve as a co-investigator on this project and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. Applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 10–04

Project Title: Center of Excellence in Public Health Training and Intervention Research Translation: WISEWOMAN and Obesity Prevention Programs.

Project Description: The intent of the special interest project is to develop a Center of Excellence in Public Health Training and Intervention Research Translation. The Center will address training and intervention research translation needs of two CDC programs funded through the Division of Nutrition and Physical Activity: the WISEWOMAN program and the Obesity Prevention Program. The Center will begin by addressing the component needs of the programs described below. The Center will likely expand its activities in the future and serve as a model for other Centers of Excellence in Public Health Research Translation and Training.

Little is known about effective obesity and chronic disease interventions, especially those interventions addressing disparities. The public will benefit: (1) By having services provided by a well-trained public health professional staff in the areas of obesity, cardiovascular health, and other chronic diseases and (2) from the translation of effective preventive health programs that will meet their particular needs in addressing obesity, cardiovascular and other chronic diseases.

CDC Program Descriptions

WISEWOMAN Program: WISEWOMAN funds 14 projects throughout the United States that provide low-income, underinsured, or uninsured 40 to 64 year old women, with the knowledge, skills, and opportunities needed to improve diet, physical activity, and other life habits to prevent, delay, or control cardiovascular and other chronic diseases. The projects provide these services to women from various racial and ethnic groups who live in both urban and rural settings. More information on this program can be found at *http://www.cdc.gov/wisewoman.*

Obesity Prevention Program: The purpose of the program is to prevent and control obesity and other chronic diseases by supporting States in the development, implementation, and evaluation of science-based nutrition and physical activity interventions. Funds have been awarded to 20 states to address the obesity epidemic in the US. The goals of the program are to: (1) Decrease levels of obesity or reduce the rate of growth of obesity in communities reached through interventions; (2) Increase physical activity and better dietary behaviors in communities reached through interventions; (3) Increase the number of effective obesity prevention interventions using nutrition and physical activity that are implemented and evaluated; (4) Increase the number of communities that implement a nutrition and physical activity plan for the prevention and control of obesity and other chronic diseases; (5) Increase the number of state or community nutrition and physical activity policies, environmental supports, and/or legislative actions that are planned, initiated, or modified for the prevention or control of obesity and other chronic diseases. More information about this program can be found at *http://www.cdc.gov/nccdphp/dnpa/obesityprevention.htm.*

Component 1: Center of Excellence in Public Health Training and Intervention Research Translation

Objective: To develop the Center of Excellence model There is a need to coordinate training and translation activities into Centers for Excellence for both the WISEWOMAN and Obesity Prevention programs. Both programs address similar risk factors including obesity, poor nutrition, and physical inactivity. By October 2004, CDC expects to have recommendations for creating Centers of Excellence for WISEWOMAN. The awardee will focus on the development of one Center of Excellence based on these recommendations. The Center may become a model for future Centers.

Activity 1: Review the WISEWOMAN recommendations for the establishment of a Center for Excellence and discuss implementation issues with a CDC workgroup that includes WISEWOMAN team members and representatives of funded states.

Activity 2: Conduct research as necessary to further elucidate the recommendations made in the plan for the establishment of a Center of Excellence to meet both WISEWOMAN and Obesity Prevention Program needs.

Activity 3: Develop a plan and timetable for the establishment of the Center of Excellence.

Activity 4: Establish a Center of Excellence by the end of the third year of funding.

Activity 5: Develop a monograph documenting and describing the development of the Center of Excellence and how coordination of training and translation has been achieved.

Funding: Year 1: $105,000; Years 2–5: $130,000 annually.

Component 2: Training

Part 1 Objective: To fund the continuation and expansion of Nutrition and Public Health, A Course for Community Practitioners.

A course titled, 'Nutrition and Public Health, A Course for Community Practitioners' (NPH) was developed and conducted for public health practitioners, particularly WISEWOMAN staff responsible for planning and implementing WISEWOMAN projects. This course was developed using the socioecological model and MATCH [1], multi-level approaches toward community health, as theoretical models to provide public health practitioners with the skills necessary to address lifestyle intervention planning and implementation at multiple levels of influence. The planning and implementation of NPH will continue under this special interest project. More information about NPH can be obtained at *http://www.hpdp.unc.edu/nph/.*

Activity 1: Plan and conduct NPH annually starting in fiscal Year 2005.

Activity 2: Make course revisions and updates based on soon to be completed training needs assessment, annual course evaluations, and input from course advisory committee and CDC.

Activity 3: Assess the training course to determine if participant needs are met and the extent to which participants apply the knowledge in public health practice.

Activity 4: Explore delivery and expansion options for NPH.

Activity 5: Develop a 5 year training plan based on the recommendations in the soon to be completed training needs assessment.

Activity 6: Develop and implement at least one additional training annually based on the soon to be completed training needs assessment and the 5-year training plan developed under this SIP.

Funding: Years 1–5: $175,000 annually.

Part 2 Objective: To fund the development and implementation of training for public health professionals addressing obesity prevention.

Activity 1: Review the recommendations made in the soon to be completed training needs assessment for the Obesity Prevention Program.

Activity 2: Discuss the training needs assessment with CDC staff to reach consensus on methods of implementing the recommendations reached in the assessment.

Activity 3: Develop a five-year training plan to address the recommendations made in the training needs assessment with a continuous process for gathering CDC and state input.

Activity 4: Plan, develop and implement training based on the five-year plan.

Activity 5: Assess the developed trainings to determine if participant needs are met and, the extent to which participants apply the knowledge in public health practice.

Funding: Years 1–5: $135,000 annually.

Component 3: Translation

Objective: This component will provide an understanding of how to translate efficacious interventions into the public health setting. WISEWOMAN has been engaged in these activities since its inception and CDC has been supporting the development and translation of new community and clinical guidelines for the prevention and control of obesity. The newly funded Center will evaluate current translation efforts for the purpose of maximizing their public health impact. A theoretical framework such as RE-AIM [2] might be used. Also, the Center will identify other efficacious interventions that may be translated into the public health setting. The key components of the efficacious interventions will be identified and translated appropriately for various populations and settings including underserved populations, preschool and young children, families, worksites, community-based settings, and diverse ethnic/racial groups. Appropriate evaluation of interventions can assist public health professionals in making decisions about adopting interventions for implementation in their communities.

Activities

(1) Identify efficacious studies related to improved nutrition and physical activity, obesity prevention and weight management for translation into a variety of public health settings.

(2) Describe the key components of the intervention that relate to its efficacy.

(3) Use or develop a model for translating the key components into public health settings.

(4) Develop a method for assessing whether current or future translation activities achieve maximum public health impact to include the reach, efficacy, adoption, implementation, and sustainability of the intervention.

(5) Develop training that provides health professionals and partners with the necessary skills for effective translation of interventions in their local settings.

(6) Provide technical assistance to health professionals in translating interventions in their setting.

(7) Continually review the literature to identify new efficacious studies appropriate for translation, inform CDC, and work with CDC to decide their relevance for WISEWOMAN and the Obesity Prevention Programs.

Funding: Year 1: $195,000; Years 2–5: $260,000 annually.

Preference will be given to applicants who:

(1) Demonstrate understanding and experience with both WISEWOMAN and Obesity Prevention Programs, and

(2) demonstrate expertise and experience in:

(a) Developing, planning, implementing, and evaluating public health nutrition and obesity training in a variety of delivery modes,

(b) Conducting and evaluating public health interventions to prevent and control obesity and other chronic diseases,

(c) Evaluating revising and training to meet the needs of participants,

(d) Assessing efficacy studies related to improved nutrition, physical activity, and other positive health behaviors to identify key components for translation into the public health setting,

(e) Tailoring these key components for effectiveness in various populations including underserved midlife women, preschool and young children, families, worksites, community-based settings, various racial/ethnic backgrounds, and those that are financially disadvantaged,

(f) Developing a method for public health translation,

(g) Evaluating public health interventions for reach, efficacy, adoption, implementation, and maintenance

(h) Ongoing assessment of training needs of public health professionals

Project proposal and length: The application narrative should not exceed 25 pages, exclusive of appendices. The appendices should not exceed 15 pages.

Availability of Funds: Year 1: Total budget of $610,000; Years 2–5: Total budget of $700,000 annually. Funding may vary and is subject to change.

Research Status: This project will not involve human subject research and therefore, should not require CDC IRB approval. The CDC staff will serve as technical consultants.

References:

1. Simons-Morton DG, Simons-Morton BG, Parcel GS, Bunker JF: Influencing personal and environmental conditions for community health: A multilevel intervention model. Fam. Community Health 1988; 11(2): 25–35.

2. Glasgow RE, Vogt TM, Boles SM: Evaluating the public health impact of health promotion interventions: The RE-AIM framework. Am J Public Health. 1999; 89: 1322–1327.

SIP 11–04

Project Title: Development and Evaluation of Messages to Address Safety and Adverse Event Concerns about Influenza Vaccination among Adults.

Project Description: Although an effective vaccine against influenza is available and covered by Medicare, only two thirds of persons 65 and over are vaccinated each year. In addition, only one third of high-risk adults 18 to 65 are vaccinated. At present the leading reason for non-vaccination among 65 and older is concern about the vaccine, specifically the belief that the vaccine causes illness. Concern about the vaccine is also a leading reason among those 18–65. Funds will be available to support sound research on developing effective messages to reduce such concerns and overcome this barrier to vaccination.

Data from Medicare's Current Beneficiary Survey have shown that almost half of unvaccinated seniors give reasons related to concerns about the vaccine for not being vaccinated, including that it causes disease, causes side effects, and is not effective at preventing influenza. About a third give as main reasons for non-vaccination reasons related to not knowing they should be vaccinated. Preliminary data from a survey of Medicare beneficiaries suggest that concerns about the vaccine are more prevalent among African Americans than among whites. African Americans are less likely to be vaccinated than whites (50% and 69%, respectively in 2002), and remain less likely to be vaccinated even after taking into account differences in demographic factors and access to care.

Previous research suggests that a physician's recommendation can overcome patient concerns about the influenza vaccine, however not all patients are swayed by a provider recommendation. The type of information or messages needed to reduce concerns about influenza vaccine in general and to help convince those for whom physician recommendation is not sufficient to overcome concerns is unknown.

Research is needed to identify messages and methods that will reduce concerns of patients about influenza vaccination, and to determine whether different messages are needed for racial/ethnic subgroups, with an emphasis on African American patients. The results of this project should lead to increased understanding of the kind of information that helps to convince people that the influenza vaccine does not cause illness and to identify the best channel to deliver such information.

Project Activities: Applications should address the following:

Objective 1: Message development (Year 1).

- Develop an approach to message development that will allow for identifying the need for different messages for different racial ethnic groups. A possible approach might be to conduct focus groups of persons who have been offered vaccination but elected not to be vaccinated because of concerns about the vaccine (groups segmented by race/ethnicity)
- Determine setting, methods, feasibility of message development protocol prior to implementation. The setting should provide access to a substantial proportion of African American patients.
- Identify key staff and established resources/expertise available to conduct this project. Staff qualifications should be based on demonstrated knowledge of message development.

Objective 2: Message testing/evaluation (Year 2, during influenza vaccination season).

- Develop an approach for testing the message against a control message (for example a pre and post intervention survey).
- Develop an approach to determining which channel (*e.g.* pamphlet, doctor, nurse, peer educator) is the most effective or preferred channel for receiving such information (again, for example, a pre and post intervention survey addressing issues such as trust of the information, overall satisfaction, and beliefs about the flu vaccine).
- Determine setting, methods, feasibility of message testing/evaluation protocol prior to implementation. The setting should provide access to a substantial proportion of African American patients.
- Identify key staff and established resources/expertise available to conduct this project. Staff qualifications should be based on demonstrated knowledge of message development.

Preference will be given to applicants who:

1. Can demonstrate they have participated in prior research related to message development and evaluation.
2. Can provide a record of publishing similar research.
3. Can demonstrate access to working with substantial numbers of African American adults.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 15 pages. Supporting materials included in appendices should not exceed 20 pages.

Availability of Funds: Approximately $300,000 is available to fund up to 2 Prevention Research Centers in the first of a 2-year project period. No individual award will exceed $150,000. Funding may vary and is subject to change.

Research Status: It is expected that this project will be non-exempt research. CDC staff will serve as co-investigators on these projects and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. This project will require CDC IRB approval. As applicable, applicants should provide a federal wide assurance number for each performance site included in the project.

SIP 12–04

Project Title: Provider and public health input for vaccine policy decisions.

Project Description: Vaccination is considered one of the top ten public health achievements in the 20th century. Despite the power of this prevention tool, however, vaccine coverage with all recommended vaccines remains below national goals for both children and adults. Many factors play a role in immunization uptake, but evidence has shown that provider recommendations and practices are very influential. Further, a number of evidence-based strategies for raising and sustaining high coverage levels among children, adolescents, and adults include interventions to be carried out at the provider level. State and public health officials are important partners to immunization providers, monitoring provider practices and providing technical assistance, particularly regarding childhood immunization.

Implementation of recommendations for new vaccines and recommended strategies for vaccination requires several critical components: (1) An understanding of potential barriers and concerns perceived by providers and by state and local public health officials, (2) measurement of the extent of knowledge and misperceptions that

private and public sector staff have about new recommendations and strategies, and (3) the ability to test potential messages among both groups. Further, data from these inquiries should be collected using scientifically sound methods. Ample response rates to present generalizable results and the findings should be available for broad dissemination in a timely fashion.

The purpose of this project is to develop a collaborative mechanism with an academic researcher to obtain such input from providers and state and local public health officials in a timely fashion. Based on prior experience, staff at CDC's National Immunization Program anticipate a need to carry out multiple inquiries during each year of the three year project period.

This project should assist in making policy recommendations regarding new vaccines, strategies to improve immunization coverage, contingency plans to address urgent problems such as vaccine supply shortages. In addition, these data will be used to test and refine messages for immunization providers and their state and local public health collaborators.

Project Activities: Applications should address the following:

1. A multidisciplinary study team, including:

• Individuals experienced in the conduct of health services research specifically related to childhood and adult immunization.

• Individuals with experience conducting and analyzing quantitative and qualitative (*e.g.*, focus groups, key informant interviews) studies.

• Individuals able to support necessary statistical analyses.

• Individuals to support research activities such as sampling from national databases, data collection, data entry, database management, and programming.

2. A process for working with CDC staff to identify, prioritize, and devise timelines for multiple inquiries per year, including the ability to modify priorities/timelines as needed.

3. A process for working with CDC staff (and outside public health/researchers as appropriate) to develop and refine study objectives, methods, and instruments.

4. Approaches for collecting data in areas relevant to this project, including:

• Awareness, agreement, and adoption of new recommendations and factors influencing these outcomes;

• Issues affecting private provider adoption of strategies designed to raise immunization coverage, such as the use of reminder/recall systems, Assessment, Feedback, and Information eXchange (AFIX), and immunization registries;

• Response to and feedback to potential recommendations or communications.

Preference will be given to applicants who:

1. Can demonstrate that they have participated in rapid (2–6 months) assessments of provider and public health official perceptions, barriers, and reaction to potential recommendations, using both qualitative and quantitative methods.

2. Can provide a record of publishing such research.

3. Can demonstrate ability to obtain high response rates (50–70%) in such research.

4. Can conduct a minimum of four inquiries per year during each year of the three-year project period.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 15 pages. Supporting materials included in appendices should not exceed 20 pages.

Availability of funds: Approximately $300,000 is available to fund 1 Prevention Research Center in the first of a 3-year project period. Funding may vary and is subject to change.

Research Status: It is expected that this project will involve multiple components, most of which are exempt research. CDC staff will participate as co-investigators on project activities including research design, data collection and analysis, and co-authoring manuscripts. It is expected that this project will require CDC IRB approval of exempt research status. As applicable, applications should provide a federal wide assurance registration number for each performance site included in the project.

References: Centers for Disease Control and Prevention. Ten great public health achievements—United States, 1900–1999. MMWR 1999; 48:241–3.

Task Force on Community Preventive Services. Recommendations regarding interventions to improve vaccination coverage in children, adolescents, and adults. American Journal of Preventive Medicine. 2000;18(1S):92–96.

SIP 13–04

Project Title: Prevention Research Centers' Healthy Aging Research Network (HAN)—Participating Network Center.

Project Description: The Health Care and Aging Studies Branch, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, CDC, is seeking to support the infrastructure and activities of a network formed around ''healthy aging.'' Of particular interest is a network that draws on the community collaborations characteristic of the PRCs and provides a framework to translate research into practice and policy.

Consistent with the vision and mission of the PRCs, the proposed network will conduct the following types of activities: (1) Synthesis of scientific information on the determinants of healthy aging, intervention research, and/or translation research for programs in healthy aging; (2) research on the effectiveness of community-based interventions for which evidence is insufficient to justify a CDC recommendation; (3) research on mechanisms to disseminate and implement evidenced-based interventions into communities by public health and aging services network organizations; (4) evaluation of the implementation and effectiveness of community-based programs; and (5) development and dissemination of training products for the public health and aging networks.

Although the core function of this special interest project is to provide the necessary funding to organize and operate a network of PRCs focused on healthy aging, the network would be expected to identify a topic area of focus and participate in activities that address gaps in the knowledge; assist in the translation of research into practice; and contribute to the development of evidence-based intervention that can be implemented into community practice.

Project Activities: Applications should address the following:

1. Define how the center would collaborate with the Coordinating Center and CDC to advance a prevention research agenda for public health and aging.

2. Identify established resources in areas relevant to public health and aging within or available to your PRC. Discuss how these resources could be enhanced through the proposed network. Define the potential for collaboration with academic and community-based resources in aging.

3. Describe how your center would contribute to facilitating the translation of research into practice. Discuss the areas where your center could play a leadership role and those areas where your contributions would be more of a supporting role. What other partners need to be involved and how do you propose to include them in activities?

4. Explain how your center will work with the other HAN network centers in prioritizing and choosing topics for research, intervention or translation.

5. Describe how your center will work with the HAN network and other partners to develop evidence-based interventions that can be implemented in communities.

Preference will be given to applicants who have:

(1) Demonstrated experience in health issues for older adults;

(2) Experience working within a network construct; and

(3) Basic knowledge about the organization and capacity of the aging services network (*i.e.* the formal network established through the Older Americans Act of 1965 which includes the U.S. Administration on Aging, state units on aging, local area agencies on aging, and local community aging service providers which provides health and social services to older adults).

Project Proposal Length and Supporting Materials: Proposal narratives are limited to 20 pages. Supporting materials included as appendices should not exceed 40 pages, including publications.

Availability of Funds: Approximately $210,000–$300,000 is available to support six participating network centers (ranging from $35,000–$50,000/center) for the first year of a five-year project. Funding may vary and is subject to change.

Research Status: The operations of the network itself will not involve research on human subjects. However, the pilot projects chosen may involve IRB review. CDC technical monitors will assist network centers in making human subject determinations.

SIP 14–04

Project Title: Prevention Research Centers' Healthy Aging Research Network (HAN)—Lead Coordinating Network Center.

Project Description: The Health Care and Aging Studies Branch, Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, CDC is seeking to support the infrastructure and activities of a network formed around ''healthy aging.'' Of particular interest is a network that draws on the community collaborations characteristic of the PRCs and provides a framework to translate research into practice. This network would serve as a model for a PRC-directed collaboration to address a CDC priority population. This Special Interest Project (SIP) would provide the funding necessary for one PRC to take the leadership responsibility in coordinating the Healthy Aging Research Network's (HAN) activities.

Consistent with the vision and mission of the PRCs, the proposed network will conduct the following types of activities: (1) Synthesis of scientific information on the determinants of healthy aging, intervention research, and/or translation research for programs in healthy aging; (2) research on the effectiveness of community-based interventions for which evidence is insufficient to justify a CDC recommendation; (3) research on mechanisms to disseminate and implement evidenced-based interventions into communities by public health and aging services network organizations; (4) evaluation of the implementation and effectiveness of community-based programs; and (5) development and dissemination of training products for the public health and aging networks.

Although the core function of this special interest project is to provide the necessary funding to organize and operate a network of PRCs focused on healthy aging, the network would be expected to identify a topic area of focus and participate in activities that address gaps in the knowledge; assist in the translation of research into practice; and contribute to the development of evidence-based interventions that can be implemented into community practice.

Project Activities: Applications should address the following:

1. Explain the organization and interaction of the Coordinating and Collaborating centers. Discuss the relationship with relevant CDC activities and staff. Define performance expectations for the network.

2. Explain how the proposed HAN network would draw on community collaborations to enhance older consumers' ability to lead healthier and more satisfying lives. Discuss additional partners who may have a stake in the work taking place. Address the dissemination of relevant information beyond the scientific literature, specifically to communities.

3. Describe how the HAN network would facilitate translation of research into practice. Provide a description of a project that would be developed and initiated within the first year of the project period related to the prior efforts of the HAN.

4. Define how training needs in public health and aging for public health practitioners will be identified and addressed.

5. Describe how the network Coordinating Center will provide leadership in fostering and growing the network. Indicate how this growth will be assessed and monitored during the project period. Measures may include but are not limited to: (1) The number of intervention and dissemination research projects that have been funded; or (2) the variety of governmental, foundation, and non-profit sources of funding.

6. Describe how the Coordinating Center will represent and promote the PRC Healthy Aging Research Network and its member centers within the PRCs and to external partners.

7. Describe how the Coordinating Center will participate as a member of the Healthy Aging Research Network including contributing to the facilitation of translating research into practice; identifying established resources in areas relevant to public health and aging within or available to its PRC; and how the Coordinating Center will work with the other network centers to prioritize topics for research and intervention development.

8. Describe the process by which each member center's contributions including individual roles and responsibilities to the projects and activities of the HAN will be determined.

Preference will be given to an applicant who:

(1) Has demonstrated experience in health issues for older adults;

(2) Has experience in organizing and leading a group of academic institutions around a common agenda or theme;

(3) Has experience in working within a network construct;

(4) Has letters of support from current member centers of the PRC Healthy Aging Research Network that define each PRC's role and responsibilities; and

(5) Has basic knowledge about the organization and capacity of the aging services network (*i.e.*, the formal network established through the Older Americans Act of 1965 which includes the U.S. Administration on Aging, state units on aging, local area agencies on aging, and local community aging service providers which provides health and social services to older adults).

Project Proposal Length and Supporting Materials: Proposal narratives are limited to 20 pages. Supporting materials included as appendices should not exceed 40 pages, including publications.

Availability of Funds: Approximately $185,000–$200,000 ($150,000 for leadership and coordination; $35,000–$50,000 for network activities) is available to support one Coordinating Center for the first year of a five year project. Applicants must apply as a Healthy Aging Research Network (SIP 13–04) center to apply for the Coordinating Center funding. Funding may vary and is subject to change.

Research Status: The operations of the network itself will not involve research on human subjects. However, the pilot projects chosen may involve IRB review. CDC staff will assist network centers in making human subject determinations.

SIP 15–04

Project Title: Prevention Research Centers' Healthy Aging Research Network (HAN)—Defining the Public Health Role in Depression and Depressive Disorders for Older Adults.

Project Description: Several areas of interest in healthy aging research are emerging for which no defined public health role has been established. Among these areas of interest are health conditions such as depression, dementia, Alzheimer's disease, and Parkinson's disease.

Mental health illnesses, such as depression, can be debilitating for older adults. Older adults commonly have multiple chronic conditions. Due to physical difficulties resulting from chronic disease, older adults may find traveling difficult and are, therefore, often physically isolated from family and friends. Social isolation can lead to feelings of despair and depression, which when combined with physical inactivity, can bring about a decline in both physical and mental health functioning.

Chronic illnesses, such as heart disease, stroke, diabetes, and cancer often co-exist with depression. Because many older adults face these illnesses as well as various social and economic difficulties, health care professionals may mistakenly conclude that depression is a normal consequence of these problems'an attitude often shared by patients themselves. These factors together contribute to the underdiagnosis and undertreatment of depressive disorders in older people.

- About 58% of those ages 65 and older believe that it is ''normal'' for people to be ''depressed'' as they grow older. It is estimated that only half of older adults who acknowledge mental health problems actually receive treatment from any health care provider.
- Major depression affects 5–10% of older adults who visit their primary care provider (Blazer D.G. Depression in Late Life: Review and Commentary. J of Gerontology: Medical Sciences. 2003; 58A(3), pp. 249–265.).
- The prevalence of clinically significant depressive symptoms for community-dwelling older adults ranges from approximately 8% to 16% (Blazer D.G. Depression in Late Life: Review and Commentary. J of Gerontology: Medical Sciences. 2003; 58A(3), pp. 249–265.).

The identification and refinement of public health prevention opportunities in addressing depression and depressive disorders or the co-morbidities associated with depression among older adults are of particular interest.

Project Activities: Applications should address the following:

1. Describe the review team. This should include but not be limited to: (a) Selection of the HAN network center participants; (b) role of the coordinating center (applicant); and (c) selection and expertise of review team members and roles and responsibilities of the team members. Letters of support, identifying the roles and support of the project should be provided from all identified team members. Indicate how this activity relates to the mission and activities of the PRC Healthy Aging Network.

2. Provide a detailed description of how the review team plans to conduct a systematic review of the literature. The purpose of the systematic literature review is to identify effective interventions for preventing or addressing depression or depressive disorders, and, in particular, those strategies that could be made available to older adults through the public health and aging services network. As part of the review, the review team should also identify strategies for assessing mental health in older adults, such as screening instruments for depressive symptoms.

3. Describe the methods that will be employed to execute the review, including the databases to be searched, and potential search terms. Indicate how the applicant will develop or refine a conceptual approach to assist with defining the scope and organization of the review. If the framework developed by the Healthy Aging Research Network through SIP 13–04 is refined from other work on mental health, such as the Guide to Community Preventive Services, indicate how such a model will be applied to older adults.

4. Describe the criteria that will be used to classify articles as eligible or ineligible for the review, as well as the process through which data will be abstracted from articles, including training of the reviewers and measurement of inter-rater reliability.

5. Describe how the team will assess and define the effectiveness of interventions that address depression and depressive disorders for older adults for the public health system and the aging services network (*i.e.* the formal network established through the Older Americans Act of 1965 which includes the U.S. Administration on Aging, state units on aging, local area agencies on aging, and local community aging service providers which provides health and social services to older adults).

6. Describe how the network would work with CDC, including the CDC Mental Health Workgroup and the Guide to Community Preventive Services (*http://www.thecommunityguide.org/mental/default.htm*), to frame the public health role and parameters for interventions and outcomes, including health outcomes and costs, related to depression and depressive disorders for older adults.

Preference will be given to an applicant who:

(1) Is a funded member of the PRC Healthy Aging Research Network through SIP 13–04;

(2) Explicitly partners with one or more other members of the current PRC Healthy Aging Research Network;

(3) Has demonstrated letters of support from contributing member centers of the current PRC Healthy Aging Research Network that define each center's role and responsibilities; and

(4) Has demonstrated research experience in the area of depression and depressive disorders for older adults. The anticipated activities will be conducted in collaboration with staff from CDC, including representatives from the Division of Adult and Community Health, National Center for Chronic Disease Prevention and Health Promotion, who are members of the CDC Mental Health working group and a representative from the mental health chapter of the Guide to Community Preventive Services.

Project Proposal Length and Supporting Materials: Proposal narratives are limited to 20 pages. Supporting materials included as appendices should not exceed 40 pages, including publications.

Availability of Funds: Approximately $200,000 is available to support a project on depression and depressive disorders in older adults for the PRC Healthy Aging Research Network for the first year of a two-year project. Applicants must also apply and be funded as a Healthy Aging Research Network center to apply for this funding. Funding may vary and is subject to change.

Research Status: The project will not involve research on human subjects.

SIP 16–04

Project Title: Prevention Research Centers' Cancer Prevention and Control Research Network (CPCRN).

Project Description: Funds are available for Prevention Research

Centers (PRCs) to become members of the Cancer Prevention and Control Research Network (CPCRN). The vision of the CPCRN is communities and researchers work together to significantly reduce the burden of cancer, especially among those disproportionately affected. Its mission is to conduct cancer prevention and control research that (1) extends the knowledge base, (2) addresses critical gaps, and (3) leads to adoption, replication, implementation and diffusion of successful programs in communities. This research is carried out both by each member center through local networks and by the CPCRN as a larger network of member centers following the work in the Community Guide to Preventive Services (Guide).

The Guide provides public health decision makers with recommendations regarding population-based interventions to promote health and to prevent disease, injury, disability, and premature death, appropriate for use by communities and health care systems. The Guide provides an assessment of the evidence of intervention effectiveness and makes two types of recommendations: (1) Where the evidence is insufficient to recommend the adoption of an intervention, the Guide identifies areas for further research; and (2) where evidence of intervention effectiveness is sufficient, the Guide recommends adoption of that intervention. CDC and the National Cancer Institute are collaborating to develop and/or disseminate several chapters of the Guide related to cancer control, including the Cancer Chapter and the Tobacco Control Chapter. For more information on the Guide to Community Preventive Services, applicants may refer to *http://www.thecommunityguide.org* or see: Am J Prev Med 2000; 18 (1S): 18–26 and Am J Prev Med 2000;18(1S):35–43.

For more information about the CPCRN, *see http://ukprc.uky.edu/CPCRN/home.htm.* Also, please see the related Special Interest Project 17–04 which requests proposals for a Coordinating Center for the Cancer Prevention and Control Network.

Project Activities: The objective of this project is to support the work of the CPCRN in expanding community-based intervention research on cancer prevention and control and facilitating the translation of effective interventions into practice. This project is to establish or maintain the infrastructure necessary for an individual Center's local network and for the larger CPCRN to conduct community-based participatory research which will contribute to extending the knowledge base, addressing critical gaps in evidence for a particular intervention strategy, evaluate specific intervention, and leading to adoption, replication, implementation and diffusion of successful interventions in communities. Such an infrastructure would allow individual Centers and the larger CPCRN to compete successfully for research projects, including multi-center projects, from a wide variety of sources.

Applicants should address the following issues:

1. Describe how your center will contribute to vision, mission, and objectives of the CPCRN.

a. Provide a description of prior research, practice and evaluation experiences in intervention and dissemination research (provide examples of your achievements in the appendices, including peer-reviewed articles, grants received, *etc*).

b. Describe your particular experiences with cancer prevention and control research.

c. Describe your particular experience with community-based participatory research, specifically with regard to health intervention programs that involve partnerships with community-based organizations.

d. Given that this center would be part of the CPCRN, describe your experiences of collaboration or describe how the project staff could collaborate with other centers in the network.

2. Identify the key staff who will be devoted to this project.

a. For each person describe his or her demonstrated knowledge, experience, and ability in planning and conducting research that is similar in complexity, scope and focus to the types proposed here. If there is a position that is yet to be filled, provide a position description in the appendix. Include the percentage of time each person will devote to project activities.

b. Of the named staff, provide evidence of the interdisciplinary nature of the key center leadership and experiences in conducting and being funded for intervention research, community-based participatory research, and translation of research into practice.

3. Provide evidence that the proposed project activities will be conducted through partnerships with cancer prevention and control experts in the community, state, and/or region.

a. Provide evidence of links to other cancer control research and practice centers, such as comprehensive cancer control centers, special population networks, transdisciplinary tobacco use research centers, and the current PRC Cancer Prevention and Control Research Network.

b. Describe the methods that will be used to maintain these partnerships. Provide evidence of commitment and cooperation of potential partners (*e.g.*, recent letters of support, memoranda of understanding, and documented examples of prior collaboration).

c. Describe the methods that will be used to establish and maintain new partnerships, as needed.

d. Describe how you will involve various community representatives in the proposed project.

e. Indicate the leadership responsibilities, roles, and relationship of community representatives to the larger CPCRN team.

4. Provide evidence of sufficient institutional support for this project (*e.g.*, support from PRC leadership, space, equipment, etc). Describe the established resources and expertise available to your staff (*e.g.*, intervention research, health services research, community-based participatory research, behavioral sciences, statistical expertise for randomized trials, research dissemination, program evaluation, public health, economics, communication theory and practice, etc).

5. State the proposed evaluation strategies and measures at three and five years that can be used to indicate the effectiveness of the local network and provide information needed for refinement and growth of the local network. Measures might include: (1) The number of intervention and dissemination research projects that have been funded, conducted and published which might be used to inform subsequent Guide recommendations; (2) the number of such research efforts that have been awarded from a variety of governmental, foundation, and non-profit sources; and (3) the number of collaborative research efforts that have been initiated between the member center and other NCI-supported cancer research centers/networks.

Preference will be given to applicants who:

1. Demonstrate the capacity to publish and/or be funded for community intervention research, particularly in cancer prevention and control.

2. Provide evidence of successful experiences in conducting research on dissemination processes, dissemination of specific research, or community-based participatory research with underserved populations.

3. Represent diverse populations and are geographically distributed throughout the United States.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 20 pages. Supporting materials included in the appendices should not exceed 30 pages. The appendices should include the requested materials above, including the 2-page biographical sketches, position descriptions of faculty and staff (if needed), letters of support, membership lists of community advisory board, *etc.*

Availability of Funds: Approximately $1,500,000 is available to fund 5 Prevention Research Centers for the first year of a 5-year project period. The average award is expected to range from $300,000 to $350,000 per year. Budgets should include costs for travel for two persons to an annual meeting of the full Network. For budgetary purposes, use Atlanta as the site of such annual meetings. Funding may vary and is subject to change.

Research Status: This project is to establish or maintain infrastructure of the CPCRN, and will not involve human subject research.

SIP 17–04

Project Title: Coordinating Center, Prevention Research Centers' Cancer Prevention and Control Network.

Project Description: Funds are available to support a Coordinating Center for the Prevention Research Centers' (PRC's) Cancer Prevention and Control Network. The Coordinating Center serves as the focal point for (1) guiding network discussions related to the development of research expertise in community interventions for cancer prevention and control, (2) organizing collaborative activities with network members and their various collaborating partners (*e.g.*, state/local health departments, community groups, and cancer control research and practice centers), (3) facilitating linkages among network members and national/state/local partners to ensure network objectives are being achieved, and (4) coordinating evaluation of network activities. For further detail on the objectives and activities of the Cancer Prevention and Control Network, please see the Special Interest Project 16–04.

Project Activities: Applicants should address the following:

1. Describe the proposed process for serving as the coordinating arm for the development of a PRC Cancer Prevention and Control Network, including but not limited to the following items:

a. Description of the resources and processes that will facilitate linkages and activities among the Cancer Prevention and Control Research Network, such as coordination of conference calls and dissemination of information;

b. Description of the processes through which network research projects would be selected and pursued by network centers or subgroups; and

c. Description of the process for identifying, collecting, and disseminating products and results from network members.

2. Propose an external evaluation process to indicate the effectiveness of the network and to provide information needed for refinement and growth of the network. Indicate how and when the evaluation results will be shared with the network members and other partners, including the PRC program.

3. Identify the proposed staff who will work on coordinating center activities. Provide their relevant experience, a description of their roles, and the proportion of time each will spend on coordinating center activities. Examples of these personnel may include an administrator, project manager, and others.

Preference will be given to applicants who demonstrate experience in:

1. Coordinating and conducting multicenter research;

2. Collaborative planning using participatory methods; and

3. Conducting community-based intervention research, participatory research, dissemination research, and program evaluation.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 20 pages. Supporting materials included in the appendices should not exceed 30 pages; the appendices should include the above-requested materials, 2-page biographical sketches, position descriptions of staff (if needed), recent letters of support, membership lists of community advisory board, and other evidence as consistent with the proposal.

Availability of Funds: Approximately $300,000 is available to fund one Prevention Research Center in the first year of a 5-year project period to act as the Coordinating Center. Funding may vary and is subject to change. Applicant must apply and receive funding as a Prevention Research Centers' Cancer Prevention and Control Research Network (SIP 16–04) to be eligible to receive Coordinating Center funding.

Research Status: The Coordinating Center does not conduct research, but monitors the network infrastructure only. This project will not involve research on human subjects.

SIP 18–04

Project Title: Trial of interventions to increase utilization of colorectal cancer screening and promote informed decision making about colorectal screening among Hispanic women and men.

Project Description: Colorectal cancer is the second leading cause of cancer death in the United States. Strong scientific evidence has shown that screening for colorectal cancer saves lives. However, studies have demonstrated that most eligible persons are still not meeting the screening recommendations for colorectal cancer and that screening rates are especially low among Hispanic men and women in the United States. Few intervention studies have examined methods to increase colorectal cancer screening, or to promote informed decision making about colorectal cancer screening, and even fewer studies have focused on Hispanic persons. As such, effective intervention materials that are culturally appropriate and available in English and Spanish are needed to promote colorectal cancer screening among Hispanic adults.

Informed decision making about colorectal cancer screening includes making informed choices between screening options. The interventions tested for effectiveness should target Hispanic men and women aged 50 years older (including those who are at average risk and those who have a modest family history of colorectal cancer). The interventions developed as part of this project should be consistent with the U.S. Preventive Services Task Force (USPSTF) recommendations regarding colorectal cancer screening and informed decision-making.

The available evidence regarding the effectiveness of specific client-oriented interventions and provider-oriented interventions for colorectal cancer screening is not currently sufficient to justify a Guide to Community Preventive Services recommendation (*http://www.thecommunityguide.com*). Where evidence is sufficient for a recommendation, there is a need for replication studies to examine the applicability of the interventions to other populations such as Hispanic men and women. Most studies of informed decision making for cancer screening have focused on prostate or breast cancer screening, and few studies on informed decision making for cancer screening have included Hispanic persons.

This project seeks to develop and examine the effectiveness of an intervention to increase colorectal screening and promote informed decision making about colorectal cancer screening among Hispanic men and women (for example, Mexican

Americans), via a community-based intervention trial and participatory research methods.

Project Activities: Applications should address the following:

1. Explain how intervention materials will be developed and tested to increase routine colorectal screening and to promote informed decision making about colorectal cancer screening among Hispanic women and men.

2. Explain how the above intervention materials will fit into an intervention strategy for increasing informed decisions regarding colorectal cancer screening.

3. Describe how a pilot of the intervention strategy will be conducted, including revisions based upon the pilot.

4. Describe how a community-based intervention trial will be conducted including the: background and rationale, methods (including a description of the intervention materials that will be developed and tested), sample size estimates, desired outcome measures, the plan for analysis, and human subjects considerations.

5. Outline plans for engaging Hispanic community partners in all aspects of this study.

6. Describe the collaborative relationships between the university, representatives of the community partners, the relevant state and local health departments, and a major provider of health care services for the target population.

Preference will be given to applicants who:

1. Demonstrate prior experience conducting community-based, participatory research involving Hispanic communities.

2. Propose a community-based intervention trial that would be conducted by a Prevention Research Center, in partnership with a university medical center or other major health care provider and their community partners.

3. Propose an intervention study consisting of a randomized preventive trial or one which has a quasi-experimental design, following guidelines for rigorous research identified by the Guide to Community Preventive Services (*http://www.thecommunityguide.com*).

4. Demonstrate that research participants who have a positive colorectal cancer screening test will have access to follow-up care and treatment, as appropriate.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 20 pages. Supporting materials in appendices should not exceed 20 pages.

Availability of Funds: Approximately $350,000 is available to fund 1 Prevention Research Center in the first year of a 4-year project period. Funding may vary and is subject to change.

Research Status: It is expected that the project will be non-exempt research. CDC staff will serve as co-investigators on this project and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. It is expected that the project will require CDC IRB approval or approval of deferral to the local IRB. As applicable, applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 19–04

Project Title: Assessing the reliability and validity of core questions to measure colorectal cancer screening behaviors.

Project Description: Colorectal cancer (CRC) is the second leading cause of cancer death. Screening has been demonstrated to be effective in reducing death from colorectal cancer, but the prevalence of colorectal cancer screening among adults is extremely low. The Task Force on Community Preventive Services has concluded that there is insufficient evidence concerning the effectiveness of interventions to increase screening for CRC. The recently published Institute of Medicine report, Fulfilling the Potential of Cancer Prevention and Early Detection (Curry SJ, Byers T, Hewitt M (eds.) Fulfilling the Potential of Cancer Prevention and Early Detection. Washington, DC: The National Academies Press, 2003.) called for the development, implementation and evaluation of ''comprehensive community-based programs in cancer prevention and early detection.'' Additional research is likely to be undertaken in the next several years to address the effectiveness of different types of interventions to increase CRC screening. Central to any program evaluation are valid and reliable measures of outcome.

For measures of CRC screening behaviors, core questions recently have been developed by a working group of experts which was sponsored by the National Cancer Institute (NCI) (A manuscript describing this effort has been prepared and is expected to be published within the next year.) These core questions were based on questions that had been used in national surveys or in survey instruments for intervention studies of colorectal cancer screening. Cognitive testing was performed on these questions in May 2002. As the next step, the working group has recommended ''studies to assess the reliability and validity of the questions in different subgroups of the population.'' To date, this research has not been conducted. In other words, there is no evidence regarding the reliability or validity of commonly used measures of colorectal screening behavior.

The establishment of reliable and valid measures of colorectal cancer screening behaviors would be of enormous value to a variety of surveillance and intervention activities. These activities would enable decision makers to have a greater confidence in data which are based on reliable and valid measures. Measures of colorectal cancer screening are used to evaluate the effectiveness of interventions, compare the effectiveness of different types of interventions with each other, and track changes in screening behavior over time. The value of research studies on intervention effectiveness and surveillance efforts are highly dependent on the quality of the outcome measures used.

The purpose of this funding would be to conduct studies using the core questions to measure colorectal cancer screening behaviors that: (1) Measure the reliability or consistency of responses to questions following repeat administration; and/or (2) measure the validity of responses to the core questions. The results of the research to be supported through this project should contribute substantially toward the establishment of reliable and valid measures for colorectal cancer screening behavior.

Project Activities: Applicants should address the following:

1. Clarify the specific research question(s) to be addressed. The research question(s) should consider measures of reliability and validity of the core CRC screening behavior questions. The specific research question(s) may be refined depending on the method of administration (mail, telephone, or face-to-face) and the population to be included.

2. Describe a study to address the research question to be addressed, including a description of the proposed population, setting and methods.

3. Provide a description of prior research to justify the proposed study population and study approach.

4. Provide an explanation of the basis for the proposed sample size and anticipated participation rates.

5. Describe the estimated timetable for the study.

6. Provide evidence of support from institutions and other stakeholders to carry out this research.

7. Identify the key staff who will be devoted to the project and their respective roles and time commitments. For each person, describe their demonstrated knowledge, experience, and ability in planning and conducting this type of research.

Preference will be given to applicants who:

1. Can demonstrate that they have participated in previous research related to tests of the reliability or validity of outcome measures used in questionnaires.

2. Have extensive experience in conducting research in community or clinic settings.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 15 pages. Supporting materials included in appendices should not exceed 20 pages.

Availability of Funds: Approximately $250,000 is available to fund one Prevention Research Center in the first year of a 2-year project period. Funding may vary and is subject to change.

Research Status: It is expected that this project is non-exempt research. CDC staff will not serve as co-investigators on this project but will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results.

SIP 20–04

Project Title: Trial of interventions to increase utilization of colorectal cancer screening among women and men.

Project Description: Colorectal cancer is the second leading cause of cancer death in the United States. Strong scientific evidence has shown that screening for colorectal cancer saves lives. However, studies have demonstrated that most eligible persons are still not meeting the screening recommendations for colorectal cancer. In addition, few intervention studies have examined methods to increase colorectal cancer screening.

The available evidence regarding the effectiveness of specific client-oriented interventions and provider-oriented interventions for colorectal cancer screening is not currently sufficient to justify a Guide to Community Preventive Services recommendation (*http://www.thecommunityguide.com*). Where evidence is sufficient for a recommendation, there is a need for replication studies to examine the applicability of the interventions to other populations.

This project seeks to develop and examine the effectiveness of an intervention to increase colorectal screening among men and women, via a community-based intervention trial and participatory research methods.

The interventions should be tested for effectiveness that target men and women aged 50 years of older (including those who are at average risk and those who have a modest family history of colorectal cancer). The interventions developed as part of this project should be consistent with the U.S. Preventive Services Task Force (USPSTF) recommendations regarding colorectal cancer screening.

Project Activities: Applications should address the following:

1. Explain how intervention materials will be developed and tested, to increase routine colorectal screening among women and men.

2. Explain how the above intervention materials will fit into an intervention strategy for increasing colorectal cancer screening.

3. Describe how a pilot of the intervention strategy will be conducted, including revisions based upon the pilot.

4. Describe how a community-based intervention trial will be conducted including the: background and rationale, methods (including a description of the intervention materials that will be developed and tested), sample size estimates, desired outcome measures, the plan for analysis, and human subjects considerations.

5. For all aspects of this study, outline plans for engaging community partners in implementing the study.

6. Identify a collaborative relationship between the university, representatives of the target population, the relevant state and local health departments, and a major provider of health care services for the target population.

Preference will be given to applicants who:

1. Demonstrate prior experience conducting community-based, participatory research involving communities.

2. Propose a community-based intervention trial that would be conducted by a Prevention Research Center, in partnership with a university medical center or other major health care provider and community partners.

3. Propose an intervention study consisting of a randomized preventive trial or one which has a quasi-experimental design, following guidelines for rigorous research identified by the Guide to Community Preventive Services (*http://www.thecommunityguide.com*).

4. Demonstrate that research participants who have a positive colorectal cancer screening test will have access to follow-up care and treatment, as appropriate.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 20 pages. Supporting materials in appendices should not exceed 20 pages.

Availability of Funds: Approximately $350,000 is available to fund 1 Prevention Research Center in the first year of a 4-year project period. Funding may vary and is subject to change.

Research Status: It is expected that the project will be non-exempt research. CDC staff will serve as co-investigators on this project and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. It is expected that the project will require CDC IRB approval or approval of deferral to the local IRB. As applicable, applications should provide a federal wide assurance registration number for each performance site included in the project.

SIP 21–04

Project Title: Community Interventions in Non-medical Settings to Increase Informed Decision Making (IDM) for Prostate Cancer Screening.

Project Description: The purpose of this project is to provide evidence contributing to recommendations made in The Guide to Community Preventive Services (Guide). The Guide provides evidence-based recommendations on the effectiveness of community interventions to promote health and prevent disease, disability and premature death. Guide recommendations are provided for use by communities, public health agencies, and health care systems. For more information see *http://www.thecommunityguide.org* or Am J Prev Med 2000; 18 (1S). In a recently published review of evidence on the effectiveness of community interventions to promote IDM for cancer screening, the Guide found insufficient evidence to make a recommendation about the effectiveness of these interventions (Am J Prev Med Jan. 2004). While the Guide found evidence that such interventions increased individuals' knowledge, too few studies examined whether the interventions resulted in individuals' participating in decision making at their desired levels or whether decisions were consistent with individuals' values and preferences. The Guide recommended

additional research focusing on participation in decision making and on the how to effectively incorporate individual values and preferences in decision making. Given the lack of research in non-medical settings and in diverse populations, additional research is needed on how to perform effective and cost-effective IDM interventions in non-clinical settings and on how to implement these interventions in diverse populations, particularly in populations that include non-white or less advantaged groups. Interventions for use in non-clinical settings are particularly needed because of the limited time primary care providers have available to provide preventive services. Applicants may refer to *http://www.thecommunityguide.org* for the Guide IDM review and recommendations and for copies of other relevant Guide publications.

Evidence on the effectiveness of prostate cancer screening and on the balance of benefits and harms from screening is summarized by the U.S. Preventive Services Task Force (USPSTF) *http://www.ahrq.gov/clinic/cps3dix.htm#screening.* There is good evidence that prostate specific antigen (PSA) screening can detect early-stage prostate cancer but mixed and inconclusive evidence that early detection improves health outcomes. Screening is associated with important harms, including unnecessary anxiety, biopsies, and complications of treatment of some prostate cancers that may never have affected a patient's health. It is unclear whether the benefits outweigh the harms. Given the uncertainty regarding the balance of benefits and harms from prostate cancer screening, the CDC supports informed decision making as a public health approach to prostate cancer screening (*http://www.cdc.gov/cancer/prostate/*).

The objective of this funding is to support research on the effectiveness of community interventions in non-medical settings to promote informed decision making for prostate cancer screening, conducted in collaboration with appropriate community and research partners.

Project Activities: Applicants should address the following:

1. How the proposed study design and methods of implementation meet quality criteria for inclusion in evidence reviews conducted by the Guide;

2. How the research will provide evidence of the effectiveness of the community intervention in promoting IDM as defined by the Guide;

3. How the information component of the proposed intervention (the knowledge provided) is consistent with USPSTF on prostate cancer screening effectiveness and on the balance of benefits and harms from prostate cancer screening;

4. How the intervention will be developed and evaluated for use in non-clinical settings, such as workplaces or with voluntary associations or community organizations;

5. How the intervention will be developed and evaluated for use among men from a range of diverse backgrounds, including non-white and/or Hispanic populations and men with blue collar occupations and/or lower incomes;

6. How the intervention will be developed and evaluated for effects on men's participation in screening decisions at their desired level;

7. How the interventions will be developed and evaluated for incorporation of individuals' values and preferences in decision-making;

Preference will be given to proposals that demonstrate the following:

1. The ability to address each of the project activities listed above, particularly with regard to consistency with the Guide and the USPSTF evidence reviews and recommendations;

2. The applicants' abilities to successfully complete the research;

3. A history of extramural funding for related research and of publications from that research;

4. Evidence that the community interventions can be made available in a format that will allow them to be easily used by public health agencies and community groups to promote informed decision making for prostate cancer in community settings; and

5. Use materials and methods previously developed and evaluated through formative research and piloting in the planned setting with the proposed populations.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 25 pages. Supporting materials included in the appendices should not exceed 40 pages; the appendices should included the materials supportive of ability to successfully conduct the research described above, 2-page biographical sketches, position descriptions of staff (if needed), any needed letters of support, and other evidence as consistent with the proposal.

Availability of Funds: Approximately $1,275,000 is available to fund two applications ($637,500 per applicant) in the first year of a 3-year project period. Funding may vary and is subject to change. Applicants must apply for and receive funding as a PRC Cancer Prevention and Control Research Network Center to be eligible to receive funding for this project. (See SIPs 16–04 and 17–04 on the Prevention Research Centers Cancer Prevention and Control Network).

Research Status: CDC staff will serve as co-investigators on these projects and will provide technical assistance on activities such as research design, data collection and analysis, and co-authoring manuscripts. It is anticipated that these projects will need approval by the IRB at the recipient institution and that CDC IRB approval or deferral to the recipient IRB will be required. The CDC IRB reviews projects annually. Applicants should provide a federal wide assurance registration number for each performance site included in this project.

SIP 22–04

Project Title: Validating the Educational Effectiveness of Professional Education on Informed Decision Making for Prostate Cancer Screening.

Project Description: A key element in the Community Guide to Preventive Services analytic framework for interventions to promote informed decision making about prostate cancer screening is providers' knowledge, attitudes, intentions, and efficacy. For more information about the Community Guide, *see http://www.thecommunityguide.org* or Am J Prev Med 2000; 18 (1S). The intent of this project is to support methodologically sound initial evaluation studies of professional medical education training materials and curricula on informed decision making. Curricula to be evaluated should promote:

- Doctor-patient communication about prostate cancer screening and informed decision making
- Physician's knowledge and understanding of the clinical evidence related to prostate cancer screening, including the harms and benefits
- Physicians' skills in relating and explaining the current recommendations related to prostate cancer screening
- Physicians' understanding of racial, ethnic and cultural differences related to prostate cancer epidemiology and the use of medical services.

These projects should evaluate training materials and curricula which have been fully developed but have not been tested to address initial validation questions such as: Do physicians who complete the professional education curriculum acquire the knowledge or interpersonal skills that the training

intends? The project may support up to two validation studies of comprehensive professional medical education programs through the Cancer Prevention and Control Research Network.

Although prostate cancer is an important cause of death and disability among men in the United States, screening for prostate cancer is controversial. Because of the growing use of screening in spite of uncertainty about the balance between its harms and benefits, many organizations encourage informed decision making to assist men with understanding complex screening issues and making decisions which are consistent with their personal values, beliefs, and preferences.

Informed decision making is a complex process designed to assist a patient with understanding the nature of prostate cancer; understanding the preventive service (in this case, prostate cancer screening) including risks, limitations, benefits, alternatives, uncertainties; identifying preferences and values; choosing a level of participation in decision making with which he is comfortable; and making (or deferring) a decision based on his preferences and values. The process of informed decision making involves, at some point, an active discussion between the individual and his health care provider, usually his primary care physician. Like their patients, physicians need to be prepared to be effective participants in the informed decision making dialogue. At the level of the individual physician, this translates into very practical questions about what exactly should be said during the clinical visit, how should relevant aspects of risk and benefit be communicated, or how to respond to asymptomatic men who request a screening test with obviously incomplete or incorrect information.

It is well accepted that patients defer to their physicians when faced with complicated medical decisions. Physicians and other health care providers must not only understand the facts of prostate cancer screening but also be able to assist the patient with actively participating in the informed decision making process. Specific professional medical education and informed decision making for prostate cancer screening is necessary. Projects funded through this proposal will evaluate the effectiveness of existing professional education materials and programs for teaching providers the knowledge, interpersonal skills, and cultural sensitivity needed to participate in informed decision making. Training packages should include training on doctor-patient communication; information on the clinical evidence related to prostate cancer screening, including the harms and benefits; information on racial, ethnic and cultural differences related to prostate cancer epidemiology and the use of medical services; and specific skills training for relating and explaining the current recommendations related to prostate cancer screening.

Project activities: Applications should address the following:

1. Describe a study to assess the potential effectiveness of a well-defined and replicable professional education training program designed to promote competent physician participation in informed decision making for prostate cancer screening;

2. Provide a description of prior research and examples of success with conducting experimental intervention research (*e.g.*, resulting scientific publications in peer-reviewed journals);

3. Provide a description of the proposed setting, methods, and training materials;

4. Provide evidence for the feasibility of the training methods and materials;

5. Describe how the study design is consistent with design standards established by the Guide to Community Preventive Services. [A detailed description of Community Guide standards can be found at: *www.thecommunityguide.org*];

6. Identify the key project staff and their roles. For each person, describe their demonstrated knowledge, experience, and ability in planning and conducting research on professional education;

7. Describe the established resources and expertise available to the research staff for conducting intervention research in a timely fashion;

8. Provide evidence of sufficient institutional and other necessary support for carrying out this project.

Preference will be given to applicants who:

1. Have developed the educational materials and procedures to be used in this project;

2. Can demonstrate that they have participated in previous research related to informed decision making;

3. Can provide a record of publishing similar research;

4. Have extensive experience in conducting intervention research in community or clinical settings;

5. Are part of, or actively collaborate with a member of, the Cancer Prevention and Control Research Network;

6. Develop their project using an existing professional education program designed specifically to address provider participation in informed decision making. No support will be provided for new development of training materials.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 15 pages. Supporting materials included in appendices should not exceed 30 pages. Supporting materials should provide information sufficient to evaluate the content and comprehensiveness of the training, biographical sketches of key investigators, position descriptions of staff (if needed), and letters of support from collaborators.

Availability of Funds: Approximately $150,000 per year per project for up to two projects per year is available for over a three-year period. Funding may vary and is subject to change. The applicant funded through this announcement will not be eligible for funding under SIP 23–04.

Research Status: It is expected that this project will be exempt research. CDC staff will provide technical assistance but will not serve as co-investigators. CDC staff will not have significant input on project activities including study design, methods, sampling, and data analysis.

SIP 23–04

Project Title: Evaluating the Effect of Professional Education on Provider Interventions for Informed Decision Making about Prostate Cancer Screening.

Project Description: A key element in the Community Guide to Preventive Services analytic framework for interventions to promote informed decision making about prostate cancer screening is providers' knowledge, attitudes, intentions, and efficacy. For more information about the Community Guide, *see www.thecommunityguide.org* or Am J Prev Med 2000; 18 (1S).

The objective of this project is to support methodologically sound research evaluating the effectiveness of professional medical education designed to shape health care providers' interventions with patients for promoting informed decision making about prostate cancer screening. A comprehensive program should provide, at a minimum, training on:

- Doctor-patient communication about prostate cancer screening and informed decision making;
- Physician's knowledge and understanding of the clinical evidence related to prostate cancer screening, including the harms and benefits;
- Physician's skills in relating and explaining the current

recommendations related to prostate cancer screening; and

• Physicians' understanding of racial, ethnic and cultural differences related to prostate cancer epidemiology and the use of medical services.

The project will support one investigation of a comprehensive professional medical education program through the Cancer Prevention and Control Research Network. The research should be designed to evaluate differences in outcomes for patients who participate in informed decision making with trained providers compared to those who participate in informed decision making with providers who have not received the training.

Although prostate cancer is an important cause of death and disability among men in the United States, screening for prostate cancer is controversial. Because of the growing use of screening in spite of uncertainty about the balance its harms and benefits, many organizations encourage informed decision making to assist men with understanding complex screening issues and making decisions which are consistent with their personal values, beliefs, and preferences.

Informed decision making is a complex process designed to assist a patient with understanding the nature of prostate cancer; understanding the preventive service (in this case, prostate cancer screening) including risks, limitations, benefits, alternatives, and uncertainties; identifying preferences and values; choosing a level of participation in decision making with which he is comfortable; and making (or deferring) a decision based on his preferences and values. The process of informed decision making involves, at some point, an active discussion between the individual and his health care provider, usually his primary care physician. Like their patients, physicians need to be prepared to be effective participants in the informed decision making dialogue. At the level of the individual physician, this translates into very practical questions about what exactly should be said during the clinical visit, how relevant aspects of risk and benefit should be communicated, or how responses should be made to asymptomatic men who request a screening test with obviously incomplete or incorrect information.

It is well accepted that patients defer to their physicians when faced with complicated medical decisions. Physicians and other health care providers must not only understand the facts of prostate cancer screening but also be able to assist the patient with actively participating in the informed decision making process. Training materials have been developed to assist physicians with participating in informed decision making, including 4 developed through DCPC cooperative agreements and a slide show developed by DCPC. However, there has been no research on the effectiveness of these materials for promoting decision making by improving practitioners' knowledge and skill.

Projects funded through this proposal should evaluate the effectiveness of existing professional education materials and programs for enhancing competent provider participation in informed decision making in real-world, clinical settings. Competence should be measured in terms of both changed provider behavior and successful completion of the informed decision making process by the patient. Training packages should include training on doctor-patient communication; information on the clinical evidence related to prostate cancer screening, including the risks and benefits; information on racial, ethnic and cultural differences related to prostate cancer epidemiology and the use of medical services; and specific skills training for relating and explaining the current recommendations related to prostate cancer screening. Training materials and procedures used in the project should have received an initial evaluation demonstrating educational effectiveness.

Project activities: Applications should address the following:

1. Describe a study to assess the effectiveness of a well-defined and replicable professional education training program designed to promote competent physician participation in informed decision making for prostate cancer screening.

2. Provide a description of prior research and examples of success with conducting experimental intervention research (*e.g.*, resulting scientific publications in peer-reviewed journals);

3. Provide a description of the proposed setting, methods, and training materials;

4. Provide a summary of the initial evaluation results for the training methods and materials;

5. Provide evidence for the feasibility of the research design;

6. Describe how the study design is consistent with design standards established by the Guide to Community Preventive Services. [A detailed description of Community Guide standards can be found at: *http://www.thecommunityguide.org*];

7. Identify the key staff who will be devoted to the project. For each person describe their demonstrated knowledge, experience, and ability in planning and conducting research on professional education;

8. Describe the established resources and expertise available to the research staff for conducting intervention research in a timely fashion;

9. Provide evidence of sufficient institutional and other necessary support for carrying out this project.

Preference will be given to applicants who:

1. Have developed and pre-tested the educational materials and procedures to be used in this project;

2. Can demonstrate that they have participated in previous research related to informed decision making;

3. Can provide a record of publishing similar research;

4. Have extensive experience in conducting intervention research in community or clinical settings;

5. Are part of, or actively collaborate with a member of the Prevention Research Centers' Cancer Prevention and Control Research Network, SIP 16–04 and SIP 17–04.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 15 pages. Supporting materials included in appendices should not exceed 30 pages. Supporting materials should provide information sufficient to evaluate the content and comprehensiveness of the training, biographical sketches of key investigators, position descriptions of staff (if needed), and letters of support from collaborators.

Availability of Funds: Approximately $400,000 per year is available to fund one project for up to 4 years. Funding may vary and is subject to change. Each applicant should develop their project using an existing professional education. No support will be provided for new development of training materials. The applicant funded for this project will not be eligible for funding under SIP 22–04.

Research Status: It is expected that this project will be exempt research. CDC staff will provide technical assistance but will not serve as co-investigators. CDC staff will not have significant input on project activities including study design, methods, sampling, and data analysis.

SIP 24–04

Project Title: Analysis of ovarian cancer surgeries using state hospital discharge data.

Project Description: Existing data have shown that cancer staging and

cytoreduction performed by gynecologic oncologists has a significant, positive impact on survival (Nguyen, *et al.* 1993; Mayer, *et al.* 1992; Puls *et al.* 1997). It is likely that these specialists perform the most surgeries and practice in high-volume hospitals. A recent study in Canada (Elit *et al.* 2002) used hospitalization data to evaluate the effect of hospital type, hospital volume, and surgical specialty on ovarian cancer re-operation rates and mortality rates. This study found that patients were less likely to have a repeat operation if the initial operation was done in a high-or intermediate-volume hospital, in a hospital with a gynecologic oncologist, or performed by a gynecologic oncologist, gynecologist, or high-volume surgeon. The study also found that the adjusted survival was improved when the initial surgery was done by a gynecologic oncologist. In addition, a Maryland study using hospital discharge data has shown that most ovarian cancer surgeries in that state continue to be performed in low-volume hospitals by low-volume surgeons (Bristow, *et al.*, in press). Additional information is needed in the United States to assess what proportion of ovarian cancer patients are being surgically evaluated in low-volume hospitals and by surgeons with a low operating volume.

CDC is committed to better understanding the current patterns of care in women being evaluated or treated for ovarian cancer. In the majority of cases, ovarian cancer is diagnosed at a late stage when 5-year survival rates are very low. Without a screening test, opportunities for improving survival depend upon identification of modifiable factors during the diagnosis or initial treatment of ovarian cancer that may decrease the stage at diagnosis or increase disease free survival time. If a large proportion of women are receiving their primary surgical care from low-volume hospitals and surgeons, opportunities can be identified for improving initial surgical staging and treatment, as well as survival in these women. Women and general surgeons should be educated that survival from ovarian cancer is improved when these surgeries are performed by gynecologic oncologists and in high volume hospitals.

Project Activities: Applicants should address the following:

1. Describe a study which uses appropriate hospital discharge data to learn more about the medical setting where the primary surgical management of ovarian cancer is taking place. Activities might include:

a. Determining and evaluating the patterns of primary surgical care of ovarian cancer by hospital volume and individual surgeon volume; and

b. Assessing changes in patterns of surgical care over time.

2. Describe the methods which will be used to obtain and analyze the data.

3. Identify key staff who will be devoted to the project. Describe each person's demonstrated knowledge, experience, and ability in analyzing data for this study.

4. Provide evidence of sufficient institutional and other necessary support for carrying out this project.

5. Describe how the information gained from this study will be made available to improve the health and survival of persons diagnosed with ovarian cancer.

Preference will be given to applicants who:

1. Describe a project which will incorporate data from multiple states, as well as from rural and urban hospitals.

2. Can provide a record of publishing similar research.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 15 pages. Supporting materials included in appendices should not exceed 20 pages.

Availability of Funds: Approximately $175,000 is available to fund one Prevention Research Center in the first year of a 1-year project period. Funding may vary and is subject to change.

Research Status: It is expected that this project will be exempt research. This project will involve the study of existing data that are publicly available for a fee. The data will be recorded in a manner in which the individual subjects cannot be identified, directly or though identifiers linked to the subjects. CDC staff will serve as co-investigators and provide input into the design, methodology, and analysis of the data; however, CDC will not receive the data. It is expected that this project will require CDC IRB approval of exempt research status.

SIP 25–04

Project Title: A Prospective Study on the Effect of Treatment on Health-Related Quality of Life for Men with Localized Prostate Cancer.

Project Description: More than 220,000 men will be diagnosed with prostate cancer in 2003. Eighty six percent of these individuals will be diagnosed with localized disease. Patients with newly diagnosed, early stage prostate cancer have a number of treatment choices, including watchful waiting, surgical resection, brachytherapy, and external beam radiation. These treatment choices are associated with significant morbidity and side effects, which affects men's health-related QOL. Currently there is no clinical consensus regarding the optimal medical management of early stage prostate cancer, and given the protracted natural history of the disease, it is not possible to differentiate tumors that behave aggressively from those that remain indolent during a man's lifetime. Lacking comparative data from controlled studies and divergent clinical opinions about the benefits and harms of each treatment option, men with prostate cancer face difficult choices about their care. As an important measure of health outcome, QOL following screening, diagnosis, and treatment for prostate cancer may provide important information to guide patients' decisions regarding available treatment choices.

A major portion of treatment decisions take place at home, that is, within the context of family. However, existing studies have not credited family as a major player in the prostate cancer treatment decision making process. In this study, we hypothesize that treatment choices regarding prostate cancer will inevitably be influenced by three decision makers: the patient, their physician, and (when present) the patient's family or caregiver. To date, no prospective study has examined the influence of this ''triangle'' of decision makers on treatment decisions.

While shared decision making is vital in prostate cancer, it is inevitable that knowledge about the myriad of outcomes that are related to each treatment choice (*e.g.*, side effects, impact on chances of cancer recurrence, *etc.*), as well as preferences regarding the many outcomes corresponding to each treatment will differ among decision makers. Facilitating shared decision making among all those involved is likely to improve satisfaction with care and outcomes for prostate cancer treatment.

The purpose of this project is to support studies that measure prostate cancer-specific and general health-related quality of life (QOL) from the perspective of the patient, their caregiver and the physician directing care before, during, and after treatment. The goal is to better understand the patient's QOL following prostate cancer treatment and to correlate the patient's self-reported QOL with that reported by the caregiver and the attending physician. The objective of this study is to develop a better understanding of patient, physician, and caregiver perceptions of the costs, benefits, and

QOL associated with each prostate cancer treatment option.

Project Activities: Applicants should address the following issues:

1. Demonstrate a conceptual framework, design, methods, and analyses appropriate to the aims of the project. Applicants should:

a. Demonstrate knowledge of available treatments for prostate cancer and issues related to the evaluation of health-related quality of life and differences in perceptions of QOL.

b. Demonstrate knowledge of recent literature and explain how the proposed research could further what is already known.

c. Demonstrate access to substantial patient population and provide plans for patient retention.

d. Include policies, criteria, and processes for selecting candidates, including special efforts to recruit minorities.

e. Address potential problem areas and consider alternative tactics.

2. Provide evidence of infrastructure suitable to their study. Applicants should:

a. Describe the scientific environment in which the work will be conducted.

b. Describe nature of infrastructure or partnership.

c. Provide evidence of commitment and cooperation of potential partners (*e.g.*, recent letters of support, memoranda of understanding, and documented examples of prior collaboration).

3. Identify the key staff who will be devoted to this project.

a. For each person describe their demonstrated knowledge, experience, and ability in planning, implementation, conducting, and management of research that is similar to that proposed here in complexity, scope and focus. If there is a position that is yet to be filled, provide a position description in the appendix. Include the percentage of time each person will devote to project activities.

b. Of the named staff, provide evidence of the nature of their experience in conducting and being funded for intervention research, community-based participatory research, and translation of research into practice.

4. Provide evidence of sufficient institutional support (*e.g.*, space, equipment, *etc.*). Describe the established resources and expertise available to your member center staff (*e.g.*, intervention research, health services research, community-based participatory research, behavioral sciences, communication theory and practice, *etc.*).

2. Include specific, measurable, time-framed objectives for a three-year funding period.

Preference will be given to applicants who:

1. Demonstrate past publication history or literature reviews in this area.

2. Demonstrate the ability to manage multi-site initiatives.

3. Consider a national, multi-site sampling scheme.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 20 pages. Supporting materials included in the appendices should not exceed 30 pages. The appendices should include the requested materials above, including the 2-page biographical sketches, position descriptions of faculty and staff (if needed), letters of support, *etc.*

Availability of Funds: Approximately $290,000 is available to fund one Prevention Research Center for the first year of a 3-year project period. Funding may vary and is subject to change.

Research Status: It is expected that this project will be non-exempt research. CDC staff will serve as co-investigators on this project and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. It is expected that the project will require CDC IRB approval and local IRB approval. As applicable, applicants should provide a federal wide registration number for each performance site included in the project.

References.

Sommers and Ramsey. A review of quality-of-life evaluations in prostate cancer. Pharmacoeconomics 16:127–40. 1999.

Schapira MM, Lawrence WF, Katz DA, McAuliffe TL, Nattinger AB. Effect of treatment on quality of life among men with clinically localized prostate cancer. Medical Care. 39(3):243–53, 2001 Mar.

Litwin MS *et al.* Urinary function and bother after radical prostatectomy or radiation for prostate cancer: a longitudinal multivariate quality of life analysis from the Cancer of the Prostate Strategic Urologic Research Endeavor. J Urology 164:1973–77. 2000.

Lubeck DP *et al.* Changes in health-related quality of life in the first year after treatment for prostate cancer: results from CaPSURE. Urology 53:180–86. 1999.

Lubeck DP *et al.* Health related quality of life differences between black and white men with prostate cancer: results from CaPSURE. J Urology 166:2281–85. 2001.

SIP 26–04

Project Title: HIV Infection and Breastfeeding: Interventions for Maternal and Infant Health.

Project Description: With levels of HIV seroprevalence in pregnant women in parts of sub-Saharan Africa approaching 30%, the potential impact of HIV/AIDS on maternal morbidity and mortality must be considered. Preliminary data from a study conducted in Nairobi indicates that HIV-infected women who breastfed experienced an increase in mortality as compared to HIV-infected women who did not. Not only are these women HIV-infected and mothers, but many may suffer from malnutrition and have very limited access to health care. This nexus of factors demands a careful examination of the impact of breastfeeding by HIV positive mothers on maternal morbidity and mortality.

Many antiretroviral (ARV) regimens that administer the ARVs to pregnant women and neonates result in substantial reduction in vertical transmission at birth. However, in the absence of interventions to prevent postnatal infection due to HIV transmission through breast milk, many infants will be infected during the breastfeeding period. There are no safe alternatives to breastfeeding in many less developed countries. Many interventions for reduction of HIV transmission through breastfeeding are currently being explored including formula feeding (WHO), exclusive breastfeeding, early weaning, treatment of subclinical mastitis, antiretroviral treatment of the mother, antiretroviral prophylaxis for the infant, or enhancement of protective anti-HIV immunity in either mother or infant. The implications of these options for maternal and infant health remain unexplored.

The purpose of this project is to support studies that explore interventions to reduce maternal morbidity and HIV transmission during breastfeeding. It would be most advantageous to link this study with an ongoing intervention to reduce maternal to child transmission of HIV (*e.g.* short course ZDV in late pregnancy and labor or nevirapine in labor).

Project Activities: Activities that meet the objectives of the project may include:

1. Describe the benefit of nutritional supplementation given to women during breastfeeding.

Data would be collected prospectively on 2,000–3,000 breastfeeding HIV-infected mothers from delivery to at least 6 months post-partum. Follow-up

measurements would include, but not be limited to, maternal mortality, HIV viral load, CD4 counts, AIDS-related illness, anthropometric measurements, and maternal micronutrient levels.

2. The benefit and safety of antiretroviral medications given either to infants or to their mothers to prevent HIV transmission during breastfeeding.

Interventions to reduce HIV transmission during breastfeeding should be provided in the form of antiretrovirals to infants born to breastfeeding HIV-infected mothers who participate in the prospective study listed above in an effort to reduce maternal to child transmission of HIV. For antiretroviral drugs provided as prophylaxis for breastfeeding infants, issues of dosing schedule, pediatric formulation, safety, necessary U.S. and host country regulatory approvals, and sustainability need to be considered.

3. The feasibility of exclusive breastfeeding followed by early, rapid breastfeeding cessation. In facilitation of this, a suitable alternative to formula will be used as a replacement food for breast milk after 6 months.

Applications should also address the following:

1. Identify key staff who will be devoted to the project. For each person describe their demonstrated knowledge, experience, and ability in planning and conducting intervention research that is described above in complexity, scope and focus.

2. Provide evidence of sufficient institutional and other necessary support for carrying out this project.

3. Describe the established resources and expertise available to the research staff for conducting intervention in a timely fashion.

4. Identify specific methods that will be used to assess the individual components as well as the intervention components of the intervention.

5. Provide evidence of feasibility of the research.

Preference will be given to applicants who:

1. Have obtained information on food security, acceptability of food supplementation, use of supplementation in pregnancy and postnatally, issues around sharing of supplementation with family members, typical weaning diets and the acceptability of early breastfeeding cessation.

2. Can demonstrate that they have participated in previous research related to informed consent process.

3. Have piloted a suitable informed consent process.

4. Have experience in conducting intervention research in community or clinic settings.

5. Can demonstrate ability to recruit at least 60 HIV-infected mothers and their infants per month.

6. Have demonstrated clinical experience in prescribing ARV regimens in resource-limited settings.

Project Proposal Length and Supporting Material: Proposal narratives are limited to 10 pages. Supporting materials included in the appendices should not exceed 35 pages.

Availability of Funds: Up to $1,500,000 is available to support one Prevention Research Center for the first year of a five-year project period. Funding may vary and is subject to change.

Research Status: It is expected this project will involve non-exempt research as it will require obtaining clinical and behavioral information from human subjects. This project involves a protocol which requires IRB review by all institutions participating in the research project. CDC staff will serve as co-investigators on this project and will provide technical assistance on activities such as research design, data collection and analysis, and dissemination of results. The CDC IRB will review and approve the protocol on an annual basis until the project is completed. Applications should provide a federal wide assurance registration number for each performance site included in the project.

Dated: March 15, 2004.

Edward Schultz,

Acting Director, Procurement and Grants Office, Centers for Disease Control and Prevention.

[FR Doc. 04–6283 Filed 3–24–04; 8:45 am]

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Federal Register

Thursday,
March 25, 2004

Part III

Federal Reserve System

12 CFR Part 203

Home Mortgage Disclosure; Proposed Rule

FEDERAL RESERVE SYSTEM

12 CFR Part 203

[Regulation C; Docket No. R–1186]

Home Mortgage Disclosure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule; request for comment on revised formats for public disclosure of lending data.

SUMMARY: The Board is soliciting comment on revised formats for public disclosure of mortgage lending data reported pursuant to the Home Mortgage Disclosure Act and Regulation C, in light of revisions to Regulation C requiring lending institutions to report new loan pricing and other loan data. The first year for which the new data will be reported is 2004; data from institutions are due no later than March 1, 2005, and the data will be reflected in the public disclosures scheduled to be released in summer 2005.

DATES: Comments must be received by May 10, 2004.

ADDRESSES: Comments should refer to Docket No. R–1186 and may be mailed to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551. Please consider submitting your comments through the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm,* by e-mail to *regs.comments@federalreserve.gov,* or by fax to the Office of the Secretary at 202/452–3819 or 202/452–3102. Rules proposed by the Board and other federal agencies may also be viewed and commented on at *www.regulations.gov.*

All public comments are available from the Board's Web site at *www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, except as necessary for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper in Room MP–500 of the Board's Martin Building 20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

FOR FURTHER INFORMATION CONTACT: Glenn Canner, Senior Adviser, Division of Research and Statistics, at (202) 452–2910; or John C. Wood or Kathleen C. Ryan, Counsel, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–3667 or (202) 452–2412. For users of Telecommunications Device for the Deaf (TDD) only, contact (202) 263–4869.

SUPPLEMENTARY INFORMATION:

I. Background

The Home Mortgage Disclosure Act (HMDA), 12 U.S.C. 2801 *et seq.*, requires certain depository and for-profit nondepository institutions to collect, report, and publicly disclose data about applications for, and originations and purchases of, home purchase and certain other home-secured loans (such as refinanced home purchase loans) and home improvement loans (whether secured or unsecured). The Board's Regulation C, 12 CFR Part 203, implements HMDA. The data reported include the application date; the type, purpose, and amount of the loan or application; the date and type of action taken on the application; the location of the property to which the loan relates; the race, ethnicity, sex, and income of the applicant or borrower; the type of purchaser if the loan is sold; and the reasons for denial if the application is denied.

Pursuant to section 304(h) of HMDA, lending institutions subject to the act report data on the HMDA Loan/Application Register (HMDA–LAR) in a loan-by-loan and application-by-application form. The data are then submitted to the federal financial regulatory agencies. Sections 304 and 310 of HMDA direct the Federal Financial Institutions Examination Council (FFIEC) to edit and process the data and to produce public disclosure statements, which are sent back to the reporting institutions to be made available to the public upon request. In addition, the FFIEC sends the institutions' public disclosure statements to central depositories (such as public libraries) in each metropolitan statistical area (MSA), along with aggregate disclosures covering all reporting institutions in that MSA. Under section 304(h) of HMDA, the Board—in cooperation with the Office of the Comptroller of the Currency (OCC), the Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Department of Housing and Urban Development (HUD)—is directed to develop the format for the public disclosures.

The Board recently completed a review of Regulation C (see 67 FR 7222, February 15, 2002, and 67 FR 43217, June 27, 2002). Amendments to the regulation adopted as a result of the review require institutions to report new items, including a rate spread between the annual percentage rate (APR) on the loan and the yield on Treasury securities of comparable maturity; whether the loan is subject to the Home Ownership and Equity Protection Act (HOEPA); whether manufactured housing is involved; the type of lien on the property (first, subordinate, or none); and certain information about requests for preapproval. In addition, the regulation was amended to conform to changes in standards for collection of applicant data on race and ethnicity adopted by the Office of Management and Budget (OMB). The first year for which the new data will be reported is 2004; data from institutions must be submitted to the appropriate federal financial regulatory agency no later than March 1, 2005, and the data will be reflected in the public disclosures scheduled to be released in summer 2005.

To facilitate public access to the new information that will be reported, in keeping with the purposes of the act, the formats for the public HMDA disclosure statements will be revised. The Board and the other regulatory agencies seek public comment on the proposed formats for the revised disclosure statements. The proposed changes include revisions to some of the existing disclosure tables, deletion of one set of existing tables, and the addition of new tables.

The proposed revisions to the existing tables are primarily to reflect the changes to the race and ethnicity categories adopted by OMB and the itemization of data on manufactured housing. One series of tables (Tables 6–1 through 6–6) would be deleted because of their perceived lack of utility to HMDA data users. The proposed new tables reflect new data on rate spread, HOEPA status, lien status, preapproval requests, and manufactured housing. Comment is solicited on these proposed revisions, deletions, and additions.

II. Explanation of Proposed Revised Disclosure Formats

A. Revisions to Existing Tables and Series of Tables

The existing tables for each reporting financial institution are Tables 1, 2, 3, 4–1 through 4–6, 5–1 through 5–6, 6–1 through 6–6, 7–1 through 7–6, and 8–1 through 8–6, and Supplemental Tables 1 and 2. There are also aggregate versions of Tables 1 through 8–6, reflecting the aggregated data of all reporting financial institutions in each MSA. In addition, there are Aggregate Tables 9 and 10, but no versions of these tables for individual financial institutions. In each case, the same

changes that would be made to the basic individual institution tables (1 through 8–6) would also be made to the aggregate and supplemental versions. For example, Table 1, Aggregate Table 1, and Supplemental Table 1 would be revised in the same way.

1. Table 1 and Supplemental Table 1—Disposition of Loan Applications, by Location of Property and Type of Loan

Existing Table 1 shows action taken on loan applications (such as loan originated, application approved but not accepted, application denied), detailed by the census tract in which a property is located. The table also shows the type of loan (government-backed 1-to-4 family home purchase loans, conventional 1-to-4 family home purchase loans, 1-to-4 family refinancings, 1-to-4 family home improvement loans, multifamily loans, and loans on 1-to-4 family non-owner-occupied property).

Institutions are required to report property location (generally MSA, state, county, and census tract) for loans on property located in MSAs in which they have home or branch offices. Therefore, for each reporting institution, Table 1 is produced for each MSA in which the institution has offices. In addition, some institutions are required by the regulations implementing the Community Reinvestment Act (12 U.S.C. 2901 *et seq.*) to report property location for all loans, no matter where the property is located, and some institutions voluntarily choose to do so. In these cases, Supplemental Table 1 is produced to reflect the same information as Table 1 for loans on property not located in MSAs where the institution has offices.

The only substantive change to Table 1 (and Aggregate Table 1 and Supplemental Table 1) is the addition of a new column G to provide separately itemized data for loan applications for manufactured housing. Existing Table 1 shows combined data covering both manufactured housing loans and 1-to-4 family housing loans. The revised table would continue to include manufactured housing loans along with 1-to-4 family loans in columns A, B, C, and D, and the heading for these columns would be changed to reflect this fact.

2. Table 2 and Supplemental Table 2—Loans Purchased, by Location of Property and Type of Loan

Existing Table 2 shows loans purchased by the institution, detailed by census tract and by type of loan, using the same loan types as in Table 1. As with Table 1, Table 2 is produced for each MSA in which the institution has offices. Supplemental Table 2 reflects the same information as Table 2, for loans on property not located in MSAs where the institution has offices.

The only changes to Table 2 (and to Aggregate Table 2 and Supplemental Table 2) would be the same as to Table 1: The addition of a column G for manufactured housing loans and the change in the heading for columns A, B, C, and D to reflect the fact that data in those columns include manufactured housing loans.

3. Table 3—Loans Sold, by Characteristics of Borrower and of Census Tract in Which Property Is Located and by Type of Purchaser

Existing Table 3 shows loans sold by the institution, detailed by the race, sex, and income of the borrower; by the racial and income characteristics of the census tract in which the property is located; and by the type of entity that purchased the loan (such as Fannie Mae, commercial bank, or affiliate of the institution). Table 3 is produced for each MSA in which the institution has offices.

The types of purchasers shown in Table 3 would be conformed to the revised categories for type of purchaser used under the amended Regulation C. The changes included combining the commercial bank and savings institution categories; adding credit unions, mortgage banks, and finance companies to the life insurance company category; adding a new category for private securitization; and nonsubstantive terminology changes.

Table 3 would also reflect the changes in borrower characteristics collected under the Regulation C revisions. The Regulation C revisions conform to standards for collection of data on race and ethnicity adopted by OMB. The OMB standards allow individuals to self-identify using more than one racial category, treat ethnicity and race as separate items of information, separate ''Asian or Pacific Islander'' into two categories (''Asian'' and ''Native Hawaiian or Other Pacific Islander,'') eliminate the category ''Other,'' and make nonsubstantive terminology changes.

The racial categories in revised Table 3 follow the new categories adopted in revised Regulation C. To reflect loans where the applicant has marked more than one minority race, a new category entitled ''2 or More Minority Races'' would be added. Where the applicant chose white and one minority race category (for example, Asian) the loan would be reflected in the data for the minority race (Asian, in this example). Ethnicity would be shown separately from race, using the categories ''Hispanic or Latino,'' ''Not Hispanic or Latino,'' ''Joint (Hispanic or Latino/ Not Hispanic or Latino),'' and ''Ethnicity Not Available'' (paralleling ''Race Not Available''). ''Joint (Hispanic or Latino/ Not Hispanic or Latino)'' would apply where one joint applicant is Hispanic or Latino and the other is not, paralleling the ''Joint'' category under race which applies where one applicant is minority and the other is white.

In the racial categories in revised Table 3, white is divided into ''White—Hispanic or Latino'' and ''White—Not Hispanic or Latino,'' to allow data users to better focus on data about lending to minorities more generally, and to provide some continuity with data generated under the existing HMDA disclosures (in that ''White—Not Hispanic or Latino'' in the proposed revised disclosures appears to be substantially equivalent to ''White'' in the existing disclosures). For similar reasons, revised Table 3 contains a data line entitled ''Total Minority,'' which aggregates loan data from all categories except ''White—Not Hispanic or Latino'' and ''Race Not Available.''

The section of Table 3 detailing loans sold by sex of the borrower—which appears not to have great utility for most data users—would be deleted. The information can be derived from the institution's HMDA–LAR, which is available to the public directly from the institution.

The section of Table 3 showing loans sold by income of the borrower remains unchanged. The section showing loans sold by racial/ethnic composition of census tracts and by income of census tracts also remains unchanged, except for a possible change affecting loans on property in the Commonwealth of Puerto Rico.

The existing public disclosure tables for MSAs in Puerto Rico contain no data in the section on racial/ethnic composition of census tracts, because in the decennial censuses up to and including 1990, this information was not collected for areas in Puerto Rico. In the 2000 census, information was collected on the racial and ethnic composition of census tracts in Puerto Rico, and Table 3 for MSAs in Puerto Rico could be revised to show the data. The census tract data from all MSAs are rolled up into national aggregates, which are not part of the public HMDA disclosures sent to central depositories, but are available from the FFIEC. Inclusion of the Puerto Rico census tract data now, after excluding them in the past, could make trend analysis at the national level more difficult.

The revised format for Table 3 contained in this proposal includes the census tract data for MSAs in Puerto Rico. Comment is solicited on whether the national aggregate tables should include or exclude the Puerto Rico census tract data.

4. Table 4 Series—Disposition of Applications, by Race, Ethnicity, Gender and Income of Applicant

The existing tables in the Table 4 series show action taken on applications for various types of loans, detailed by race/national origin of applicants and further itemized by sex of applicants, and detailed by income of applicants. There is one table for each type of loan, using the same loan types as in Table 1. Thus, Table 4–1 shows disposition of applications for government-insured and government-guaranteed home purchase loans on 1-to-4 family dwellings; Table 4–2 shows disposition of applications for conventional home purchase loans on 1-to-4 family dwellings; Table 4–3 shows disposition of applications for refinancings on 1-to-4 family dwellings; Table 4–4 shows disposition of applications for home improvement loans on 1-to-4 family dwellings; Table 4–5 shows disposition of applications for loans on multifamily dwellings; and Table 4–6 shows disposition of applications for loans on 1-to-4 family non-owner-occupied property. Each of these tables is produced for each MSA in which the institution has offices.

The changes to the tables in the Table 4 series parallel changes to Table 3 with regard to the race and ethnicity categories, as described above. Within each of these categories, itemized data would also be shown for Male, Female, and Joint (applying where one joint applicant is male and the other is female). A section with data on ''Total Minority'' would be calculated the same way as in Table 3 and would include detail on Male, Female, and Joint.

As in Table 3, the section in the Table 4 series showing action taken on applications by income of applicants remains unchanged. The titles of the tables also remain unchanged except that ''1-to-4 Family and Manufactured Home Dwellings'' replaces ''1-to-4 Family Homes'' in Tables 4–1, 4–2, 4–3, 4–4, and 4–6, which continue to include manufactured homes along with 1-to-4 family homes. ''Ethnicity'' is added to the titles on each of the tables, since ethnicity is now treated as a separate item of data from race.

A new Table 4–7 would be added, titled ''Disposition of Applications for Home Purchase, Home Improvement, or Refinancing Loans, Manufactured Home Dwellings, by Race, Ethnicity, Gender and Income of Applicant.'' The data shown would be the same as in the other tables in the Table 4 series, as revised, except that the data would relate to manufactured home loan applications. Thus, the data in Table 4–7 will be a subset of the data in Tables 4–1, 4–2, 4–3, and 4–4. In this respect, new Table 4–7 parallels the new columns covering manufactured home loans and applications in Tables 1 and 2.

5. Table 5 Series—Disposition of Applications, by Income, Race and Ethnicity of Applicant

The existing tables in the Table 5 series show action taken on applications for various types of loans, detailed by race/national origin of applicants and further itemized by income of applicants. There is one table for each type of loan, using the same loan types as in the Table 4 series; the two series of tables differ only in how the data are itemized.

The changes mirror those made to the Table 4 series. The race/national origin categories are changed, and ethnicity added in a separate section of data; the table titles are conformed; and a new Table 5–7 shows data for manufactured home loan applications.

6. Table 6 Series—Disposition of Applications, by Income and Gender of Applicant

The existing tables in the Table 6 series show action taken on applications for various types of loans, detailed by income of applicants and further itemized by sex of applicants. Again, there is one table for each type of loan. The Table 6 series parallels the 4 and 5 series; the only difference is in how the data are itemized.

The agencies propose to eliminate the Table 6 series as redundant. The agencies believe that the Table 6 series is used very infrequently. Information on lending patterns by income and sex of loan applicants remains available in the 4 and 5 series of tables, as well as through the modified HMDA–LAR data that are also publicly available.

7. Table 7 Series—Disposition of Applications, by Characteristics of Census Tract in Which Property is Located

The existing tables in the Table 7 series show action taken on applications, using the same types of loans as in the 4, 5, and 6 series, but in this case detailed by the racial/ethnic composition and median family income of the census tract in which the property is located.

The Table 7 series remains unchanged, except for the addition of a Table 7–7 to reflect manufactured home loan applications, and the inclusion of data from census tracts in Puerto Rico. The issues for the Table 7 series with regard to the Puerto Rico census tract data are the same as for Table 3; refer to the discussion of Table 3 above.

8. Table 8 Series—Reasons for Denial of Applications, by Race, Ethnicity, Gender, and Income of Applicant

The existing tables in the Table 8 series cover applications that have been denied, and show the reasons for denial detailed by the race, sex, and income of the loan applicant. As in the other series, there is one table for each type of loan, using the same loan types.

The changes made to the Table 8 series mirror those in the 4 and 5 series in regard to the race/ethnicity categories and inclusion of ethnicity as a separate item of data. A new Table 8–7 shows reasons for denial of manufactured home loan applications.

9. Aggregate Table 9—Disposition of Loan Applications, by Median Age of Homes in Census Tract in Which Property Is Located and Type of Loan

Existing Aggregate Table 9 shows action taken on loan applications, by median age of properties within census tracts where the subject property is located and by type of loan. The Aggregate Table 9 for each MSA covers the aggregated data for all reporting institutions in that MSA; no Table 9 is produced for individual financial institutions.

Proposed changes to Aggregate Table 9 include adding a column to reflect data on manufactured home loan applications and updating the ranges of median ages of homes by ten years. A section of data covering median ages from 1990 through March 2000 will be added at the beginning of the table; the section covering median ages of 1949 or earlier, at the end of the existing Aggregate Table 9, will be deleted; and the range 1950–1959 in the existing table will be changed to 1959 or earlier. The updated ranges will be used beginning with the disclosures covering 2003 lending data, scheduled to be published in summer 2004.

10. Aggregate Table 10—Disposition of Loan Applications, by Principal City versus Non-Principal City Property Location and Type of Loan

Existing Aggregate Table 10 shows action taken on loan applications, by property location and by type of loan. The property location itemization consists of only two categories: Central

city in the given MSA, and any other location in that MSA outside the central city. No Table 10 is produced for individual financial institutions.

Changes that would be made to Aggregate Table 10 include adding a column for data on manufactured home loan applications and substituting ''principal city'' for ''central city,'' to reflect terminology adopted by OMB.

B. New Tables and Series of Tables

A number of new tables would be produced to reflect new data items that are being collected under revised Regulation C on loan pricing (the rate spread), HOEPA status, lien status, and preapproval requests. The new tables would also reflect manufactured home lending in more detail than is given in the revised existing tables.

1. Table 11 Series—Pricing Information for Conventional Loans on 1-to-4 Family Owner-Occupied Dwellings

Under revised Regulation C, institutions must report the rate spread between the APR on the loan and the yield on Treasury securities of comparable maturity for loans subject to the Truth in Lending Act (TILA), since these loans will have an APR for use in calculating the rate spread. Loans on 1-to-4 family owner-occupied homes are generally subject to TILA, and accordingly the new Table 11 series would focus on this category of loans. (Loans for owner-occupied manufactured homes are also subject to TILA, and are covered in Table 12, as discussed below.) The tables would focus on conventional loans, because concern about possible loan pricing problems has centered on conventional, rather than government-backed, lending. Loan pricing data on government-backed lending are available to the public on institutions' HMDA–LARs.

The Table 11 series comprises Tables 11–1 through 11–6. Table 11–1 covers conventional first-lien home purchase loans on 1-to-4 family owner-occupied dwellings. It would show, for a given reporting institution in each of the institution's MSAs, the number of such loans for which the institution did not report rate spread data because the difference between the APR on the loan and the yield on the applicable Treasury security was below the three percentage point reporting threshold for first-lien loans. It would also show the number of such loans for which the institution reported rate spread data. The table would then show the number of loans falling into various ranges of percentage points above the applicable Treasury yield, such as 3–3.99, 4–4.99, and so on up to 8 percentage points or more above the Treasury yield. The table would also show, for loans on which the institution reported rate spread data, the mean and median percentage points above the Treasury yield.

The data in Table 11–1 would be itemized by the race, ethnicity, income, and sex of the borrower, and by the racial/ethnic composition and the income of the census tract in which the property is located. The categories used for the borrower and census tract characteristics will be identical to those used in the other tables, as revised.

Table 11–2 will show rate spread data on the same types of loans as Table 11–1, secured by subordinate liens. Tables 11–3 and 11–4 are parallel to Tables 11–1 and 11–2, except that Table 11–3 covers first-lien refinancings and Table 11–4 covers subordinate-lien refinancings. Tables 11–5 and 11–6, likewise, reflect data on first-lien home improvement loans and subordinate-lien home improvement loans, respectively. There is no table showing rate spread data for unsecured home improvement loans; under revised Regulation C, institutions are not required to report the rate spread for unsecured home improvement loans.

Tables 11–3 through 11–6 each include an additional column showing the number of HOEPA loans made by the institution in the particular MSA. (Under TILA, home purchase loans on 1-to-4 family owner-occupied dwellings are excluded from HOEPA coverage; thus, there is no comparable HOEPA column in Tables 11–1 or 11–2.)

The ranges selected in the table formats for rate spread data are intended to focus on the most useful data. The highest range would be 8 percentage points or more over the comparable Treasury yield for first-lien loans, and 10 percentage points for subordinate-lien loans. It is expected that, for most lenders, the number of loans falling into this category would be few or none. Therefore, ranges beyond 8 or 10 percentage points above the Treasury yield would appear to have little utility. In addition, data users will be able to derive data on ranges at higher rates from the publicly available HMDA–LAR data.

One of the triggers for HOEPA coverage is an APR 8 or more percentage points over the comparable Treasury yield for first-lien loans, and 10 or more percentage points over the comparable Treasury yield for subordinate-lien loans. Thus, for the tables with a column showing the number of HOEPA loans, there could be some similarity between the data in that column and the data in the column showing number of loans with an APR of 8 or more (or 10 or more, for subordinate-lien loans) percentage points over the comparable Treasury yield. However, there are some differences between the two columns. First, the Treasury yield for HOEPA trigger purposes is the yield in the calendar month before the month in which the lender receives the loan application; the Treasury yield for HMDA rate spread purposes is the yield in the month before the date on which the interest rate on the loan is locked. Therefore, while the two yields may often be identical, they may not be in some cases. Second, a loan can be classified as a HOEPA loan even though it does not meet the APR trigger, if it meets the trigger for HOEPA coverage based on the loan's points and fees.

2. Table 12—Disposition of Applications and Pricing Information for Conventional Manufactured Home Purchase Loans, First Lien, Owner-Occupied Dwellings, by Borrower or Census Tract Characteristics

New Table 12 would focus on manufactured home lending and would show two types of information: Information on action taken on applications, and rate spread information for originated loans. The table would be limited to conventional first-lien home purchase loans on owner-occupied dwellings for three reasons. First, it is expected that the great majority of manufactured home loan applications fall into this category. Second, loans on non-owner-occupied properties are generally not subject to TILA and thus will not have an APR available for calculating rate spread. And third, with regard to the focus on conventional lending, the concern about loan pricing has focused on this area rather than on government-backed lending, as in the case of loans on 1-to-4 family dwellings discussed above.

For both the action taken section and the rate spread section, Table 12 itemizes the data by the race, ethnicity, income, and sex of the applicant, and by the racial/ethnic composition and income of the census tract where the property is located. The categories used for the borrower and the census tract characteristics are identical to those used in the revised existing tables and in the new Table 11 series.

Table 12's section on action taken bears some similarity to new Tables 4–7, 5–7, and 7–7, which also display action taken data relating to manufactured home lending, but there are significant differences. Tables 4–7, 5–7, and 7–7 show activity on all manufactured home lending (home purchase, home improvement, and refinancings; both conventional and

government-backed; both owner-occupied and non-owner-occupied; and both first-lien and subordinate-lien), while Table 12 is limited to conventional first-lien home purchase loans on owner-occupied manufactured homes.

The rate spread section of Table 12 is similar to the Table 11 series, except that the columns showing the numbers of loans with rate spreads falling into various ranges are omitted. Thus, the rate spread data in Table 12 include columns for the number of loans with no reported pricing data, the number of loans with such data reported, and the mean and median percentage points over the applicable Treasury yield for those loans with pricing data reported. The agencies believe that this information would be sufficient for analysis, because it appears that on average rates in manufactured housing lending may be higher than in other mortgage lending, such that most loans would have rate spreads significantly in excess of the thresholds. Again, as in other cases, the more detailed information can be derived from the publicly available HMDA–LAR data. Comment is solicited, however, on whether Table 12 should be modified to display more detailed rate spread data.

Also, the rate spread section of Table 12 is limited to home purchase loans, while the Table 11 series also has tables covering refinancings and home improvement loans. As noted above, however, the majority of manufactured home loan applications may fall within the home purchase category. In addition, Summary Table B, discussed below, provides some information on rate spreads for refinancings and home improvement loans on manufactured housing.

3. Summary Table A Series—Disposition of Applications and Loan Sales by Loan Type

The Summary Table A series would provide an overview of actions taken by an institution on loan applications with a detailed itemization by type of loan. Summary Table A–1 would show action taken on applications for loans on 1-to-4 family dwellings; Summary Table A–2 would show the same data for applications on manufactured home loans; and Summary Table A–3 would show the same data for applications relating to multifamily housing, except that it would not contain data on preapproval requests; lending on multifamily housing would likely not generally involve preapproval requests as defined in Regulation C.

The tables would itemize lending by (1) loan purpose (home purchase, refinancing, and home improvement); (2) lien status (first-lien, subordinate-lien, and unsecured); (3) loan type (conventional, FHA (Federal Housing Administration), VA (Veterans Administration), and FSA/RHS (Farm Service Agency or Rural Housing Service)); and (4) action taken. The tables would not show itemization by applicant or census tract characteristics; tables in the 4, 5, and 7 series serve that purpose. Rather, these summary tables would detail at a glance the types of lending in which an institution is engaged.

The summary tables would be produced in two versions for each reporting institution. One version would reflect activity for each MSA for which the institution reports data and the other would show the institution's total activity nationwide. Both versions would itemize data by type of action taken (such as loans originated, applications approved but not accepted, and applications denied). In addition, both versions would show the number of preapproval requests that resulted in loan originations and the number of loans sold by the institution.

Only the nationwide version would show preapproval requests denied and preapproval requests approved but not accepted. Data on preapproval requests denied and preapproval requests approved but not accepted cannot be shown in the MSA version, because to be included in these tables a loan must have a property location, and property location is not reported on a preapproval request unless the request goes beyond the preapproval stage, for example, where it results in a loan origination.

4. Summary Table B—Loan Pricing Information for Conventional Loans by Incidence and Level

Summary Table B would show rate spread and HOEPA status information for an institution as a whole, itemized in a manner similar to the Summary Table A series (by home purchase, refinancing, and home improvement; and by first-lien and subordinate-lien status). Summary Table B would be limited to conventional loans because concerns about loan pricing have focused primarily on this area. Summary Table B would not contain data on multifamily housing loans or on unsecured home improvement loans, because rate spread and HOEPA status data are not available for such loans.

Like the A series, Summary Table B would be produced in two versions for each reporting institution, one version reflecting the activity of that institution for each MSA for which the institution reports data, and another version showing the institution's total activity nationwide.

In some respects, Summary Table B would display data comparable to that shown in the Table 11 series and in Table 12. For example, Table 11–1 shows rate spread data for conventional first-lien home purchase loans on owner-occupied 1-to-4 family dwellings; the first column in Summary Table B shows the same type of data. Table 11–2 relates to subordinate-lien loans, as does the second column in Summary Table B. There are differences, however. First, the tables in the Table 11 series do not show the total number of loans for the institution, but instead provide itemizations by borrower and census tract characteristics. Summary Table B provides total loan numbers (in various categories of pricing information, such as no pricing reported, pricing reported, and so on), both at the MSA level and in total activity nationwide. In addition, the nationwide version of Summary Table B would include loans for which no property location was reported (for example, because the property is located outside the MSAs in which the institution has offices), while the Table 11 series does not include such loans. Thus, a data user could use Summary Table B to determine at a glance the overall level of an institution's loan pricing, detailed by loan type.

While Summary Table B and Table 12 both focus partly or wholly on manufactured housing lending data, there are differences. First, Summary Table B shows total numbers of loans for an institution (in various categories of pricing information) both at the MSA level and nationwide, but does not include an itemization by borrower or census tract characteristics; Table 12 includes the itemization but not the totals. In addition, Table 12 provides data only on first-lien home purchase loans on manufactured housing, while Summary Table B also provides data on subordinate-lien home purchase loans, first- and subordinate-lien refinancings, and first- and subordinate-lien home improvement loans. Finally, Summary Table B shows data on HOEPA status for first- and subordinate-lien refinancings and for first- and subordinate-lien home improvement loans. No data for HOEPA status are shown for home purchase loans in either Table 12 or Summary Table B, because home purchase loans are excluded from HOEPA coverage under TILA.

III. Issues on Which Comment Is Solicited

As discussed above, the Board proposes to revise the existing public

disclosure tables; to eliminate the Table 6 series; and to add several new tables and series of tables. The Board solicits comment on any issues relating to the proposed revisions, deletions, and additions. In particular, should any of the existing tables, in addition to the Table 6 series, be deleted (and if so, why)? Should the Table 6 series be retained? Should any of the proposed revisions to the existing tables not be made, or should they be made in a different manner (for example, to display more, less, or different detail)? Should additional revisions to the existing tables be made? With regard to the proposed new tables, are any of them unnecessary, or should any of them be adopted in a modified form? Are any additional new tables needed?

The revised and new tables do not, of course, display mortgage lending information derived from the new data elements being reported in as great a level of detail as would be possible. Commenters are requested to bear in mind, however, that modified HMDA–LAR application-by-application and loan-by-loan data for all reporting institutions are available to the public upon request, and that data users thus have the ability to prepare analyses of mortgage lending patterns, relating both to actions taken on applications and to pricing of originated loans, in any way they choose.

List of Subjects in 12 CFR Part 203

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

Text of Proposed Revisions

For the reasons set forth in the preamble, the Board proposes to adopt revised formats for public disclosure of mortgage lending data under the Home Mortgage Disclosure Act, as set forth in the attachment to this document.

By order of the Board of Governors of the Federal Reserve System, March 16, 2004.

Jennifer J. Johnson,

Secretary of the Board.

BILLING CODE 6210–01–P

TABLE 1: DISPOSITION OF LOAN APPLICATIONS, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 1 -- PROPERTY LOCATED IN MSA/MD WHERE INSTITUTION HAS A HOME OR BRANCH OFFICE

CENSUS TRACT OR COUNTY NAME AND DISPOSITION OF APPLICATION 1/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
(STATE/COUNTY/TRACT NUMBER)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
GA/HENRY /0703.00														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/DOUGLAS /0801.00														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CHEROKEE /0901.00														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/NEWTON /1001.00														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/FAYETTE /SMALL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 1: DISPOSITION OF LOAN APPLICATIONS, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 1 -- PROPERTY LOCATED IN MSA/MD WHERE INSTITUTION HAS A HOME OR BRANCH OFFICE

DISPOSITION OF APPLICATIONS	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
MSA/MD TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INVALID GEOGRAPHIC IDENTIFIERS 2/														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

SECTION 2 -- PROPERTY NOT LOCATED IN MSA/MDS WHERE INSTITUTION HAS HOME OR BRANCH OFFICES

LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INVALID MSA/MD NUMBER 2/														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

AGGREGATE TABLE 1: DISPOSITION OF LOAN APPLICATIONS, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ALL LOANS ON PROPERTY LOCATED IN MSA/MD 3/

CENSUS TRACT OR COUNTY NAME AND DISPOSITION OF APPLICATION 1/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D		% MIN POP 4/	MEDIAN INCOME AS PCT OF MSA/MD MEDIAN
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS									
	FHA, FSA/RHS & VA		CONVENTIONAL													
	A		B		C		D		E		F		G			
(STATE/COUNTY/TRACT NUMBER)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)				
GA/HENRY /0703.00															999	999
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999		
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999		
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999		
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999		
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999		

TABLE 2: LOANS PURCHASED, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 1 -- PROPERTY LOCATED IN MSA/MD WHERE INSTITUTION HAS A HOME OR BRANCH OFFICE

CENSUS TRACT OR COUNTY NAME 1/ (STATE/COUNTY/TRACT NUMBER)	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
GA/HENRY /0703.00	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/DOUGLAS /0801.00	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CHEROKEE /0901.00	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/NEWTON /1001.00	999999	999999	999999	999999	999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/FAYETTE /SMALL	999999	999999	999999	999999	999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MSA/MD TOTAL	999999	999999	999999	999999	999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INVALID GEOGRAPHIC IDENTIFIERS 2/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

SECTION 2 -- PROPERTY NOT LOCATED IN MSA/MDS WHERE INSTITUTION HAS HOME OR BRANCH OFFICES

	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INVALID MSA/MD NUMBER 2/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 3: LOANS SOLD, BY CHARACTERISTICS OF BORROWER AND OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED AND BY TYPE OF PURCHASER, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	FANNIE MAE		GINNIE MAE		FREDDIE MAC		FARMER MAC		PRIVATE SECURITIZATION		COMMERCIAL BANK, SAVINGS BANK, OR SAVING ASSOC		INSURANCE CO, CREDIT UNION, MORTGAGE BK, OR FINANCE CO		AFFILIATE INSTITUTION		OTHER PURCHASER	
	#	$000'S	#	$000'S	#	$000'S	#	$000'S	#	$000'S	#	$000'S	#	$000'S	#	$000'S	#	$000'S
BORROWER CHARACTERISTICS																		
RACE 5/																		
AMERICAN INDIAN/ALASKA NATIVE	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
ASIAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
BLACK OR AFRICAN AMERICAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
NAT HAWAIIAN/OTHER PACIFIC ISLND	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
WHITE-HISPANIC OR LATINO 6/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
WHITE-NOT HISPANIC OR LATINO 7/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
2 OR MORE MINORITY RACES 8/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
JOINT (WHITE/MINORITY RACE) 9/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
RACE NOT AVAILABLE 10/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
ETHNICITY 11/																		
HISPANIC OR LATINO	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
NOT HISPANIC OR LATINO	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO 12/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
ETHNICITY NOT AVAILABLE 10/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
TOTAL MINORITY 13/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
INCOME 14/																		
LESS THAN 50% OF MSA/MD MEDIAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
50-79% OF MSA/MD MEDIAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
80-99% OF MSA/MD MEDIAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
100-119% OF MSA/MD MEDIAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
120% OR MORE OF MSA/MD MEDIAN	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
INCOME NOT AVAILABLE 10/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
CENSUS TRACT CHARACTERISTICS 15/																		
RACIAL/ETHNIC COMPOSITION 16/																		
LESS THAN 10% MINORITY	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
10-19% MINORITY	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
20-49% MINORITY	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
50-79% MINORITY	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
80-100% MINORITY	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
INCOME 17/																		
LOW INCOME	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
MODERATE INCOME	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
MIDDLE INCOME	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
UPPER INCOME	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999
TOTAL 18/	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999	99999	9999999

TABLE 4-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) (TOTAL) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO)(TOTAL)12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) (TOTAL) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) (TOTAL) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) (TOTAL) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINMGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) (TOTAL) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-7: DISPOSITION OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

RACE AND GENDER 5/ 19/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
AMERICAN INDIAN/ALASKA NATIVE(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NAT HAWAIIAN/OTHER PACIFIC ISL(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-HISPANIC OR LATINO (TOTAL) 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE-NOT HISPANIC OR LATINO(TOTAL) 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES (TOTAL) 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/ (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/(TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 4-7: DISPOSITION OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

ETHNICITY, GENDER, AND INCOME 19/ 11/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO (TOTAL)	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) (TOTAL) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE (TOTAL) 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY (TOTAL) 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME OF APPLICANTS 14/												
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLING, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE, AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE, AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-7: DISPOSITION OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-7: DISPOSITION OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
80-99% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 5-7: DISPOSITION OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY INCOME, RACE AND ETHNICITY OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME, RACE AND ETHNICITY CONTINUED	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
120% OR MORE OF MSA/MD MEDIAN												
RACE 5/												
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY 11/												
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

PROPOSE TO DELETE TABLES 6-1, 6-2, 6-3, 6-4, 6-5, AND 6-6.

TABLE 6-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS, 1- TO 4-FAMILY HOMES, BY INCOME AND GENDER OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME AND GENDER 14/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 6-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS,
1- TO 4-FAMILY HOMES, BY INCOME AND GENDER OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME AND GENDER 14/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 6-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON 1- TO 4-FAMILY HOMES, BY INCOME AND GENDER OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME AND GENDER 14/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 6-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY HOMES, BY INCOME AND GENDER OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME AND GENDER 14/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 6-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY INCOME AND GENDER OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME AND GENDER 14/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 6-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY HOMES, BY INCOME AND GENDER OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

INCOME AND GENDER 14/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
LESS THAN 50% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-99% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
100-119% OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
120% OR MORE OF MSA/MD MEDIAN												
MALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-1: DISPOSITION OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-2: DISPOSITION OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATED INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-3: DISPOSITION OF APPLICATIONS TO REFINANCE LOANS ON 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-4: DISPOSITION OF APPLICATIONS FOR HOME IMPROVEMENT LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-5: DISPOSITION OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-6: DISPOSITION OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 7-7: DISPOSITION OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY CHARACTERISTICS OF CENSUS TRACT IN WHICH PROPERTY IS LOCATED, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

TYPE OF CENSUS TRACT 15/	APPLICATIONS RECEIVED 21/		LOANS ORIGINATED		APPS. APPROVED BUT NOT ACCEPTED		APPLICATIONS DENIED		APPLICATIONS WITHDRAWN		FILES CLOSED FOR INCOMPLETENESS	
	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S	NUMBER	$000'S
RACIAL/ETHNIC COMPOSITION 16/												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME CHARACTERISTICS 17/												
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
INCOME AND RACIAL/ETHNIC COMP 16/,17/												
LOW INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MODERATE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MIDDLE INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
UPPER INCOME												
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
SMALL COUNTY	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
ALL OTHER TRACTS 22/	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 8-1: REASONS FOR DENIAL OF APPLICATIONS FOR FHA, FSA/RHS, AND VA HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE) 9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

TABLE 8-2: REASONS FOR DENIAL OF APPLICATIONS FOR CONVENTIONAL HOME-PURCHASE LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE)9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO)12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

TABLE 8-3: REASONS FOR DENIAL OF APPLICATIONS TO REFINANCE LOANS ON 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE)9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO)12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

TABLE 8-4: REASONS FOR DENIAL OF APPLICATIONS FOR HOME IMPROVEMENT LOANS,
1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE)9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO)12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

TABLE 8-5: REASONS FOR DENIAL OF APPLICATIONS FOR LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE) 9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

TABLE 8-6: REASONS FOR DENIAL OF APPLICATIONS FROM NONOCCUPANTS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, 1- TO 4-FAMILY AND MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE) 9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

TABLE 8-7: REASONS FOR DENIAL OF APPLICATIONS FOR HOME-PURCHASE, HOME IMPROVEMENT, OR REFINANCING LOANS, MANUFACTURED HOME DWELLINGS, BY RACE, ETHNICITY, GENDER, AND INCOME OF APPLICANT, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

APPLICANT CHARACTERISTICS	DEBT-TO-INCOME RATIO		EMPLOYMENT HISTORY		CREDIT HISTORY		COLLATERAL		INSUFFICIENT CASH		UNVERIFIABLE INFORMATION		CREDIT APPLICATION INCOMPLETE		MORTGAGE INSURANCE DENIED		OTHER		TOTAL 23/	
	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%	NUMBER	%
RACE 5/																				
AMERICAN IND/ALASKA NATIVE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ASIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
BLACK OR AFRICAN AMERICAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NATIVE HAWAIIAN/PACIFIC ISL	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-HISPANIC/LATINO 6/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
WHITE-NOT HISPANIC/LATINO 7/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
2 OR MORE MINORITY RACES 8/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(WHITE/MINORITY RACE) 9/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
RACE NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY 11/																				
HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
NOT HISPANIC OR LATINO	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT(HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
ETHNICITY NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
TOTAL MINORITY 13/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER																				
MALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
FEMALE	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
JOINT (MALE/FEMALE) 20/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
GENDER NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME 14/																				
LESS THAN 50% OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
50-79% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
80-99% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
100-119% OF MSA/MD MEDIAN	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
120% OR MORE OF MSA/MD MED	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999
INCOME NOT AVAILABLE 10/	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999	9999999	999

AGGREGATE TABLE 9: DISPOSITION OF LOAN APPLICATIONS, BY MEDIAN AGE OF HOMES IN CENSUS TRACT IN WHICH PROPERTY IS LOCATED AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

MSA/MD: 9999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

CENSUS TRACTS BY MEDIAN AGE OF HOMES 24/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)
1990-MARCH 2000														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
1980-1989														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
1970-1979														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
1960-1969														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
1959 OR EARLIER														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

AGGREGATE TABLE 10: DISPOSITION OF LOAN APPLICATIONS, BY PRINCIPAL CITY VERSUS NON-PRINCIPAL CITY PROPERTY LOCATION AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

MSA/MD: 9999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

LOCATION CATEGORY	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS										LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS		LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES	NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D	
	FHA, FSA/RHS & VA		CONVENTIONAL								
	A		B		C		D		E	F	G
	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)	NUMBER	($000'S)
PRINCIPAL CITY 25/												
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
MSA/MD LESS PRINCIPAL CITY 26/												
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

SUPPLEMENTAL TABLE 1: DISPOSITION OF LOAN APPLICATIONS, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 2 -- PROPERTY NOT LOCATED IN MSA/MDS WHERE INSTITUTION HAS HOME OR BRANCH OFFICES

CENSUS TRACT, COUNTY NAME OR STATE AND DISPOSITION OF APPLICATION 1/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS FOR DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
(STATE/COUNTY/TRACT NUMBER) 29/30/	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
AL/JEFFERSON /0011.00														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
AL/JEFFERSON /TRACT UNKNOWN														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
AL/JEFFERSON /COUNTY TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
AL/COUNTY UNKNOWN														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
AL/STATE TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

SUPPLEMENTAL TABLE 1: DISPOSITION OF LOAN APPLICATIONS, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 2 -- PROPERTY NOT LOCATED IN MSA/MDS WHERE INSTITUTION HAS HOME OR BRANCH OFFICES

CENSUS TRACT, COUNTY NAME OR STATE AND DISPOSITION OF APPLICATION 1/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
(STATE/COUNTY/TRACT NUMBER) 29/30/	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
GA/CLARKE /0015.02														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CLARKE /TRACT UNKNOWN														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CLARKE /COUNTY TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/MADISON /SMALL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/MADISON /COUNTY TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

SUPPLEMENTAL TABLE 1: DISPOSITION OF LOAN APPLICATIONS, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 2 -- PROPERTY NOT LOCATED IN MSA/MDS WHERE INSTITUTION HAS HOME OR BRANCH OFFICES

CENSUS TRACT, COUNTY NAME OR STATE AND DISPOSITION OF APPLICATION 1/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
(STATE/COUNTY/TRACT NUMBER) 29/30/	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
GA/COUNTY UNKNOWN														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/STATE TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GEOGRAPHIC ID NOT REPORTED OR INVALID														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GRAND TOTAL														
LOANS ORIGINATED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICAT'N APPROVED, NOT ACCEPTED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS DENIED	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
APPLICATIONS WITHDRAWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
FILES CLOSED FOR INCOMPLETENESS	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

SUPPLEMENTAL TABLE 2: LOANS PURCHASED, BY LOCATION OF PROPERTY AND TYPE OF LOAN, 2004

PAGE: 9999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

SECTION 2 -- PROPERTY NOT LOCATED IN MSA/MDS WHERE INSTITUTION HAS HOME OR BRANCH OFFICES

CENSUS TRACT, COUNTY NAME OR STATE 1/ (STATE/COUNTY/TRACT NUMBER) 29/30/	LOANS ON 1-TO-4 FAMILY AND MANUFACTURED HOME DWELLINGS								LOANS ON DWELLINGS FOR 5 OR MORE FAMILIES		NONOCCUPANT LOANS FROM COLUMNS A, B, C AND D		LOANS ON MANUFACTURED HOME DWELLINGS FROM COLUMNS A,B,C AND D	
	HOME PURCHASE LOANS				REFINANCINGS		HOME IMPROVEMENT LOANS							
	FHA, FSA/RHS & VA		CONVENTIONAL											
	A		B		C		D		E		F		G	
	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)	NUMBER	AMOUNTS ($000'S)
AL/JEFFERSON /0011.00	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
AL/JEFFERSON /COUNTY TOTAL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
AL/STATE TOTAL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CLARKE /0015.02	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CLARKE /TRACT UNKNOWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/CLARKE /COUNTY TOTAL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/OCONEE /SMALL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/OCONEE /COUNTY TOTAL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/COUNTY UNKNOWN	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GA/STATE TOTAL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GEOGRAPHIC ID NOT REPORTED OR INVALID	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999
GRAND TOTAL	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999	99999999

TABLE 11-1: PRICING INFORMATION FOR CONVENTIONAL HOME-PURCHASE LOANS, FIRST LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/							
			3 - 3.99	4 - 4.99	5 - 5.99	6 - 6.99	7 - 7.99	8 OR MORE	MEAN	MEDIAN
BORROWER CHARACTERISTICS										
RACE 5/										
AMERICAN INDIAN/ALASKA NATIVE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
ASIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
BLACK OR AFRICAN AMERICAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
WHITE - HISPANIC OR LATINO 6/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
WHITE - NOT HISPANIC OR LATINO 7/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
2 OR MORE MINORITY RACES 8/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
JOINT (WHITE/MINORITY RACE) 9/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
RACE NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
ETHNICITY 11/										
HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
NOT HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
ETHNICITY NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
TOTAL MINORITY 13/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
INCOME 14/										
LESS THAN 50% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
50-79% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
80-99% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
100-119% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
120% OR MORE OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
INCOME NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
GENDER										
MALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
FEMALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
JOINT (MALE/FEMALE) 20/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
GENDER NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
CENSUS TRACT CHARACTERISTICS 15/										
RACIAL/ETHNIC COMPOSITION 16/										
LESS THAN 10% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
10-19% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
20-49% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
50-79% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
80-100% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
INCOME CHARACTERISTICS 17/										
LOW INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
MODERATE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
MIDDLE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
UPPER INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99

TABLE 11-2: PRICING INFORMATION FOR CONVENTIONAL HOME-PURCHASE LOANS, JUNIOR LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/							
			5 - 5.99	6 - 6.99	7 - 7.99	8 - 8.99	9 - 9.99	10 OR MORE	MEAN	MEDIAN
BORROWER CHARACTERISTICS										
RACE 5/										
AMERICAN INDIAN/ALASKA NATIVE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
ASIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
BLACK OR AFRICAN AMERICAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
WHITE - HISPANIC OR LATINO 6/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
WHITE - NOT HISPANIC OR LATINO 7/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
2 OR MORE MINORITY RACES 8/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
JOINT (WHITE/MINORITY RACE) 9/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
RACE NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
ETHNICITY 11/										
HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
NOT HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
ETHNICITY NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
TOTAL MINORITY 13/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
INCOME 14/										
LESS THAN 50% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
50-79% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
80-99% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
100-119% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
120% OR MORE OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
INCOME NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
GENDER										
MALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
FEMALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
JOINT (MALE/FEMALE) 20/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
GENDER NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
CENSUS TRACT CHARACTERISTICS 15/										
RACIAL/ETHNIC COMPOSITION 16/										
LESS THAN 10% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
10-19% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
20-49% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
50-79% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
80-100% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
INCOME CHARACTERISTICS 17/										
LOW INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
MODERATE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
MIDDLE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99
UPPER INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99

TABLE 11-3: PRICING INFORMATION FOR CONVENTIONAL REFINANCING LOANS, FIRST LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/								HOEPA LOANS 28/
			3 - 3.99	4 - 4.99	5 - 5.99	6 - 6.99	7 - 7.99	8 OR MORE	MEAN	MEDIAN	
BORROWER CHARACTERISTICS											
RACE 5/											
AMERICAN INDIAN/ALASKA NATIVE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ASIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
BLACK OR AFRICAN AMERICAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - HISPANIC OR LATINO 6/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - NOT HISPANIC OR LATINO 7/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
2 OR MORE MINORITY RACES 8/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (WHITE/MINORITY RACE) 9/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
RACE NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY 11/											
HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NOT HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
TOTAL MINORITY 13/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME 14/											
LESS THAN 50% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-99% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
100-119% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
120% OR MORE OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER											
MALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
FEMALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (MALE/FEMALE) 20/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
CENSUS TRACT CHARACTERISTICS 15/											
RACIAL/ETHNIC COMPOSITION 16/											
LESS THAN 10% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
10-19% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
20-49% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-100% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME CHARACTERISTICS 17/											
LOW INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MODERATE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MIDDLE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
UPPER INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999

TABLE 11-4: PRICING INFORMATION FOR CONVENTIONAL REFINANCING LOANS, JUNIOR LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/							HOEPA LOANS 28/
			5 - 5.99	6 - 6.99	7 - 7.99	8 - 8.99	9 - 9.99	10 OR MORE	MEAN	MEDIAN	
BORROWER CHARACTERISTICS											
RACE 5/											
AMERICAN INDIAN/ALASKA NATIVE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ASIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
BLACK OR AFRICAN AMERICAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - HISPANIC OR LATINO 6/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - NOT HISPANIC OR LATINO 7/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
2 OR MORE MINORITY RACES 8/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (WHITE/MINORITY RACE) 9/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
RACE NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY 11/											
HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NOT HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
TOTAL MINORITY 13/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME 14/											
LESS THAN 50% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-99% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
100-119% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
120% OR MORE OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER											
MALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
FEMALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (MALE/FEMALE) 20/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
CENSUS TRACT CHARACTERISTICS 15/											
RACIAL/ETHNIC COMPOSITION 16/											
LESS THAN 10% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
10-19% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
20-49% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-100% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME CHARACTERISTICS 17/											
LOW INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MODERATE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MIDDLE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
UPPER INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999

TABLE 11-5: PRICING INFORMATION FOR CONVENTIONAL HOME IMPROVEMENT LOANS, FIRST LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/							HOEPA LOANS 28/
			3 - 3.99	4 - 4.99	5 - 5.99	6 - 6.99	7 - 7.99	8 OR MORE	MEAN	MEDIAN	
BORROWER CHARACTERISTICS											
RACE 5/											
AMERICAN INDIAN/ALASKA NATIVE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ASIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
BLACK OR AFRICAN AMERICAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - HISPANIC OR LATINO 6/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - NOT HISPANIC OR LATINO 7/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
2 OR MORE MINORITY RACES 8/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (WHITE/MINORITY RACE) 9/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
RACE NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY 11/											
HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NOT HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
TOTAL MINORITY 13/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME 14/											
LESS THAN 50% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-99% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
100-119% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
120% OR MORE OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER											
MALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
FEMALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (MALE/FEMALE) 20/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
CENSUS TRACT CHARACTERISTICS 15/											
RACIAL/ETHNIC COMPOSITION 16/											
LESS THAN 10% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
10-19% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
20-49% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-100% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME CHARACTERISTICS 17/											
LOW INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MODERATE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MIDDLE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
UPPER INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999

TABLE 11-6: PRICING INFORMATION FOR CONVENTIONAL HOME IMPROVEMENT LOANS, JUNIOR LIEN, 1- TO 4-FAMILY OWNER-OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/							HOEPA LOANS 28/
			5 - 5.99	6 - 6.99	7 - 7.99	8 - 8.99	9 - 9.99	10 OR MORE	MEAN	MEDIAN	
BORROWER CHARACTERISTICS											
RACE 5/											
AMERICAN INDIAN/ALASKA NATIVE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ASIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
BLACK OR AFRICAN AMERICAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - HISPANIC OR LATINO 6/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
WHITE - NOT HISPANIC OR LATINO 7/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
2 OR MORE MINORITY RACES 8/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (WHITE/MINORITY RACE) 9/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
RACE NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY 11/											
HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
NOT HISPANIC OR LATINO	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
ETHNICITY NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
TOTAL MINORITY 13/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME 14/											
LESS THAN 50% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-99% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
100-119% OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
120% OR MORE OF MSA/MD MEDIAN	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER											
MALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
FEMALE	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
JOINT (MALE/FEMALE) 20/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
GENDER NOT AVAILABLE 10/	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
CENSUS TRACT CHARACTERISTICS 15/											
RACIAL/ETHNIC COMPOSITION 16/											
LESS THAN 10% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
10-19% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
20-49% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
50-79% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
80-100% MINORITY	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
INCOME CHARACTERISTICS 17/											
LOW INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MODERATE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
MIDDLE INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999
UPPER INCOME	999999999	999999999	99999999	99999999	99999999	99999999	99999999	99999999	99.99	99.99	99999999

TABLE 12: DISPOSITION OF APPLICATIONS AND PRICING INFORMATION FOR CONVENTIONAL MANUFACTURED HOME-PURCHASE LOANS, FIRST LIEN, OWNER OCCUPIED DWELLING, BY BORROWER OR CENSUS TRACT CHARACTERISTICS, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

BORROWER OR CENSUS TRACT CHARACTERISTICS	APPS. RECEIVED 21/	LOANS ORIGINATED	APPS. APPROVED BUT NOT ACCEPTED	APPS. DENIED	APPS. WITHDRAWN	FILE CLOSED FOR INCOMPLETE-NESS	NO REPORTED PRICING DATA	REPORTED PRICING DATA	PERCENTAGE POINTS ABOVE TREASURY 27/ MEAN	PERCENTAGE POINTS ABOVE TREASURY 27/ MEDIAN
BORROWER CHARACTERISTICS										
RACE 5/										
AMERICAN INDIAN/ALASKA NATIVE	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
ASIAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
BLACK OR AFRICAN AMERICAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
NATIVE HAWAIIAN/OTHER PACIFIC ISLND	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
WHITE - HISPANIC OR LATINO 6/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
WHITE - NOT HISPANIC OR LATINO 7/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
2 OR MORE MINORITY RACES 8/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
JOINT (WHITE/MINORITY RACE) 9/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
RACE NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
ETHNICITY 11/										
HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
NOT HISPANIC OR LATINO	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
JOINT (HISPANIC OR LATINO/ NOT HISPANIC OR LATINO) 12/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
ETHNICITY NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
TOTAL MINORITY 13/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
INCOME 14/										
LESS THAN 50% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
50-79% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
80-99% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
100-119% OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
120% OR MORE OF MSA/MD MEDIAN	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
INCOME NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
GENDER										
MALE	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
FEMALE	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
JOINT (MALE/FEMALE) 20/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
GENDER NOT AVAILABLE 10/	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
CENSUS TRACT CHARACTERISTICS 15/										
RACIAL/ETHNIC COMPOSITION 16/										
LESS THAN 10% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
10-19% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
20-49% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
50-79% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
80-100% MINORITY	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
INCOME CHARACTERISTICS 17/										
LOW INCOME	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
MODERATE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
MIDDLE INCOME	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99
UPPER INCOME	99999999	99999999	99999999	99999999	99999999	99999999	999999999	999999999	99.99	99.99

SUMMARY TABLE A-1: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, 1- TO 4-FAMILIES, 2004 PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

	HOME PURCHASE		REFINANCE		HOME IMPROVEMENT		
LOAN TYPE	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	NO LIEN
TOTAL APPLICATIONS 31/							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
LOANS ORIGINATED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS APPROVED BUT NOT ACCEPTED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS DENIED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS WITHDRAWN							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FILES CLOSED FOR INCOMPLETENESS							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE A-1: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, 1- TO 4-FAMILIES, 2004 PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MEMO ITEM: SUBSET OF LOANS ORIGINATED							
PREAPPROVALS RESULTING IN ORIGINATIONS							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA
LOANS SOLD							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE A-1: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, 1- TO 4-FAMILIES, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

	HOME PURCHASE		REFINANCE		HOME IMPROVEMENT		
LOAN TYPE	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	NO LIEN
PREAPPROVALS DENIED							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA
PREAPPROVALS APPROVED BUT NOT ACCEPTED							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA

MEMO ITEM: SUBSET OF LOANS ORIGINATED							
PREAPPROVALS RESULTING IN ORIGINATIONS							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA
LOANS SOLD							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE A-2: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, MANUFACTURED HOME, 2004 PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

	HOME PURCHASE		REFINANCE		HOME IMPROVEMENT		
LOAN TYPE	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	NO LIEN
TOTAL APPLICATIONS 31/							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
LOANS ORIGINATED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS APPROVED BUT NOT ACCEPTED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS DENIED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS WITHDRAWN							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FILES CLOSED FOR INCOMPLETENESS							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE A-2: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, MANUFACTURED HOME, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MEMO ITEM: SUBSET OF LOANS ORIGINATED							
PREAPPROVALS RESULTING IN ORIGINATIONS							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA
LOANS SOLD							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE A-2: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, MANUFACTURED HOME, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

	HOME PURCHASE		REFINANCE		HOME IMPROVEMENT		
LOAN TYPE	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	NO LIEN
PREAPPROVALS DENIED							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA
PREAPPROVALS APPROVED BUT NOT ACCEPTED							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA

MEMO ITEM: SUBSET OF LOANS ORIGINATED							
PREAPPROVALS RESULTING IN ORIGINATIONS							
CONVENTIONAL	999999999	999999999	NA	NA	NA	NA	NA
FHA	999999999	999999999	NA	NA	NA	NA	NA
VA	999999999	999999999	NA	NA	NA	NA	NA
FSA/RHS	999999999	999999999	NA	NA	NA	NA	NA
LOANS SOLD							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE A-3: DISPOSITION OF APPLICATIONS AND LOAN SALES BY LOAN TYPE, MULTIFAMILY, 2004

PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

	HOME PURCHASE		REFINANCE		HOME IMPROVEMENT		
LOAN TYPE	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	NO LIEN
TOTAL APPLICATIONS 31/							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
LOANS ORIGINATED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS APPROVED BUT NOT ACCEPTED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS DENIED							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
APPLICATIONS WITHDRAWN							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FILES CLOSED FOR INCOMPLETENESS							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999
MEMO ITEM: SUBSET OF LOANS ORIGINATED							
LOANS SOLD							
CONVENTIONAL	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FHA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
VA	999999999	999999999	999999999	999999999	999999999	999999999	999999999
FSA/RHS	999999999	999999999	999999999	999999999	999999999	999999999	999999999

SUMMARY TABLE B: LOAN PRICING INFORMATION FOR CONVENTIONAL LOANS BY INCIDENCE AND LEVEL, 2004 PAGE: 99999
RUN DATE: MM/DD/CCYY

INSTITUTION: XXXXXXXXXX-X XXXXXXXXXXXXXXXXXXXXXXXXXXXXX MSA/MD: 99999 - XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

	HOME PURCHASE		REFINANCE		HOME IMPROVEMENT		
PRICING INFORMATION	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	FIRST LIEN	JUNIOR LIEN	NO LIEN
1- TO 4-FAMILY OWNER OCCUPIED DWELLINGS							
INCIDENCE OF PRICING							
NO PRICING REPORTED	999999999	999999999	999999999	999999999	999999999	999999999	NA
PRICING REPORTED	999999999	999999999	999999999	999999999	999999999	999999999	NA
MEAN (POINTS ABOVE TREASURY) 27/	99.99	99.99	99.99	99.99	99.99	99.99	NA
MEDIAN (POINTS ABOVE TREASURY) 27/	99.99	99.99	99.99	99.99	99.99	99.99	NA
HOEPA STATUS							
HOEPA LOAN 28/	NA	NA	999999999	999999999	999999999	999999999	NA
NOT HOEPA LOAN	NA	NA	999999999	999999999	999999999	999999999	NA
MANUFACTURED HOME OWNER OCCUPIED DWELLINGS							
INCIDENCE OF PRICING							
NO PRICING REPORTED	999999999	999999999	999999999	999999999	999999999	999999999	NA
PRICING REPORTED	999999999	999999999	999999999	999999999	999999999	999999999	NA
MEAN (POINTS ABOVE TREASURY) 27/	99.99	99.99	99.99	99.99	99.99	99.99	NA
MEDIAN (POINTS ABOVE TREASURY) 27/	99.99	99.99	99.99	99.99	99.99	99.99	NA
HOEPA STATUS							
HOEPA LOAN 28/	NA	NA	999999999	999999999	999999999	999999999	NA
NOT HOEPA LOAN	NA	NA	999999999	999999999	999999999	999999999	NA

HOME MORTGAGE DISCLOSURE ACT DISCLOSURE STATEMENT
EXPLANATION OF NOTES

THE NOTES FOR TABLES 1-8 REFER TO BOTH THE DISCLOSURE STATEMENTS OF INDIVIDUAL FINANCIAL INSTITUTIONS AND THE AGGREGATE TABLES FOR ALL FINANCIAL INSTITUTIONS IN AN MSA/MD. THE NOTES FOR TABLE 9 AND 10 REFER TO AGGREGATE TABLES ONLY. FOR CATEGORIZATION INTO GROUPS, PERCENTAGES ARE NOT ROUNDED. IF THERE ARE NO DATA REPORTED FOR A PARTICULAR TABLE, THAT TABLE WILL NOT BE REPORTED.

1. ALL CENSUS TRACT AND COUNTY DEFINITIONS AND POPULATION COUNTS ARE BASED ON THE 2000 CENSUS OF POPULATION AND HOUSING.
2. THE "INVALID GEOGRAPHIC IDENTIFIERS" ROW CONTAINS DATA FOR WHICH FINANCIAL INSTITUTIONS REPORTED STATE OR COUNTY CODES OR CENSUS TRACT NUMBERS THAT DID NOT CONFORM WITH 2000 CENSUS DEFINITIONS, OR FOR WHICH FINANCIAL INSTITUTIONS DID NOT REPORT THIS INFORMATION. THE ROW FOR "INVALID MSA/MD NUMBERS" CONTAINS DATA FOR WHICH FINANCIAL INSTITUTIONS REPORTED INVALID MSA/MD NUMBERS ACCORDING TO MSA/MD BOUNDARIES AS DEFINED BY THE U.S. OFFICE OF MANAGEMENT AND BUDGET.
3. INCLUDES DATA ON LOANS IN THIS MSA/MD FROM INSTITUTIONS WITH A HOME OR BRANCH OFFICE IN THIS MSA/MD, AND FROM CERTAIN INSTITUTIONS WITHOUT SUCH AN OFFICE.
4. IN AGGREGATE TABLE 1, PERCENTAGE MINORITY POPULATION ('%MIN POP") MEANS THE PERCENTAGE OF THE TOTAL POPULATION IN A PARTICULAR CENSUS TRACT CONSISTING OF THOSE OF NON-WHITE RACES, AND WHITES OF HISPANIC OR LATINO ORIGIN. PERCENTAGES ARE ROUNDED TO THE NEAREST FULL PERCENTAGE POINT.
5. IF APPLICANT SELECTS WHITE AND ONE MINORITY RACE AND THERE IS NO CO-APPLICANT, THEN APPLICANT IS CATEGORIZED BY THE MINORITY RACE. IF TWO APPLICANTS FROM DIFFERENT MINORITY GROUPS ARE REPORTED, THEY ARE GROUPED BY THE RACE OF THE FIRST PERSON LISTED ON THE APPLICATION.
6. THE APPLICANT REPORTED RACE AS WHITE AND ETHNICITY AS HISPANIC OR LATINO.
7. THE APPLICANT REPORTED RACE AS WHITE AND ETHNICITY AS NOT HISPANIC OR LATINO.
8. TWO OR MORE MINORITY RACES" MEANS THE APPLICANT REPORTED TWO OR MORE NON-WHITE RACIAL DESIGNATIONS.
9. "JOINT" MEANS WHITE AND MINORITY GROUP APPLICANT/CO-APPLICANT IN ANY ORDER.
10. "NOT AVAILABLE" INCLUDES SITUATIONS WHERE DATA WERE NOT REQUIRED TO BE COLLECTED OR WERE OTHERWISE NOT REPORTED.
11. IF TWO APPLICANTS REPORT DIFFERENT ETHNICITIES, THEY ARE GROUPED BY THE ETHNICITY OF THE FIRST PERSON LISTED ON THE APPLICATION.
12. "JOINT" MEANS HISPANIC OR LATINO AND NON-HISPANIC OR LATINO APPLICANT/CO-APPLICANT IN ANY ORDER.
13. "TOTAL MINORITY" IS A COMPOSITE CATEGORY CONSISTING OF APPLICANTS OF NON-WHITE RACE OR, HISPANIC OR LATINO ORIGIN (INCLUDES SITUATIONS WHERE ETHNICITY WAS REPORTED AS HISPANIC OR LATINO AND RACE WAS NOT AVAILABLE).
14. APPLICANTS ARE CATEGORIZED BY THE RATIO OF THEIR REPORTED INCOME TO THE MEDIAN FAMILY INCOME OF THE MSA/MD. THE MEDIAN FAMILY INCOME OF THE MSA/MD IS BASED ON ESTIMATES DEVELOPED BY THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD), WHICH ARE UPDATED ANNUALLY. THE FIGURE FOR THE MSA/MD IS THE HUD ESTIMATE FOR THE FISCAL YEAR THAT CORRESPONDS TO THE YEAR FOR WHICH THE LOAN/APPLICATION DATA ARE REPORTED.
15. THE TYPE OF CENSUS TRACT IS BASED ON DEMOGRAPHIC INFORMATION FROM THE 2000 CENSUS OF POPULATION AND HOUSING. IT IS NOT BASED ON REPORTED APPLICANT CHARACTERISTICS.
16. "MINORITY" MEANS ALL NON-WHITE RACES AND WHITES OF HISPANIC OR LATINO ORIGIN.

17. THE LOW-INCOME CATEGORY CONSISTS OF CENSUS TRACTS WHERE THE MEDIAN FAMILY INCOME IS LESS THAN 50 PERCENT OF THE MEDIAN MSA/MD INCOME, BASED ON THE 2000 CENSUS OF POPULATION AND HOUSING. THE MODERATE-INCOME CATEGORY CONSISTS OF CENSUS TRACTS WHERE THE MEDIAN FAMILY INCOME IS AT LEAST 50 PERCENT AND LESS THAN 80 PERCENT OF THE MEDIAN MSA/MD INCOME. THE MIDDLE-INCOME CATEGORY CONSISTS O F CENSUS TRACTS WHERE THE MEDIAN FAMILY INCOME IS AT LEAST 80 PERCENT AND LESS THAN 120 PERCENT OF THE MEDIAN MSA/MD INCOME. THE UPPER-INCOME CATEGORY CONSISTS OF CENSUS TRACT WHERE THE MEDIAN FAMILY INCOME IS 120 PERCENT OR MORE OF THE MEDIAN MSA/MD INCOME.
18. IN TABLE 3, THE TOTAL LOAN NUMBER AND DOLLAR AMOUNT FOR EACH TYPE OF PURCHASER MAY INCLUDE THOSE LOANS WHERE INFORMATION CONCERNING THE APPLICANT OR THE CENSUS TRACT CHARACTERISTICS WAS NOT AVAILABLE.
19. "TOTAL" INCLUDES BOTH THOSE CASES WHERE GENDER WAS REPORTED AND THOSE WHERE THIS INFORMATION WAS NOT AVAILABLE.
20. "JOINT" MEANS APPLICANT/CO-APPLICANT OF THE OPPOSITE GENDER IN ANY ORDER.
21. "APPLICATIONS RECEIVED" EQUALS THE TOTAL NUMBER OF LOANS ORIGINATED, APPLICATIONS APPROVED BUT NOT ACCEPTED, APPLICATIONS DENIED AND WITHDRAWN, AND FILES CLOSED FOR INCOMPLETENESS, AND EXCLUDES LOANS PURCHASED, PREAPPROVAL REQUESTS DENIED, AND PREAPPROVAL REQUESTS APPROVED BUT NOT ACCEPTED.
22. INCLUDES CENSUS TRACTS WITH NO REPORTED INCOME.
23. INSTITUTIONS ARE NOT REQUIRED TO REPORT REASONS FOR LOAN DENIALS. "TOTAL" INCLUDES CASES WHERE MULTIPLE REASONS WERE REPORTED.
24. CENSUS TRACTS ARE GROUPED ACCORDING TO MEDIAN AGE. BECAUSE THE CENSUS DATA ON HOUSING STOCK AGE ARE CATEGORIZED IN INTERVALS OF SEVERAL YEARS, THE MEDIAN HOUSING STOCK AGE FOR A CENSUS TRACT IS DETERMINED BY CALCULATING THE MID-POINT OF THE INTERVAL IN WHICH THE MEDIAN UNIT FALLS. THE TRACTS ARE GROUPED IN THIS TABLE BY THE TIME PERIOD IN WHICH THE MEDIAN UNIT WAS BUILT.
25. FOR MSA/MDS WITH MORE THAT ONE CITY NAME, MULTIPLE PRINCIPAL CITIES ARE INCLUDED.
26. "MSA/MD LESS PRINCIPAL CITY" INCLUDES ALL CENSUS TRACTS OUTSIDE THE PRINCIPAL CITY (OR CITIES) BUT WITHIN THE MSA/MD.
27. THE ANNUAL PERCENTAGE RATE THRESHOLD FOR REPORTING PRICING INFORMATION IS 3 PERCENTAGE POINTS ABOVE THE APPLICABLE TREASURY YIELD FOR FIRST-LIEN LOANS OR 5 PERCENTAGE POINTS ABOVE THE APPLICABLE TREASURY YIELD FOR JUNIOR-LIEN LOANS.
28. LOANS COVERED BY THE HOME OWNERSHIP AND EQUITY PROTECTION ACT OF 1994 (HOEPA).
29. THE "TRACT UNKNOWN" ROW CONTAINS DATA FOR WHICH FINANCIAL INSTITUTIONS REPORTED TRACT NUMBERS THAT DID NOT CONFORM WITH 2000 CENSUS DEFINITIONS, OR FOR WHICH FINANCIAL INSTITUTIONS DID NOT REPORT THIS INFORMATION.
30. THE "COUNTY UNKNOWN" ROW CONTAINS DATA FOR WHICH FINANCIAL INSTITUTIONS REPORTED STATE AND COUNTY CODE COMBINATIONS THAT DID NOT CONFORM WITH 2000 CENSUS DEFINITIONS, OR FOR WHICH FINANCIAL INSTITUTIONS DID NOT REPORT THE COUNTY.
31. "TOTAL APPLICATIONS" EQUAL THE TOTAL NUMBER OF LOANS ORIGINATED, APPLICATIONS APPROVED BUT NOT ACCEPTED, APPLICATIONS DENIED AND WITHDRAWN, AND FILES CLOSED FOR INCOMPLETENESS. FOR SUMMARY TABLES AT THE INSTITUTION LEVEL, "TOTAL APPLICATIONS" ALSO INCLUDE PREAPPROVAL REQUESTS DENIED, AND PREAPPROVAL REQUESTS APPROVED BUT NOT ACCEPTED.

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Part IV

Department of Agriculture

Agricultural Marketing Service

7 CFR Part 1001

Milk in the Northeast Marketing Area; Recommended Decision and Opportunity to File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order; Proposed Rule

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1001

[Docket No. AO–14–A70; DA–02–01]

Milk in the Northeast Marketing Area; Recommended Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; recommended decision.

SUMMARY: This decision recommends changes to the Northeast Federal milk marketing order based on the record of a public hearing held September 10–13, 2002, in Alexandria, Virginia, to consider proposals to amend certain pooling and related provisions. Specifically, this decision recommends amendments that would establish year-round supply plant performance standards, exclude milk received by supply plants from producers not eligible to be pooled on the Northeast order from supply plant performance standards, remove the split-plant provision, establish a one-day touch base standard, establish explicit diversion limits for pool plants, prohibit the ability to pool the same milk on the milk order and a marketwide pool administered by another government entity, and grant authority to the market administrator to adjust the touch-base and diversion limit standards as market conditions warrant. Additional amendments that would amend reporting and payment date provisions are also recommended for adoption.

DATES: Comments must be submitted on or before May 24, 2004.

ADDRESSES: Comments (six copies) should be filed with the Hearing Clerk, United States Department of Agriculture, STOP 9200—Room 1083, 1400 Independence Avenue, SW., Washington, DC 20250–9200, and you may also send your comments by the electronic process available at the Federal eRulemaking portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Gino Tosi, Marketing Specialist, Order Formulation and Enforcement Branch, USDA/AMS/Dairy Programs, STOP 0231—Room 2968, 1400 Independence Avenue, SW., Washington, DC 20250–0231, (202) 690–1366, e-mail *gino.tosi@usda.gov.*

SUPPLEMENTARY INFORMATION: This administrative action is governed by the provisions of Sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The amendments to the rules proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect. If adopted, the proposed amendments would not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

In September, 2002, there were 16,715 producers pooled on and 143 handlers regulated by the Northeast order. Based on these criteria, 97 percent of the producers and 71 percent of the handlers would be considered small businesses. The adoption of the amended pooling standards serve to revise and establish criteria that ensure the pooling of producers, producer milk, and plants that have a reasonable association with—and are consistently serving—the fluid milk needs of the Northeast milk marketing area. Criteria for pooling milk are established on the basis of performance standards that are considered adequate to meet the Class I fluid needs of the market and determine those that are eligible to share in the revenue that arises from the classified pricing of milk. Criteria for pooling are established without regard to the size of any dairy industry organization or entity. The amendments to the reporting and payment date provisions serve to streamline and simplify handler payments to the market administrator. The criteria established in the amended pooling standards and reporting and payment date provisions are applied in an equal fashion to both large and small businesses. Therefore, the Department has determined that the proposed amendments will not have a significant economic impact on a substantial number of small entities.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these proposed amendments would have no impact on reporting, recordkeeping, or other compliance requirements because they would remain identical to the current requirements. No new forms are proposed and no additional reporting requirements would be necessary.

This notice does not require additional information collection that requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the approved forms are routinely used in most business transactions. The forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly

disadvantage any handler that is smaller than the industry average.

Interested parties are invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities. Also, parties may suggest modifications of this proposal for the purpose of tailoring their applicability to small businesses.

Prior documents in this proceeding:

Notice of Hearing: Issued July 26, 2002; published August 1, 2002 (67 FR 49887).

Supplemental Notice of Hearing: Issued August 14, 2002; published August 16, 2002 (67 FR 53522).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Northeast marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Interested parties may file written exceptions to this decision with the Hearing Clerk, U.S. Department of Agriculture, STOP 9200—Room 1081, 1400 Independence Avenue, SW., Washington DC 20250–9200, by May 24, 2004. Six copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The proposed amendments set forth below are based on the record of a public hearing held at Alexandria, Virginia, on September 10–13, 2002, pursuant to a Notice of Hearing issued July 26, 2002, and published on August 1, 2002, (67 FR 49887), and a Supplemental Notice of Hearing issued August 14, 2002, and published on August 16, 2002, (67 FR 53522).

The material issues on the record of hearing relate to:

1. Reporting and Payment Dates.
2. Pooling standards of the marketing order:

a. Performance standards for Supply Plants.

b. Unit Pooling Standards for Distributing Plants.

c. Standards for Producer Milk.

3. Marketwide Service Payments.
4. Conforming changes to the order.

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. Reporting and Payment Dates

Several changes to the reporting and payment date provisions of the Northeast marketing order should be adopted. Specific recommended changes include: (1) Changing the submission date of monthly handler reports to on or before the 10th day of the month; (2) Announcing the producer price differential (PPD) and statistical uniform price on or before the 14th day of the month, but allowing the market administrator additional days if the 14th falls on a Saturday, Sunday, or national holiday; (3) Making payments to the producer settlement fund (PSF) no later than two days after the announcement of the PPD; (4) Modifying the date which payments from the PSF are to be disbursed to handlers to the day after the due date required for payment into the PSF; (5) Requiring partial payments to producers be made no later than the last day of the month; and (6) Requiring final payments to producers be made no later than the day after the required date of payment to handlers from the PSF. The following table summarizes the recommended changes:

	Current provision	Recommended for adoption	Reason for change
Proposal 1:			
Submission of monthly handler reports to Market Administrator.	Due on or before the 9th day of the month.	Due on or before the 10th day of the month.	Allows handlers one more day to submit reports to Market Administrator.
Date of PPD and statistical uniform price announcement.	Announced on or before the 13th day of the month.	Announced on or before the 14th day of the month, and up to two additional public business days thereafter if the 14th falls on a weekend or national holiday.	Maintains the time the Market Administrator has to announce the PPD and statistical uniform price and if the 14th falls on a weekend or national holiday allows additional days.
Handler payments to the PSF	Payment must be made no later than the 15th of the month, unless the 15th falls on a weekend or holiday, where the payment can be delayed until the next business day.	Payment must be made no later than two days after the announcement of the PPD and statistical uniform price, unless the due date falls on a weekend or holiday, then the payment can be delayed until the next business day.	A conforming change made necessary by the proposed extension in the date for filing Market Administrator reports and the computation of the PPD and statistical uniform price.
Date when partial payments are to be disbursed to producers.	Payment must be received by each producer on or before the 26th of the month.	Payment must be received by each producer on or before the last day of the month unless the day falls on a weekend or holiday, then the payment can be delayed.	A conforming change reducing the number of days between partial and final payments to producers.
Date when final payments are to be disbursed to producers.	Payment must be received by each producer no later than the day after the 16th day of the following month.	Payment must be received the following month by each producer no later than the day after the required payment date from the PSF unless the day falls on a weekend or holiday, then the payment can be delayed.	A conforming change that adds flexibility to the relationship between the date of payment to handlers from the PSF and final payment to producers.

	Current provision	Recommended for adoption	Reason for change
Proposal 4: Date on which payments from the PSF are disbursed to handlers.	Market Administrator must pay each handler the amount owed, if any, from the PSF no later than the 16th after the end of each month.	Market Administrator must pay each handler the the amount owed, if any, no later then the day after handler payments to the PSF are received unless the day falls on a weekend or holiday, then the payment can be delayed.	Helps to assure that producers receive full payment in event of late payments to the PSF.

Currently, a handler's report on milk receipts and utilization is due to the Market Administrator on or before the 9th day of the month. Submission of this report triggers a sequence of other reporting and payment dates. These include: announcement of the PPD and statistical uniform price on or before the 13th day of the month; handler obligations to the PSF, due no later than the 15th day of the month but subject to a delay to the next business day if the day falls on a weekend or holiday; disbursement of funds from the PSF to handlers, due no later than the 16th day after the end of each month but also delayed subject to a weekend or holiday; partial payments from handlers to producers and cooperative associations, due on or before the 26th day of the month and again delayed due to a weekend or holiday; and final payments to producers and cooperative associations, made no later than the day after payment to handlers from the PSF.

Proposal 1, submitted by New York State Dairy Foods, Inc. (NYSDF), Proposal 4, submitted by the Northeast Market Administrator, the Association of Dairy Cooperatives in the Northeast (ADCNE) and NYSDF, and Proposal 12, submitted by the Northeast Market Administrator, are recommended for adoption. All three proposals seek to modify various reporting and payment provisions of the order. NYSDF is a trade association representing milk handlers and processors in the Northeast marketing area. ADCNE represents a number of dairy farmer cooperatives whose milk is pooled on the Northeast order. Their members include Agri-Mark, Inc. (Agri-Mark), Dairy Farmers of America, Inc. (DFA), Dairylea Cooperative Inc. (Dairylea), Land O' Lakes, Inc. (LOL), Maryland and Virginia Milk Producers Cooperative, Inc. (MVMP), O–AT–KA Cooperative, Inc. (O–AT–KA), St. Albans Cooperative Creamery, Inc. (St. Albans), and Upstate Farms Cooperative, Inc. (Upstate). Worcester Creameries, Elmhurst Dairy, Mountainside Farms, and Steuben Foods also testified in support of Proposal 1.

Proposal 1 would require monthly handler reports to be received by the Market Administrator on or before the 10th day of the month. This, in turn, triggers a sequence of other reporting deadline and payment date provisions that would be similarly changed. These include: (1) Announcement of the PPD and statistical uniform price a day later—from the 13th to the 14th day of the month. If the 14th day of the month falls on a Saturday, Sunday, or national holiday, the Market Administrator would have up to two additional public business days to announce the PPD and the statistical uniform price; (2) Handler payments to the PSF be made no later than two days after the announcement of the PPD unless the due date falls on a weekend or holiday, then the payment can be delayed until the next business day; (3) Partial payments to producers be made on or before the last day of the month unless the due date falls on a weekend or holiday, then the payment can be delayed until the next business day; and (4) Final payments to producers be received no later than the day after the required date of payment from the PSF unless the due date falls on a weekend or holiday, then the payment can be delayed until the next business day. Proposal 4 would modify the day which payments from the PSF are to be disbursed to handlers from the 16th of the month to the day after the due date required for payment into the PSF. Proposal 12 seeks to make a technical correction to the order provision relating to payments to producers and cooperatives which will make the provisions identical to other Federal orders by changing ''pool plant operator'' to ''handler'' throughout the provisions of the order.

A witness appearing on behalf of NYSDF testified in support of Proposal 1, stating that its adoption is necessary to correct unnecessarily burdensome regulations that have resulted from the reporting and payment date provisions adopted as part of Federal order reform. According to the witness, the amendments incorporated in Proposal 1 would essentially restore the reporting and payment dates specified in the former New York-New Jersey milk marketing order. The witness indicated that giving an additional day for submitting handler reports to the Market Administrator would lessen the difficulties milk handlers are currently experiencing in meeting the current reporting deadline. The witness explained that milk suppliers have experienced considerable difficulties in furnishing milk component and billing data in time for meeting the currently established reporting deadline. This situation is compounded, the witness explained, when handlers must account for the co-mingling of tanker loads of milk between cooperative and independent milk producers. Often, the witness stated, reports to the Market Administrator contain erroneous and estimated data because the reporting handler did not receive the correct data in time.

The NYSDF witness also cited testimony from the Northeast Market Administrator that one third of handler reports are often filed late. Moving the reporting date from the 9th to the 10th of the month would give milk suppliers and buyers an additional day to complete their work, thereby greatly reducing the number of late reports to the Market Administrator, the witness concluded.

The second proposed change in reporting dates contained in Proposal 1 would maintain the time the Market Administrator has to announce the PPD and statistical uniform price, and up to two additional public business days thereafter if the 14th falls on a weekend or national holiday. According to the NYSDF witness, this portion of the proposal is consistent with the proposed one-day extension for submission of handler reports to the Market Administrator, and would extend to the Market Administrator sufficient time to make the necessary price computations without undue pressure brought about by weekends or holidays. The witness also noted that while this proposal could give the Market Administrator up to two additional public business days for making the price computations, it would not require that the additional time be used. If the Market Administrator finds it feasible, a price

announcement could come earlier, the witness stated.

The third change in reporting dates offered by the NYSDF witness would require handler payments to the PSF be made no later than two days after the announcement of the PPD. According to the witness, this portion of the proposal is intended primarily as a conforming change made necessary by the one-day proposed extension in the date for filing Market Administrator reports, and the computation of the PPD and statistical uniform price. Currently, handler payments to the PSF must be made no later than the 15th of the month, unless the 15th falls on a weekend or national holiday, where the payment can be delayed until the following business day, the witness noted. The witness expressed concern that compliance with the current handler payment deadline was difficult, and the proposed change would better accomodate the flow of money from handlers to the PSF. The witness was of the opinion that this portion of the proposal would provide a more consistent time interval to gather the Market Administrator classifications on milk transfers at pool reporting time, giving handlers a more consistent time frame in which to make necessary money transfers, for example, and improve concurrent billings for milk that was transferred or diverted.

The NYSDF witness testified that Proposal 1 would also require final payments to dairy farmers be disbursed no later than the day after the required payment date to handlers from the PSF. The primary purpose of this portion of the proposal, the witness explained, is to have the date of final payment to dairy farmers conform with other proposed date changes for the computation of the statistical uniform price and when payments are made into and out of the PSF. The witness stressed that no change in the requirement for ''day-earlier'' payment to cooperatives was proposed, as currently set forth in the provisions of the order, and the final payment to producers would still be due the day after payments from the PSF are made by the Market Administrator. Accordingly, the witness noted, dates of final payment could move a day or two later, but only if the date of payment from the PSF were extended by the same number of days. This sequence in the relationship of ''date of final payment'' to the ''date of payment from the producer settlement fund'' should be continued, the witness said.

The NYSDF witness testified that the last feature of Proposal 1 modifies the date that partial payments are received by producers to ''on or before the last day of the month'', instead of the current ''26th day of the month''. The witness presented evidence which demonstrated that a longer spread in days between partial and final payment exists now than prior to Federal order reform. The witness testified that making partial payments due ''on or before the last day of the month'' would conform more closely with the dates previously set in the respective pre-reform orders and create better ''spacing'' between required pay dates.

The NYSDF witness was of the opinion that adoption of Proposal 1 also would accommodate ''tolled'' bulk milk purchased by milk distributors for processing and packaging into Class I products at pool distributing plants. The witness described ''tolling'' as a situation where a plant is paid to process raw milk, but the processing plant does not take ownership of the milk or incur a payment obligation to producers. The witness noted that the Northeast order requires that tolled milk be purchased on the basis of the PPD and component prices rather than on the basis of Class I skim value and butterfat prices, therefore, the Market Administrator must ''credit'' the handler who processes cooperative receipts, together with a Market Administrator assessment on the tolled milk. The tolling processor must then prepare a billing to the distributor of the tolled milk at the difference between the Class I cost of the skim and butterfat, and also a cooperative credit from the Market Administrator, including the associated Market Administrator fee, the witness stated. The NYSDF witness noted that doing this requires having detailed component values as well as knowing the final PPD. The billing involved is made after the PPD announcement and the billing by the Market Administrator of the handler's pool obligation, the witness said.

In their post-hearing brief, NYSDF emphasized that Proposal 1 takes the existing payment structure and applies it to the date that the Market Administrator announces the PPD and statistical uniform price. NYSDF asserted that Proposal 1 does not set the payment date to the PSF as the 16th of the month. Rather, they noted, handlers could be making payment earlier than the 16th of the month if the PPD is announced before the 14th day of the month. NYSDF was of the opinion that as a whole, Proposal 1 would allow the Market Administrator to receive more timely and accurate handler reports and permit earlier price announcements and earlier payments to and from the PSF. NYSDF concluded that both dairy farmers and handlers would benefit from more accurate information that would flow naturally from adoption of Proposal 1.

NYSDF's post-hearing brief concluded that adoption of Proposal 1 would still have producers in the Northeast marketing area receiving a partial payment for milk 5 days earlier than was the case prior to Federal order reform.

A witness appearing on behalf of Marcus Dairy (Marcus) testified in support of Proposal 1. Marcus is a distributing plant which receives approximately 60 percent of its milk supply from independent dairy farmers, with the remainder supplied by cooperatives. The witness indicated support for moving the handler reporting date from the 9th to the 10th day of the month, noting that an extra day would help in receiving more accurate information from cooperatives and eliminate the need to estimate data so that reports can be submitted on time. The witness also testified that the proposal should be accompanied by the proposed change to the Market Administrator PPD announcement date from the 13th to the 14th of the month, while providing the flexibility for the Market Administrator to make announcements later in the event that the 14th falls on a holiday or weekend. These modifications would also require a similar change in the date when payment to the PSF is due, the witness noted. In light of this, the Marcus witness expressed support for requiring payments to the PSF be made not more than two days after the PPD announcement and that final payments to dairy farmers be received no later than the day after the required date of payment by the Market Administrator. Marcus also supported moving the date of partial payment from the ''26th of the month'' to ''on or before the 30th of the month.'' The witness was of the opinion that adjusting these payment date provisions would improve the cash flow of dairy farmers.

A witness appearing on behalf of ADCNE testified in opposition to Proposal 1. The witness said that dairy farmers, and those persons who provide services to dairy farmers, are faced with meeting deadlines that are sometimes difficult or inconvenient. The witness expressed the opinion that businesses which rely on information from other businesses do not necessarily have any ability to force those other businesses to change just because they provide needed information. Accordingly, the witness said, ADCNE does not view the current reporting dates as unreasonable or in need of change. Instead, the ADCNE witness suggested that those involved work together to resolve

producer payment issues instead of seeking a regulatory change that would result in delay of payments to dairy farmers. Delaying producer payment dates will unnecessarily impose financial costs to dairy farmers in the Northeast, the ADCNE witness concluded.

In their post-hearing brief, NYSDF responded to ADCNE's views by indicating that no amount of overtime worked by employees of NYSDF can create reports when other entities fail to get needed report information to handlers in a timely manner. NYSDF's brief also noted that many of their members are small businesses subject to Regulatory Flexibility Act analysis and relief as necessary, and that undertaking expensive overtime in order to fill out reports when they do not have all the necessary information needed from various entities negates the intent of the Regulatory Flexibility Act.

The Northeast Market Administrator testified in support of Proposal 4, which seeks to move the date on which payments from the PSF are dispersed to handlers from the 16th day after the end of the month, to no later than the day after handler payments to the PSF are received. The Market Administrator explained that a problem arises when late payments to the PSF result in insufficient funds to make payments out of the PSF when both payments to and from the PSF fall on the same day. When this happens, order provisions provide for a pro-rata reduction in payments to handlers who can, in turn, reduce payments to dairy farmers, the Market Administrator noted. According to the Market Administrator, Proposal 4 would allow one extra day for payments from the PSF, and cause dairy farmers to receive their payments one day later three or four times a year. However, dairy farmers would always be assured of receiving the full amount owed, the Market Administrator added.

A witness representing ADCNE also testified in support of Proposal 4. Under current provisions, the ADCNE witness said, the date for payments to the PSF, the 16th of the month, can sometimes fall on the same day that payments from the PSF are to be made. In their post-hearing brief, ADCNE asserted the adoption of Proposal 4 was necessary for the proper administration of the PSF.

The Northeast Market Administrator also testified in support of Proposal 12. This proposal seeks to make a technical correction to the order provisions relating to payments to producers and cooperative associations and would make the Northeast order's *Payments to producers and to cooperative associations* provision identical to other Federal orders. The Market Administrator explained that the Proposal would simply amend references to ''pool plant operator'' as ''handler.''

Reporting and payment date provisions of the pre-reform New England, New York-New Jersey, and Mid-Atlantic orders served the different needs and marketing conditions of their respective marketing areas. Provisions adopted under Federal order reform established reporting and payment dates that were reflective of the three consolidated orders, while recognizing the need to establish dates that would be conducive to the marketing conditions of the larger consolidated Northeast order. The reporting and payment date requirements adopted for the consolidated Northeast order were intended to reasonably accommodate historical patterns and practices while recognizing that fixed dates also needed to be specified. For example, handler reports to the Market Administrator were due as soon as the 8th of the month, or as late as the 10th of the month. When the three pre-reform orders were consolidated to form the Northeast order, the new handler reporting date was set for the 9th of the month. This was also the case for the date for the Market Administrator's announcement of the PPD and statistical uniform price. In the pre-reform New England and Mid-Atlantic orders the announcement was on the 13th of the month, while in the pre-reform New York/New Jersey order the announcement was on the 14th of the month. Current provisions in the consolidated Northeast order require the announcement by the 13th of the month.

Changing all reporting and payment dates by first delaying the deadline for handler reports to the Market Administrator from the 9th of the month to the 10th of the month is supported by the hearing record and is recommended for adoption. Allowing handlers one additional day to submit their report of milk receipts and utilization to the Market Administrator should reduce the number of late reports and lessen the number of inaccuracies and estimations contained therein.

Changing the handler reporting date deadline by one day should also be accompanied by changing the date the Market Administrator is to announce the PPD and statistical uniform price and adjusting all other payment dates. Also recommended for adoption is the feature of Proposal 1 which specifies that the Market Administrator can make the PPD and statistical uniform price announcement up to two public business days later if the 14th falls on a weekend or national holiday.

The portion of Proposal 1 which would specify handler payments to the PSF be made no later than two days after the PPD and statistical uniform price announcement is also recommended for adoption with a specification of two business days. This portion of Proposal 1 is a change made necessary by the proposed one-day extension in the date for filing handler reports and the computation and announcement of the PPD and statistical uniform price. The recommended adoption of this portion of Proposal 1 also adds a measure of flexibility to the payment date provisions by making the date of handler payments to the PSF dependant on the date the Market Administrator announces the PPD and statistical uniform price. It also will provide the opportunity for handlers to make payments to the PSF earlier than the 16th of the month if the Market Administrator announcement of the PPD comes before the 14th of the month.

Payments to handlers from the PSF also require a conforming change as a result of the recommended changes for announcement of the PPD and statistical uniform price and dates for payment to the PSF. Evidence presented at the hearing demonstrated that sometimes payment to and from the PSF can fall on the same day and can lead to reduced payments to dairy farmers because payments are pro-rated. Amending the date that payments are made from the PSF to handlers from ''the day after the 16th day of the month'', to the day after handler payments to the PSF are received will better assure handlers of receiving their full payment each month from the PSF.

Prompt and complete payments to dairy farmers are dependant on timely and full payments from the PSF to milk handlers. However, final payments to dairy farmers should be made no later than the day after the required payment date from the PSF by the Market Administrator.

On the basis of the rationale presented above, the date partial payments are made to dairy farmers should be amended to ''on or before the last day of the month'', instead of the ''26th of the month'', as currently provided.

2. Pooling Standards

Summaries of testimony regarding the pooling standards of the Northeast order are provided individually. The discussion of all pooling standards and the decision's findings and conclusions regarding pooling standards is presented

immediately after testimony summary for ''c''. below.

a. Performance Standards for Supply Plants

Certain amendments to the *Pool plant* provision of the Northeast order should be adopted. Specifically, the recommendations include: (1) Establishing a supply plant performance standard of 10 percent of total milk receipts for each of the months of January through August and December, and 20 percent of total milk receipts for each of the months of September through November; (2) Removing the ''split plant'' feature; and (3) excluding milk received from producers not eligible to be pooled on the Northeast order from the total volume of milk used to determine the amount of milk that a supply plant needs to deliver to a distributing plant to become pooled. These recommended changes are represented in certain features of Proposals 2, 5, and 8.

Proposal 10, which advocates lowering performance standards, is not recommended for adoption. Furthermore, Proposal 9, which would credit route distribution from the plant and transfers in the form of packaged fluid milk products against the supply plant performance standards, is not recommended for adoption.

Currently, supply plants in the Northeast order need to ship at least 10 percent of their total milk receipts in the months of August and December and 20 percent of their total milk receipts in each of the months of September through November to pool distributing plants in order to qualify the supply plant and all of its milk receipts for pooling. A supply plant which meets the performance standard in each of the months of August through December is automatically considered a pool plant for each of the months of January through July. Supply plants which do not qualify as a pool plant in each of the months of August through December need to ship at least 10 percent of their total milk receipts to distributing plants during each of the months of January through July in order to qualify the supply plant and all of its milk receipts for pooling in each of those months.

The order also currently provides a ''split-plant'' feature to accommodate a supply plant that has both pool and nonpool facilities. This feature was adopted during Federal order reform to provide for more uniform supply plant provisions within the Federal milk order system. It was not a feature contained in any of the three pre-reform orders consolidated to form the Northeast order.

Proposal 2, submitted by NYSDF, seeks to amend the *Pool plant* provision of the order by: (1) Increasing the supply plant performance standards by 5 percentage points, to 15 percent for the months of August and December, and by 5 percentage points to 25 percent for each of the months of September through November; and (2) Removing the split-plant provision. In their post-hearing brief NYSDF slightly modified the months applicable for the proposed increased standards to specify a performance standard of 15 percent in the month of August and 25 percent for each of the months of September through December.

A witness representing NYSDF testified that after implementation of Federal milk order reform, milk supplies pooled on the Northeast order during the fall months have decreased. During these months, the NYSDF witness said, milk was shipped to areas outside of the order and it was difficult for Northeast order fluid milk handlers to acquire an adequate supply of milk to meet the needs of their customers. Although there was not as significant a shortage in the first half of 2002 as there was in 2000 and 2001, the witness predicted that the situation would change substantially beginning in late 2002 and during 2003.

The NYSDF witness characterized milk shortages in the fall months for the Northeast marketing area as a long-term problem which requires long-term action. In this regard, the witness stressed, Proposal 2 is designed to increase the amount of milk available to fluid milk handlers during the fall months. The witness said the proposed increase is similar to provisions previously contained in the pre-reform Middle Atlantic and New England milk orders and is identical to the adjustments made to supply plant performance standards by the Market Administrator in 2000 and 2001 for the months of August through November.

The NYSDF witness testified that supply plant performance standards applicable in the pre-reform orders consolidated to form the current Northeast milk order enabled cooperatives to pool the milk of their members separately from the milk of independent producers and small cooperatives who also supplied fluid milk plants. After implementation of Federal order reform, the witness said, the new pooling provisions have allowed cooperatives to pool not only the milk of their members, but also the milk of other smaller cooperatives and independent producers. The current pooling provisions, the witness emphasized, are being used in a way that allow large cooperatives to guarantee themselves a higher volume of milk pooled as Class I. In their post-hearing brief, NYSDF added that this arrangement has resulted in an increased market share of total Class I sales by larger cooperatives while the total volume of milk available to Class I handlers has remained unchanged.

Data presented by the NYSDF witness showed that cooperatives now account for over 80 percent of all milk pooled on the Northeast order. The witness noted that cooperatives have guaranteed non-members an outlet to pool their milk, and on average, pool in excess of 100 million pounds of non-member milk each month. The witness concluded that because cooperatives pool such a large amount of milk, cooperatives should not have difficulty meeting the proposed five percentage point performance standard increase for supply plants.

The NYSDF witness emphasized that their greatest concern regarding supply plant performance standards is the issue of ''guaranteed'' pooling of non-member milk supplies and the lack of diversion limit standards. The witness was of the opinion that this has enabled milk to be pooled on the order without bearing any responsibility for serving the Class I market or being made available as a reserve supply to the market. The witness was of the opinion that inappropriate pooling has resulted in the erosion of blend prices paid to producers who do regularly supply the Class I needs of the market.

The NYSDF witness further testified that the split-plant feature for supply plants should be removed because the feature does not serve the purpose for which it is intended. The witness maintained that the split-plant provision was created to allow a supply plant to have separate facilities to receive and process Grade B milk. Currently, the witness said, no handlers located in the Northeast order are using the split-plant feature. However, if a supply plant chooses to rely on the feature, it would be able to pool a substantial amount of additional milk simply by diverting milk to the non-pool side of the plant during those months when no performance standards or diversion limits are provided by the order, the witness cautioned.

In conclusion, the NYSDF witness said, it is the Class I market that generates additional revenues which accrue to all producers whose milk is pooled on the Northeast marketing area. Accordingly, the witness maintained, entities that seek to have their milk pooled on the order should bear some responsibility in actually supplying the Class I needs of the market. The witness

said that Proposal 2 is intended to end what NYSDF characterized as ''abusive'' pool-riding methods and to ensure that entities benefitting from revenue generated by Class I sales have demonstrated service in supplying the Class I market.

A witness appearing on behalf of Marcus also testified in support of Proposal 2. According to the witness, Marcus Dairy experienced milk supply shortages during some months since implementation of the consolidated Northeast milk order. The witness stated that adoption of Proposal 2 would help alleviate supply shortfalls for the Class I market during the fall months when the milk is most needed.

A witness representing the ADCNE testified in opposition to that portion of Proposal 2 which would raise the supply plant performance standards for the months of August through December. However, the witness supported the proposal on the need to remove the split-plant feature. The witness was of the opinion that increasing supply plant performance standards was unwarranted and could cause disorderly marketing conditions in the region because some handlers would be forced to depool a portion of the milk of their producers. The witness stressed that the Market Administrator already has the authority to adjust these standards and that this should continue as the way to make future changes as marketing conditions warrant.

Furthermore, the ADCNE witness emphasized, Proposal 2 does not specify some level of performance by supply plants during the ''free-ride'' months of January through July.[1] According to the witness, Proposal 2 also does not limit the ability of producers located far from the Northeast marketing area to be pooled on the order without maintaining a reasonable association to the market, nor does it ensure that Class I distributors will receive additional milk when needed.

In their post-hearing brief, ADCNE stressed that no evidence was presented at the hearing that would warrant a permanent change in performance standards. ADCNE reiterated their opinion that the current authority provided to the Market Administrator to make adjustments to the performance standards was the most appropriate method for the orderly marketing of milk in the Northeast.

Proposal 5, submitted by ADCNE, also seeks to amend the *Pool plant* provision of the order. Specifically the proposal would: (1) Require supply plants to deliver at least 10 percent of their total milk receipts to a distributing plant during each of the months of January through August and December; (2) Grant authority to the Market Administrator to impose additional shipping requirements on handlers receiving marketwide service payments; and (3) Eliminate the split-plant provision.

The ADCNE witness testified that current order provisions have unintentionally provided the opportunity for milk to be pooled and priced under the terms of the Northeast order without demonstrating a reasonable level of service in supplying the Class I needs of the market. Pooling such milk could result in a lower blend price for all producers who do regularly supply the fluid needs of the market, the witness specified. The witness stressed that Proposal 5 is not meant to eliminate the ability to pool the milk of producers located far from the Northeast marketing area. Instead, the witness explained, Proposal 5 would assure that all milk pooled on the Northeast order demonstrates a consistent service to supplying distributing plants and consequently bears some of the burden of incurring the additional costs of supplying the Class I needs of the market. According to the witness, there are two aspects of the *Pool plant* provision of the Northeast marketing order that have enabled what the witness described as ''opportunistic pooling'': the split-plant feature and the current level of supply plant performance standards.

The ADCNE witness explained that supply plants qualified as split-plants can engage in opportunistic pooling by receiving milk on the pool side of the plant and then diverting the milk to the nonpool side of the plant. Under current provisions, during the months of August and December a supply plant could divert nine loads of milk to its nonpool side for every one load of milk it receives on its pool side, the witness explained. In addition, the witness continued, during the months of September through November, the supply plant could divert eight loads of milk for every two loads it receives at the pool side of the plant. According to the witness, once the plant meets the performance standards in each of the months of August through December, the plant is automatically qualified as a pool plant in the months of January through July and can divert an unlimited amount of milk.

Under current supply plant performance standards, the ADCNE witness said, a pool plant located far from the marketing area could potentially pool all of the milk located near it during the spring months by shipping a small amount of its milk supply to a Northeast order pool plant during the fall months. The lack of a monthly touch-base standard, the witness also asserted, has facilitated the pooling of milk located far from the marketing area by allowing producers to qualify all of their milk for pooling by delivering a minimal amount of milk to a Northeast order pool plant. During January through July when no performance standards for supply plants are stipulated, the witness noted, a plant has the ability to pool all the milk of every producer who had delivered to the plant throughout the year. According to the witness, theoretically 100 percent of the pool plant's milk receipts could be pooled on the Northeast order.

The ADCNE witness presented data estimating the impact of pooling distant milk on the Northeast order blend price. The witness estimated that for the period of January 2001 through July 2002, the blend price was reduced by an average of 16 cents per hundredweight. The witness was of the opinion that if Proposal 5 is adopted, most of the lost blend price value would be restored.

The ADCNE witness testified that the free-ride feature is no longer being used for its intended purpose of allowing producers that had been historically pooled on the Northeast Order to remain pooled. Instead, the witness stated, the free-ride feature has created the ability to pool milk on the order that was never intended to be pooled. The witness maintained that supply plants that currently meet the performance standards in September through November would not be disadvantaged with the new year-round monthly performance standards because the proposed standards for the months of January through July are lower than those specified for the fall months.

A witness testifying on behalf of NYSDF testified in opposition to Proposal 5. While NYSDF agreed that the order's lack of performance standards for all months has created opportunities for distant milk to be pooled on the order, a free-ride feature is important for maintaining orderly marketing conditions. The NYSDF witness said that providing for months without performance standards ensures that the market's reserves have the ability to be pooled on the order during months of abundant supply.

At the hearing, NYSDF offered a modification to Proposal 5, proposing that the performance standard during the months of January through July only apply to supply plants located outside

[1] The dairy industry term known as a ''free-ride'' period is often used to describe those time periods when no performance standard is specified.

of the states that comprise the Northeast order. The justification for this modification, the witness said, is that during the spring months when additional milk is not usually needed by distributing plants, it prevents the uneconomic movement of milk by supply plants located within the marketing area. The NYSDF modification would make Proposal 5 similar to amendments recently adopted by the Mideast order, the witness noted.

Proposal 8, submitted by Friendship Dairies (Friendship), a partially regulated handler on the Northeast order, seeks to amend the order's *Pool plant* provision by excluding milk received by supply plants from producers who would not be eligible to be pooled under the Northeast order from the total volume of milk used to determine the amount of milk a supply plant would need to deliver to distributing plants in order to satisfy the supply plant performance standards.

The *Producer* provision of the Northeast order describes those producers who would not be eligible for pooling on the Northeast order. They include: an entity that operates their own farm and plant at their sole enterprise and risk, commonly referred to as a producer handler; a dairy farmer whose milk is received at an exempt plant excluding producer milk diverted to the exempt plant; a dairy farmer designated as a producer under another Federal order; a dairy farmer whose milk is reported as diverted to a plant fully regulated under another Federal order that is assigned to Class I; or a ''dairy farmer for other markets,'' which is a dairy farmer whose milk during certain months of the year is received by a pooling handler and that pooling handler caused the milk from such dairy farmer to be delivered to any plant as other than producer milk or delivered to any other Federal milk order.

A witness appearing for Friendship testified that the current method used in determining if a supply plant has met a performance standard is examining the total amount of milk received at the plant and the amount of those receipts shipped to distributing plants. As a supply plant procures additional milk to offset the milk it transfers or diverts to distributing plants, the additional milk receipts become included in the plant's total milk receipts, the witness said. This increases the quantity of milk that must be transferred or diverted by the supply plant to distributing plants to meet the performance standard for pooling purposes, the witness explained. Basing the supply plant qualification percentage exclusively on the supply plant's producer milk supply, the witness concluded, would reduce the amount of milk that Friendship would have to ship every month to pool distributing plants in order to be pooled under the terms of the order. Friendship testified that they must include milk received from cooperatives that has already been qualified for pooling by the cooperative in the total receipts used to determine the amount of milk they must ship to meet supply plant performance requirements. The Friendship witness noted that adoption of Proposal 8 would address this by excluding pre-qualified cooperative milk from the volume of receipts upon which a supply plant must make shipments in order to be designated as a pool supply plant.

The Friendship witness also noted that excluding milk received from producers not eligible to be pooled on the Northeast order from the performance standards for supply plants has been adopted in the pooling provisions of other Federal orders. The witness clarified that in these other Federal orders where a similar provision is present, the supply plant performance standard is based on the amount of milk produced by dairy farmers that is pooled through association with the supply plant, regardless of whether or not it was diverted from the plant.

A witness appearing for ADCNE expressed opposition to Proposal 8 noting that it would liberalize supply plant performance standards. According to the witness, the intent of supply plant pooling provisions are to qualify both the plant and the operator of the plant. It is meaningless to qualify a supply plant, the witness noted, in which the operator does not control the milk of a group of dairy farmers. A cheese plant operator would never incur the costs to ship milk from the plant to a distributing plant, the witness offered by example, unless the plant intended to pool a group of dairy farmers and draw from the pool.

ADCNE further noted opposition to Proposal 8 in their post-hearing brief by emphasizing that the operator of a supply plant has an option of whether or not to be pooled. According to ADCNE, the operator of a plant can acquire and maintain their own producer milk supply and can pool the plant by meeting the pooling standards of the order, or choose nonpool status and purchase milk supplies from other pool or non-pool handlers.

A proposal, published in the hearing notice as Proposal 9, also submitted by Friendship, seeking to amend the *Pool plant* provision, should not be adopted. The proposal would credit route distribution from the plant and transfers in the form of packaged fluid milk products to distributing plants to the total shipments from a supply plant in determining if the supply plant has met the performance standard of the order. Currently, route distribution is not credited against the total milk receipts in determining if a plant has met the supply plant performance standard.

The Friendship witness stated that Proposal 9 is meant to address only Class I products packaged at the Friendship plant and not Class I products purchased from other plants which they subsequently distribute. To exclude the possibility of a partially regulated distributing plant becoming fully regulated by the adoption of Proposal 9, the Friendship witness modified their proposal at the hearing to only include route distribution and transfers of packaged fluid milk in qualifying supply plants whose milk utilization is at least 50 percent in Class II, Class III or Class IV products.

The Friendship witness testified that their plant has unique characteristics—they produce non-fat dry milk (a Class IV product) and cultured buttermilk (a Class I product). It is the production of buttermilk, the witness noted, that causes their plant to be designated as a partially-regulated distributing plant under the consolidated Northeast order. The witness testified that their plant could not meet the supply plant performance standards if the amount of milk distributed on routes in the form of packaged fluid milk products counted towards pool qualification.

The Friendship witness maintained that the Northeast order's pooling provisions are unfair because, in their view, buttermilk satisfies an established Class I demand, but is still factored into determining if a supply plant has met the order's performance standards by shipping milk to a distributing plant. The Friendship witness asserted that currently the only way to qualify their plant is to fulfill someone else's need for Class I milk without receiving any credit for its own contribution to the Class I market.

The witness stressed that Proposal 9 is not intended to qualify previously partially-regulated distributing plants which are not currently fully regulated on the Northeast order. The witness saw the potential to have a supply plant who also distributes Class I products to meet the supply plant performance standards under a liberal reading of Proposal 9. To address this unintended occurrence, the witness modified Proposal 9 to apply only to supply plants that process at least 50 percent of their total physical milk receipts into products other than Class I. With this modification, the

witness noted, the possibility of distributing plants becoming pooled as supply plants is eliminated.

A witness appearing on behalf of ADCNE testified in opposition to Proposal 9. The witness said that the proposal does not specify that the plant's route distribution be located within the Northeast marketing area and could have the possible unintended consequence of pooling partially regulated distributing plants on the order with route distribution greater than the supply plant performance standard of 10 or 20 percent. Additionally, the ADCNE witness testified that purchases and transfers of Class I products into and out of manufacturing plants could occur which would only serve to circumvent the intent of the Federal order provisions of requiring a supply plant to actually supply the Class I market as a condition for pooling its milk supply. The ADCNE witness was of the opinion that Proposal 9 combines the characteristics of two different pooling provisions for the benefit of a few supply plants that may have Class I sales and only serves to confuse the pooling provisions of the order.

Additionally, ADCNE noted in their post-hearing brief that such a change could allow nonpool manufacturing plants, currently without their own producer supply, a means of ''gaming'' the system by transferring packaged product into and then back out of the plant for the sole purpose of meeting the supply plant performance standard. Such a change would be de-stabilizing to the market, lead to disorderly marketing conditions, and make procurement efforts by Class I processors more difficult and costly, noted ADCNE.

Proposal 10, also submitted by Friendship, proposed to lower the supply plant performance standards by 5 percentage points to a new standard of 5 percent in each of the months of August and December; and by 10 percentage points to a new level of 10 percent in each of the months of September through November. Proposal 10 is not recommended for adoption.

According to the Friendship witness, the objective of the Federal milk marketing order program is the equitable sharing of Class I revenue amongst all producers who supply the marketing area. This objective is defeated, the witness said, when performance standards result in the exclusion of some producers from the orders marketwide pool. According to the witness, producers without access to a Class I outlet have to ''buy'' market access from those producers who dominate the market's Class I milk supply, or move milk not needed for Class I use over long distances for the sole purpose of meeting a performance standard, which only results in the displacement of milk supplying other Class I plants, and in unwarranted additional transportation costs to those producers seeking to pool their milk on the order.

The Friendship witness also testified that the current supply plant performance standard of 10 percent in the months of August and December and 20 percent in each of the months of September through November were chosen in an arbitrary manner to create a ''performance hurdle'' that a plant must leap to participate as a pool supply plant on the Northeast order. Reducing these performance standards by 5 percentage points to 5 percent for each of the months of August and December, and by 10 percentage points to 10 percent in each of the months of September through November would assure sufficient performance in supplying the Class I market without causing unnecessary milk shipments solely to meet the pooling standards of the order, the witness said.

b. Unit Pooling Standards for Distributing Plants

A proposal, published in the supplemental hearing notice as Proposal 14, is recommended for adoption. Specifically, Proposal 14 seeks to amend the *Pool plant* unit pooling feature by specifying that a plant of the pool plant unit which is not a distributing plant process at least 60 percent of its total producer milk receipts (including milk received from cooperative handlers) into Class I or Class II products, and the plant be physically located in the Northeast marketing area. Accordingly, the non-distributing plant of the pooling unit would be permitted to process up to 40 percent of its total producer milk receipts into Class III or IV products. Proposal 14 was offered by NYSDF. A witness representing the H.P. Hood Company (H.P. Hood), a fully regulated milk handler who pools milk on the Northeast order, testified on behalf of NYSDF.

The unit pooling provision of the Northeast order currently allows for two or more plants located in the marketing area and operated by the same handler to qualify for pooling as a ''unit'' by meeting the total and in-area route disposition standard as if they were a single distributing plant. To qualify as a pooling unit, at least one plant of the unit must qualify as a pool distributing plant on its own standing, and the other plant(s) of the unit must process only Class I or II milk products. The pooling unit must also meet the total route distribution standard of 25 percent, and 25 percent of its route distribution must be within the marketing area.

The NYSDF witness testified that adoption of Proposal 14 would allow H.P. Hood and other similarly situated unit-pool handlers greater flexibility in how they pool their milk on the Northeast order. According to the witness, present unit pooling standards unduly restrict milk use at the non-distributing plant(s) of the unit to Class I or II products. The witness indicated that adoption of Proposal 14 would also aid cooperatives and other plants in how they pool milk because a pooling unit would be expanded to include milk balancing operations that produce Class III and Class IV milk products to be the non-distributing plant(s) of the pooling unit. The disparity in current provisions, the NYSDF witness stressed, is that the primary plant of a pooling unit can still produce a limited amount of Class III or IV products, while the non-distributing plant(s) in the unit cannot. According to the NYSDF witness, Proposal 14 adds flexibility to current provisions by allowing the non-distributing plant(s) in the unit to process up to 40 percent of total producer receipts into Class III or IV milk products.

No testimony was received in opposition to the adoption of Proposal 14.

c. Standards for Producer Milk

Several amendments to the *Producer milk* provision of the Northeast order, contained in certain features of both Proposals 3 and 6, should be adopted. Specifically, the following changes to the *Producer milk* provision are recommended for adoption: (1) Establishing an explicit standard that one-day's milk production of a dairy farmer be received at a pool plant before the milk of the dairy farmer is eligible for diversion to non-pool plants; (2) Clarifying that a producer may touch-base anytime during the month; (3) Eliminating the ability to simultaneously pool the same milk on the Northeast order and on a marketwide equalization pool operated by another government entity; (4) Establishing an explicit diversion limit standard for producer milk of 90 percent in each of the months of January through August and December, and of 80 percent in each of the months of September through November (Milk in excess of the diversion limits will not be considered as producer milk and the pool plant must designate to the Market Administrator which deliveries are to be

de-pooled. Furthermore, milk diverted in excess of the diversion limit standards will not result in a loss of producer status under the order); and (5) Granting authority to the Market Administrator to adjust the touch-base standard and the diversion limit standard as market conditions warrant.

The current *Producer milk* provision of the Northeast order considers milk of a dairy farmer to be producer milk when the dairy farmer has delivered milk to a pool plant. This event is commonly referred to as ''touching-base.'' Once an initial delivery is made, all the milk of a producer is eligible to be diverted to nonpool plants and continues to be priced under the terms of the order. While there are no specific year-round diversion limits for distributing plants, a diversion limit for supply plants is functionally set at 100 percent minus the applicable performance standard specified for supply plants. Therefore, in the months of August and December, a supply plant can divert no more than 90 percent of its total milk receipts to nonpool plants. During each of the months of September through November, a supply plant can currently divert no more than 80 percent of its total milk receipts to nonpool plants. During each of the months of January through July, no diversion limits for supply plants are specified. Additionally, the Northeast order currently does not limit the ability to simultaneously pool the same milk of a producer on the order and on a marketwide equalization pool operated by another government entity.

Proposal 3, offered by NYSDF, seeks to modify the *Producer milk* provision of the order by: (1) Establishing a two-day touch-base standard in each of the months of August through December; (2) Setting an explicit limit on the amount of producer milk that can be diverted from any type of pool plant to nonpool plants at 60 percent of total receipts in each of the months of August through December, and 75 percent in each of the months of January through July; (3) Clarifying that any milk diverted in excess of the diversion limits will not be considered producer milk; and (4) Providing authority to the Market Administrator to adjust diversion limit standards.

A witness appearing on behalf of NYSDF was of the opinion that current pooling provisions of the Northeast order are inadequate and have resulted in milk being pooled on the order that does not demonstrate regular and consistent performance in supplying the Class I needs of the market. The witness explained that after a pool plant receives the milk of a producer, the plant can then divert unlimited quantities of that producer's milk. The diverted milk need never again be physically received at a pool plant and need not ever be made available for satisfying the market's Class I needs, the witness said, yet such milk would continue to be pooled and receive the blend price of the Northeast order. Consequently, the witness stated, Northeast order producers are receiving an otherwise lower blend price because of the increased quantity of milk being pooled at lower valued uses. The witness characterized pooling milk in this way as ''artificial pooling.''

NYSDF offered a modification to Proposal 3 in their post-hearing brief. The NYSDF modification proposed that diversion limit standards for supply plants should be 100 percent minus the proposed supply plant performance standards. Therefore, NYSDF wrote, the diversion limit in August would be 85 percent, 75 percent in each of the months of September through November, and 90 percent in the month of December.

The NYSDF witness testified that milk in excess of the proposed diversion limit standards should not be pooled because the order would be pooling the excess reserves of another market to the detriment of those pooled producers whose milk regularly and consistently serves the Northeast Class I market. According to the witness, during some months when milk production is plentiful, total pool milk receipts from as many as 800 producers located far from the marketing area have exceeded 100 million pounds. The NYSDF witness was of the opinion that the milk of these producers was not only unneeded to supply the Northeast order fluid needs but a vast majority of the distant milk was never physically received on a regular or consistent basis at a Northeast pool plant.

The NYSDF witness testified that milk diverted in excess of the specified diversion limits should not be considered as producer milk, and therefore, should not be pooled on the order. The witness also emphasized that the Market Administrator should be given the authority to adjust diversion limits and the touch-base standard as market conditions warrant.

The NYSDF witness is of the opinion that the two-day touch-base standard offered in Proposal 3 is reasonable and would eliminate the ability to artificially pool milk on the order by requiring a producer to deliver at least two-days' milk production to a pool plant in each of the pool-qualifying months before the milk of that producer would be eligible for diversion to nonpool plants. The higher touch-base standard in the months of August through December would also more fully assure fluid handlers an adequate supply of milk to meet the needs of their customers when milk supplies are less abundant, the witness added.

A witness appearing on behalf of ADCNE testified in opposition to Proposal 3. The witness said that implementation of a two-day touch-base standard would result in disorderly market conditions because the cost to producers in meeting this pooling standard could increase significantly. The witness presented testimony describing the vast geographic area and other characteristics of the Northeast order that would give rise to increased costs to producers. The witness explained that because most Northeast order producers are not located near a Class I handler, a higher touch-base standard would result in the uneconomic movement of milk and in higher overall transportation costs. The witness also suggested that higher transportation costs could prevent some producers from being able to pool their milk on the order.

The ADCNE witness also expressed opposition to the portion of Proposal 3 that would lower diversion limit standards. The witness did agree that the current lack of specific diversion limits could cause harm in the orderly marketing of milk. In ADCNE's opinion, the proposed diversion limits for the months of August through December are too restrictive and could result in disorderly marketing conditions. Rather, ADCNE was of the opinion that establishing performance standards for supply plants in each of the months of January through July was a more appropriate alternative than making restrictive changes to the order's diversion limit standards.

Proposal 6, offered by ADCNE, also seeks to amend the *Producer milk* definition of the Northeast order. Specifically, the proposal seeks to: (1) Establish year-round diversion limit standards of 80 percent in each of the months of September through November, and 90 percent in each of the months of January through August and December; (2) Clarify that a producer can touch-base anytime during the month to make their milk eligible for diversion to nonpool plants; (3) Clarify that over-diverted milk will not result in a dairy farmer losing producer status on the order; (4) Eliminate the ability to simultaneously pool the same milk on the Northeast order and on a marketwide equalization pool operated by another government entity; and (5) Provide authority to the Market

Administrator to adjust diversion limit standards applicable to those handlers who receive marketwide service payments when warranted.

A witness appearing on behalf of ADCNE testified that the pooling provisions of the Northeast order need to be considered on an emergency basis to correct loopholes that could lead to further erosion of blend prices and disorderly market conditions. The witness also testified that the lack of specific year-round diversion limit standards for distributing plants needs to be corrected because the absence of such standards currently allows distributing plants the ability to pool large quantities of milk during the spring months when milk supplies are plentiful through the diversion process. According to the witness, the only functional restrictions on diversions from a distributing plant during those months are economic considerations and the amount of milk that a distributing plant can physically receive. Theoretically, the witness explained, a single distributing plant could pool all of the milk in the Northeast Order because no diversion limit is specified. The witness stressed that if diversion limit standards are not established for every month, an increase in the amount of milk pooled on the order could result in significantly lower blend prices paid to producers.

The ADCNE witness also explained that a producer should not lose producer status under the dairy farmer for other markets provision of the Northeast order in the event that a handler over-diverts the milk of a producer. In this regard, the witness explained that Proposal 6 would allow for pooling the milk of producers in the following month in the event that milk of a dairy farmer is over-diverted in the current month.

The ADCNE witness also testified that while no entities are currently engaging in the practice of simultaneously pooling the same milk on the Northeast order and on a marketwide equalization pool operated by another government entity (commonly referred to as ''double-dipping''), the opportunity for it exists, especially with the Western New York State Milk Marketing Order that shares a common milkshed with the Northeast order marketing area. The ADCNE witness stipulated that eliminating the ability to double-dip would have no effect on milk priced by State-operated programs that provide for marketwide pooling of milk pricing premiums such as the Pennsylvania Milk Marketing Board, the Maine Milk Commission, or the Virginia Milk Commission.

The pooling standards of all milk marketing orders, including the Northeast order, are intended to ensure that an adequate supply of milk is supplied to meet the Class I needs of the market and to provide the criteria for identifying those who are reasonably associated with the market as a condition for receiving the order's blend price. The pooling standards of the Northeast order are represented in the *Pool Plant*, *Producer*, and the *Producer milk* provisions of the order. Taken as a whole, these provisions are intended to ensure that an adequate supply of milk is supplied to meet the Class I needs of the market. In addition, these provisions provide the criteria for identifying those producers and plants whose milk is reasonably associated with the market by supplying the Class I needs and thereby sharing in the marketwide distribution of proceeds arising primarily from Class I sales. Pooling standards of the Northeast order are based on performance, specifying standards that, if met, qualify a producer, the milk of a producer, or a plant to share in the benefits arising from the classified pricing of milk.

Pooling standards that are performance-based provide the only viable method for determining those eligible to share in the marketwide pool. This is because it is the additional revenue from the Class I use of milk that adds additional income, and it is reasonable to expect that only those producers who consistently bear the costs of supplying the market's fluid needs should be the ones to share in the distribution of pool proceeds. Pool plant standards therefore are needed to identify the milk of those producers who are providing service in meeting the Class I needs of the market. This is important because producers whose milk is pooled receive the market's blend price. If the pooling provisions do not reasonably accomplish these aims, the proceeds that accrue to the marketwide pool from fluid milk sales are not properly shared with the appropriate producers and can result in an unwarranted lowering of returns to those producers who actually incur the costs of supplying the fluid needs of the market.

Similarly, pooling standards for distributing and supply plants should also provide for those features and accommodations that reflect the needs of proprietary handlers and cooperatives in providing the market with fluid milk and dairy products. When a pooling feature can result in pooling milk which would not reasonably demonstrate serving the fluid needs of the market, it is appropriate to re-examine the need for continuing to provide that feature as a necessary component of the pooling standards of the order. The pooling standards of an order serve to ensure an adequate supply of fluid milk for the market and the proper identification of those producers whose milk does serve the fluid needs of the market, a feature which can diminish these aims should be considered as unnecessary.

The record provides sufficient evidence to conclude that features of the *Pool plant* provision are not appropriate given the prevailing marketing conditions of the Northeast order. The hearing record reveals that the lack of supply plant performance standards in every month and the lack of explicit diversion limit standards for all pool plants in every month of the year has allowed producers from areas located far from the marketing area to participate in the distribution of proceeds from the marketwide pooling of milk without demonstration of a reasonable level of consistent and regular service in meeting the Class I needs of the market. Current performance standards have allowed these producers to receive the Northeast order's blend price by simply making a one-time delivery of milk to a pool plant and thereafter, divert unlimited quantities of milk to nonpool plants located nearer their farms and far from the marketing area. Such milk pooled by diversion cannot reasonably be considered a reserve supply for the marketing order area because it is never again physically received by pool plants regulated by the Northeast order. Furthermore, such milk pooled by way of diversion is not consistently demonstrating performance to serving the market's Class I needs. The pooling of milk through the diversion process evidenced by the record increases the total amount of milk pooled on the order and lowers the blend prices paid to all producers, especially to those producers who consistently deliver milk to the order's pool plants.

The record provides evidence to conclude that performance standards for supply plants should be specified for every month. The performance standards proposed by the ADCNE are reasonable in light of the prevailing marketing conditions reflected in the Northeast marketing area. The concerns of NYSDF, who represented the interests of the many distributing plants regulated under the terms of the order, make clear that since the Northeast milk marketing area was created and implemented as part of Federal milk order reform in January 2000, the need arose at least twice for the Market Administrator to raise the performance

standards for supply plants. This was done so that distributing plant bottlers would be assured of sufficient milk supplies to meet fluid demands.

In this regard, this decision can only conclude that authority provided to the Market Administrator to make the needed adjustments to the performance standards as marketing conditions warrant function well and as intended. The temporary increase in supply plant performance standards brought forth the milk supply needed to satisfy the needs of distributing plants. Accordingly, this decision sees no compelling reason to adopt the higher supply plant performance standards offered by NYSDF. To the extent that the needs of distributing plants have necessitated the need to increase the availability of supply to meet fluid needs, the order provisions have done so. It is reasonable to conclude, therefore, that the order will continue to react as needed to changing marketing conditions into the future.

Handlers and producers are better served by eliminating the ability of a supply plant to automatically be a pool plant if the supply plant had been a pool plant in some prior period as the order currently provides. The granting of automatic pool plant status to a plant does not provide the certainty needed by distributing plants for the order to assure them an adequate supply of milk for Class I uses. Together with other pooling standard inadequacies, it provides an avenue through which more milk can be pooled on the Northeast order than can be considered as part of the legitimate milk supply of the pool plant where automatic pool plant status has been granted. The opportunity to pool milk in this way only serves to increase the volume of milk pooled (at lowered valued uses) without that milk either being committed to, or demonstrating, serving the Class I needs of the market as a condition for receiving the order's blend price. Therefore, the supply plant performance standards should be amended to specify performance to the market in every month of the year. The performance standards of 10 percent in each of the months of January through August and December, and 20 percent in each of the months of September through November should be adopted.

The pool plant feature contained in the Northeast order for split-plants should be removed. No similar provision was contained in the three pre-reform orders consolidated to form the Northeast order. The split-plant provision was included in the consolidated Northeast order in an effort to provide for the uniformity of provisions throughout the reformed Federal milk order system. The provision was established with the intent to allow handlers the ability to process Grade A milk in the pool side of the plant and process Grade B milk in the nonpool side of the plant.

It is clear from the record that handlers in the Northeast marketing area are not utilizing this feature of the pool plant provision and no milk is being pooled on the order in this manner. However, if utilized, the feature can be used as a mechanism for pooling milk on the order that would not need to demonstrate a consistent service to the Class I market. This feature could be used as a loophole through which deliveries of milk to the pool side of a split-plant can then be diverted to the nonpool side of the plant. The diverted milk would never then need to serve the market's Class I needs. The split-plant feature can unintentionally provide the opportunity for milk to become pooled on the Northeast order without that milk demonstrating a reasonable level of service in meeting the market's fluid needs but would share in the revenue generated from Class I sales.

The removal of the split-plant feature is broadly supported by the hearing participants. Since the split-plant feature is not currently utilized by any Northeast handler, no producers currently serving the Northeast market would be adversely affected by its removal from the terms of the order.

The hearing record supports the adoption of certain features of Proposal 8 offered by Friendship. In simple terms the proposal calls for excluding milk received by a supply plant from two sources—milk received from sources not eligible for pooling (for example, milk received from a producer handler or from a dairy farmer for other markets) and from a cooperative association—from the total volume of milk receipts at the supply plant. By excluding such milk receipts from the total actual receipts, the proposal essentially lowers the intended performance standards for supply plants.

As discussed above, the record reveals concern by distributing plants that the pooling standards of the Northeast order need to specify higher performance standards for supply plants and the need for explicit diversion limits and touch-base standards for producer milk. While the higher performance standards called for in the NYSDF proposal are not recommended for adoption, the adoption of certain features of Proposal 8 would essentially reduce the amount of milk that supply plants ship to distributing plants so that the Class I needs of the market can be satisfied. The current performance standards for supply plants are sufficiently liberal, especially in light of the more than 40 percent Class I use of milk in the Northeast marketing area.

The part of Proposal 8 that excludes milk received from producers not eligible for pooling is recommended for adoption since that milk is not eligible to be pooled on the Northeast order. It is reasonable to exclude such receipts for the purposes of determining if the supply plant has met the intended performance standards because milk not eligible for pooling should not be used as a factor for qualification.

The portion of Proposal 8 that is not recommended for adoption specifically excludes supply plant milk receipts from cooperatives as a factor for qualification. This feature should not be adopted because it is viewed as having more to do with a supply plant's ability to draw money from the PSF than it does with demonstrating a reasonable standard of performance in supplying the Class I needs of the market as a condition for participation in the marketwide pool.

As discussed above, the hearing record supports concluding that the Northeast order is not adequately identifying the milk of those producers that are actually supplying the Class I needs of the market on a regular and consistent basis. In this regard, it is clear that certain changes to the *Producer milk* provision of the order should be recommended for adoption.

The current touch-base standard of the Northeast order does not provide detail sufficient to specify the quantity of milk a producer must deliver to pool plants. Currently the order only indicates that if a producer delivers milk to a Northeast order pool plant, the milk of that producer becomes eligible for diversion to nonpool plants. Generally, milk marketing orders that exhibit lower fluid demands require fewer physical deliveries to a pool plant, while markets with higher fluid demands typically specify more frequent deliveries. A touch-base standard that is too high can result in higher transportation costs to producers and cause uneconomic shipments of milk for the sole purpose of meeting a pooling standard. If the standard is too low, fluid handlers may be less assured of an adequate supply of fluid milk to meet the demands of the Class I market.

The hearing record supports concluding that the touch-base standard of the *Producer milk* provision, together with generally inadequate diversion limit standards for all pool plants, contributes to the pooling of milk on the order which does not demonstrate a

reasonable level of service in supplying the Class I needs of the market. There are competing proposals and views on how the order should rely on both the touch-base standard and diversion limit standards so that, together with the performance standards, the Class I needs of the market are satisfied and the order has appropriately identified the milk of those producers whose milk actually demonstrates service in meeting the Class I needs of the market.

The ADCNE proposals place much more weight on the need for explicit diversion limit standards in each and every month that are applicable to both supply and distributing plants than on a two-day touch-base standard proposed by NYSDF. The ADCNE and NYSDF both acknowledge the need for explicit diversion limit standards for all pool plants, although their respective positions of what those standards should be differ only as to what are the most appropriate levels for the Northeast order.

This decision recommends adopting a one-day touch-base standard in the initial pool qualifying month. A touch-base standard that would require more frequent deliveries is not warranted because it would result in higher transportation costs to producers and cause uneconomic shipments of milk for the sole purpose of meeting a pooling standard. A one-day touch-base standard, together with other recommended changes contained in this decision, should adequately contribute in identifying the milk of those producers who regularly supply the market's Class I needs and therefore can be pooled under the terms of the order. The position of the ADCNE that the milk of a producer could touch-base anytime during the initial qualifying month is reasonable and should be adopted for the purpose of clarifying when meeting this standard should occur.

Granting authority to the Market Administrator to adjust the touch-base standard should also be adopted as a key component of the recommended one-day touch base standard. While this feature of the touch-base standard was not included in those proposals amending the *Producer milk* provision of the Northeast order, the record is specific that this was intended. It is also consistent with the authority already granted to the Market Administrator to adjust the performance standards of the order for supply plants.

Providing for the diversion of milk is a desirable and needed feature of an order because it facilitates the orderly and efficient disposition of milk not needed for fluid use. When producer milk is not needed for Class I use, some provision should be made for milk to be diverted to nonpool plants for use in manufactured products. However, it is essential that limits be established to safeguard against excessive milk supplies becoming associated with the market through the diversion process.

In the context of this proceeding, milk diverted by distributing and supply plants is milk not physically received at the plants. While diverted milk is not physically received, it is nevertheless an integral part of the milk supply of the diverting plant. If such milk is not part of the integral supply of the diverting plant, then that milk should not be associated with the diverting plant and should not be pooled. Associating more milk than is actually part of the legitimate reserve supply of the diverting plant can unnecessarily reduce the blend price paid to dairy farmers who service the market's Class I needs.

Without reasonable diversion limits, the order's ability to provide for effective performance standards and orderly marketing is weakened. Diversion limits that are set too high can open the door for pooling much more milk on the market then can be reasonably associated with the reserve supply for the market. The record reveals that unlimited diversion limits for distributing plants in the Northeast order could have contributed to the pooling of large volumes of milk that have not demonstrated performance to the Class I market. The same is also revealed in the record by the lack of explicit diversion limit standards for supply plants in every month.

This decision recommends adopting diversion limit standards for all pool plants as proposed by ADCNE. Specifically, a diversion limit standard of 90 percent in each of the months of January through August and December, and 80 percent in each of the months of September through November should be adopted. Milk diverted in excess of the standards should not be considered producer milk and the pool plant must designate to the Market Administrator which deliveries will be depooled. If the pool plant fails to make a designation, the Market Administrator can depool all of that month's diversions to nonpool plants. As also proposed by ADCNE, this decision can find no reason to cause the loss of producer status under the order in the event a producer's milk is caused to be over diverted. Accordingly, the proviso that a producer will not lose producer status under the order in the event that the milk of a producer is over diverted should be adopted.

To the extent that these diversion limits may warrant future adjustments, this decision recommends granting explicit authority to the Market Administrator to adjust the diversion limit standards when needed. In practice, such authority has already been given to the Market Administrator in that current supply plant diversion limits are functionally set at 100 percent minus the applicable performance standard. In past actions undertaken by the Market Administrator to change supply plant performance standards, the applicable diversion limit was also functionally changed as higher performance standards adopted temporarily also changed supply plant diversion limits. Therefore, providing authority to change the order's diversion limit standards in the way presented in this decision merely serves to clarify an authority already granted to the Market Administrator.

Since the 1960's, the Federal milk order program has recognized the harm and disorder that results to both producers and handlers when the same milk of a producer is simultaneously pooled on more than one Federal order, commonly referred to as ''double-dipping''. In the past, this situation caused disparate prices between producers while handlers were not assured of uniform prices, which gave rise to competitive equity issues.

The need to prevent ''double-dipping'' became critically important as distribution areas expanded and orders merged. The issue of ''double-dipping'' on a marketwide equalization pool operated by another government entity and a Federal order can, for all intents and purposes, have the same undesirable outcomes that Federal orders once experienced and subsequently corrected. While ''double-dipping'' is not presently occurring in the Northeast order, it is clear that the Northeast order should be amended to prevent the ability to pool the same milk on both a Federal order and a marketwide equalization pool operated by another government entity. This action is consistent with other recent Federal order amendatory actions regarding simultaneous pooling on a Federal order and on another government operated program.

The hearing record does not support the adoption of Proposal 9, which seeks to exclude a supply plant's route distribution of packaged fluid milk products from the total volume of milk that it would need to deliver to a distributing plant for the purpose of meeting the order's performance standards. As implied in the name, a supply plant is a supplier of bulk milk

to distributing plants. Supply plant performance standards are intended, in part, to ensure that distributing plants are supplied with enough fluid milk to meet their needs. A plant's route sales in the marketing area are used to determine the pool status of fully or partially regulated distributing plants, not of supply plants.

The hearing record also supports the adoption of Proposal 14 because it serves to provide milk processors in the Northeast with the more orderly marketing of unit-pooled milk without compromising the order's intent to ensure that the Class I needs of the marketing area are satisfied. Unit pooling serves to provide a degree of regulatory flexibility for handlers by recognizing specialization of plant operations and to minimize the uneconomical and inefficient movement of milk for the sole purpose of retaining pool status.

If a plant has combined Class I and II receipts of 60 percent or more, including milk received from cooperative handlers and milk diverted from the plant, and is physically located in the Northeast marketing area, it is reasonable to conclude that the unit's plant does contribute in making milk available on a regular and consistent basis for meeting the fluid needs of the order. Therefore, its adoption is recommended provided all other standards and conditions for unit pooling are met. This should provide for greater flexibility in the types of products a pooling unit may produce such as Class III or Class IV dairy products, in a unit pooled plant. Additionally, providing for the secondary unit-pooled facility to be located within the Northeast marketing area, as well as being primarily involved in producing Class I or Class II milk products, retains safeguards that would prevent the pooling of milk that may be located far from the marketing area which would not demonstrate the standards of performance in servicing the Class I needs of the market.

A proposal published in the hearing notice as Proposal 11, seeking to amend the dairy farmer for other markets feature of the *Producer* provision, was withdrawn at the hearing by the proponent. No further reference to this proposal will be made.

3. Marketwide Service Payments

A proposal, published in the hearing notice as Proposal 7, seeking to establish a 6-cent per hundredweight (cwt) marketwide service payment in the form of a market ''balancing'' credit to handlers should not be adopted. As proposed, a balancing credit would be provided if the handler pools at least a million pounds of milk per month, provided less than 65 percent of such pooled milk is shipped to distributing plants for Class I use or represents at least three percent of the total volume of milk pooled on the Northeast order.

In the context of this proceeding, ''balancing'' refers to those actions performed by handlers that add or remove milk from their supply to accommodate the fluctuating needs of Class I. The Northeast order does not currently contain a marketwide service payment provision.

Proposal 7 was offered by ADCNE and has received additional support or endorsement in writing from the National Milk Producers Federation (NMPF) and the New York State Farm Bureau Federation.

A form of a marketwide service payment was available to certain cooperative handlers in the pre-reform New York-New Jersey milk marketing order. That order was combined with the Middle Atlantic and New England orders to form the consolidated Northeast order. The service payment of the New York-New Jersey order consisted of two components: a cooperative service payment and a balancing payment. The balancing component was far smaller than the proposed six cents per cwt credit under consideration in this proceeding. The cooperative service payment could total up to three cents per cwt. An additional ''up to'' one cent was provided for balancing. By comparison, the marketwide service payment proposal considered in this proceeding is dedicated entirely to compensating eligible handlers for balancing functions.

The ADCNE's rationale for balancing payments rests on the argument that the Northeast order has a large number of independent milk producers (dairy farmers who are not members of a cooperative) who avoid incurring the costs of operating and maintaining facilities that provide outlets for milk when not needed for fluid use. In this regard, they assert that the independent producers essentially receive a higher blend price for their milk because they avoid the costs of balancing which are largely absorbed by dairy farmer cooperatives that own manufacturing plants. As a matter of equity, ADCNE is of the opinion that the entire market, rather than only cooperatives, should share in bearing the costs that arise from providing these market balancing operations and facilities.

In post hearing briefs, support for Proposal 7 was completely withdrawn by Agrimark, a major participant and member of ADCNE who provided testimony at the hearing in favor of adopting a marketwide service payment for balancing. In addition, LOL, also a member of ADCNE, indicated their change to a neutral and uncommitted position for the adoption of a balancing credit.

Testimony advancing the adoption of Proposal 7 was provided by representatives of three members of ADCNE. The majority of their testimony relied on research conducted by USDA's Rural Cooperative Business Service (RCBS) which examined market balancing activities in the Northeast milk marketing area. The research was performed at the request of ADCNE.

An RCBS witness, who participated in conducting the market balancing research, provided testimony concerning the study's methodology, underlying assumptions, and findings. The witness emphasized that the research performed and testimony given was offered as a service to the industry and interested parties and is not in support of, or opposition to, any proposal under consideration in the proceeding.

The RCBS witness testified that the study provides a framework that can be used to estimate the costs associated with balancing the Class I needs of the Northeast marketing area by examining the costs associated with unused milk manufacturing capacity at butter-powder plants located within the marketing area. According to the witness, unused milk manufacturing capacity results from increases or decreases in the demand for fluid milk by Class I handlers given the available milk supply associated with the marketing area. The witness explained that the study also estimates changes in costs associated with different hypothetical levels of idled butter-powder plant capacity when subjected to seasonal variations in milk supplies that cause fluctuations in the amount of milk manufactured at butter-powder plants. The witness indicated that the plant capacity data originated from cooperatives that operated butter-powder plants in the pre-reform orders consolidated to form the Northeast marketing area.

The RCBS witness explained that the study results are theoretical and do not represent actual or existing conditions in the Northeast marketing area. According to the witness, the balancing study employed a comparative static methodology. For the purposes of the study, the witness explained, the research defined the necessary reserve milk supply requirements of the market as the amount of milk required to meet

daily operating fluctuations among distributing plants (operating reserves) and seasonal fluctuations (seasonal reserves). According to the witness, during periods of abundant milk supply in the Northeast marketing area, such reserve milk is used for Class IV manufacturing purposes, specifically for the manufacture of nonfat dry milk (NFDM).

According to the RCBS witness, the study suggests that seasonal variations in the demand for fluid milk cause variations in the supply of milk that would otherwise be used in manufacturing. As a result, milk available for the manufacturing of NFDM fluctuates inversely with the milk supplies needed to meet fluid milk demand, the witness noted. The witness said that as demand for milk for fluid use increases, supplies of milk for manufacturing tend to decline. According to the witness, changes in Class I (fluid) demand change the amount of unused butter-powder plant capacity and that such unused capacity has associated costs.

The RCBS witness explained that the balancing study was conducted using two different scenarios. The witness said the first scenario assumes an operating reserve of milk needed to balance the regions' needs at 10 percent of total fluid demand. The second scenario assumes, according to the witness, an operating reserve of 20 percent. The witness testified that operating costs were compared under these two differing scenarios while other factors were held constant. The witness noted that while the study focuses on estimating costs and changes in estimated costs, the study did not address methods by which to recover or offset costs typically associated with balancing services and operations. The witness indicated that cost recovery methods might include some form of marketwide service payments formalized under the term of a milk marketing order, ''give-up'' charges (a charge by a supplier for making milk available, for example, to a distributing plant), balancing or diversion fees (a charge for accepting milk at a balancing facility when not needed by a Class I bottler), ''over-order'' premiums (a price charged for milk above those minimum prices set under the terms of a milk marketing order), or by pricing formulae included in the classified prices established under a milk marketing order.

A witness for Dairylea, a farmer-owned agricultural marketing and service organization, testified in support of Proposal 7. The witness described the Northeast marketing area as a milk ''megamarket'' characterized by high population and milk production density that requires marketwide service payments for balancing the market's fluid needs. The witness asserted that the Class I needs of the Northeast market are so large and unique among Federal milk orders that without compensation for the costs incurred for balancing, such activities might not otherwise be provided. The witness asserted that there is no other viable market mechanism through which excess milk supplies can be adequately disposed of other than through the butter-powder balancing facilities of the region's six largest cooperative handlers. The witness did note, however, that all manufacturing handlers operating in the Northeast marketing area also perform balancing functions by simply procuring milk from the area's producers.

The Dairylea witness characterized the Northeast as a unique milk-producing region because nearly 25 percent of farmers supplying the market are independent producers and not members of cooperatives. The witness characterized the Northeast's independent producers as largely serving the needs of Class I handlers and as generally not involved in providing balancing facilities and services for the market. Additionally, the witness testified that the marketing area contains nearly 40 percent of all dairy farmer cooperatives in the United States. In comparing outlets for milk, the witness testified that the Northeast marketing area is represented by 32 proprietary handlers and 259 milk plants.

The witness for Dairylea was of the opinion that the unique characteristics and size of the marketing area together with the sheer volume of milk required to supply the fluid needs of the marketing area make it imperative that marketwide service payments be provided to compensate the largest cooperative handlers for the costs that they incur for balancing the market. According to the witness, without cooperatives performing this service, some milk production in the marketing area would not clear the market. The witness did note that some milk produced within the boundaries of the Northeast marketing area is not pooled on the order because it is delivered south to other marketing areas where it receives a higher blend price. The witness similarly acknowledged that milk produced west of the marketing area is delivered to the Northeast marketing area butter-powder plants because being pooled on the Northeast order often commands a higher blend price.

The Dairylea witness also acknowledged that other plants located within the Northeast marketing area (some 184 nonpool plants, many of which are proprietary) also perform significant balancing functions. While the witness was of the opinion that no single nonpool plant could individually provide significant market balancing services, taken as a whole, these plants do provide and perform balancing functions.

The Dairylea witness testified that the members of ADCNE had advanced a conceptually similar marketwide service payment proposal for balancing during the Federal milk order reform effort. The witness testified that Federal order reform provided public debate and analysis on the need for a marketwide service payment for balancing. The witness explained that USDA rejected that marketwide service payment proposal in the reform's recommended decision of 1998 and in its final decision in 1999 because the proposed balancing credit level sought had not been adequately explained.

A second ADCNE witness, representing Agrimark, testified that the Food Security Act of 1985 (commonly referred to as the 1985 Farm Bill) provided authority for Federal milk marketing orders to allow handlers to collect for services rendered that are of benefit to all the market's participants. The witness asserted that the disposal of surplus milk (milk not needed for fluid use) and the procurement of supplemental milk supplies for fluid handlers are specifically identified in the provisions of the 1985 Farm Bill as being of marketwide benefit. The Agrimark witness also asserted that payments for reimbursing handlers who provide services of marketwide benefit may be made from the total sums payable by all handlers for milk—the costs are paid from the total value of milk pooled before the computation of the blend price.

In the opinion of the Agrimark witness, such payments would be made on a uniform basis by all pool participants and thereby all would equitably share in the cost associated with balancing. According to the witness, because independent producers do not operate balancing facilities or perform balancing functions, they have avoided the burden of incurring balancing costs while receiving the benefit of the blend price.

Testimony of the Agrimark witness reinforced the opinion of the Dairylea witness that cooperatives perform the bulk of market balancing functions in the Northeast marketing area throughout the year. As an example, the witness

cited data originating from the Market Administrator's office illustrating that during 2001, cooperative-supplied milk satisfied market shortfalls during those months when milk production was at its lowest in the region. In addition, the witness noted that cooperatives accommodated surplus milk diversions from the Class I market when milk production in the area was higher. The witness stressed that the volume of deliveries to Class I bottlers by cooperatives varied inversely with the delivery volumes by independent milk producers.

According to the Agrimark witness, during November 2001, receipts by the Class I handlers from cooperative suppliers were more than double the level of receipts from independent producers. In contrast, the witness testified that receipts by Class I handlers from cooperative suppliers reached their low point during July 2001, a period of the year when overall milk production in the Northeast was highest. According to the witness, milk deliveries by cooperatives during November to the Class I market were 29 percent above those for July. This data clearly shows, the witness asserted, that milk supplied by cooperatives provided a larger share of market balancing than did independent producer milk.

Relying on data supplied by the Market Administrator, the Agrimark witness testified there are approximately 4,000 independent producers who pool their milk on the Northeast order. The witness indicated that these producers account for approximately 6 billion pounds of milk per year pooled on the order. Of this milk volume, the witness asserted, some 80 percent is supplied for fluid uses in a market whose total Class I use is only 45 percent of the total volume of milk pooled. The witness testified that while independent producer milk is not refused by distributing plants from their producers during slack demand months of the year, cooperative-producer milk is sometimes diverted from Class I use by distributing plants for use in manufacturing. According to the witness, this further demonstrates that it is cooperatives who own manufacturing plants that provide the majority of balancing services for the market.

The witness was of the opinion that cooperative producers are receiving a lower price because cooperatives have absorbed the costs associated with market balancing and as such, balancing costs are not equitably shared among all the market's producers. In addition, the witness expressed the opinion that milk supplied by cooperatives is more likely to be the milk that is diverted away from Class I use than is milk supplied by independent producers. Diversions tend to be made, according to the witness, to cooperatives that operate butter-powder plants. The witness testified that all costs and risks of operating such balancing plants accrue only to the cooperatives, while such costs and risks are essentially avoided by independent producers.

The Agrimark witness testified that excess manufacturing plant capacity occurring during high fluid demand months causes losses for large cooperative handlers that operate balancing plants. According to the witness, Agrimark may be reaching a point where it can no longer operate their balancing plants because of excessive operating costs arising from idled plant processing capacity. High operating costs occur, according to the witness, because there is insufficient milk volume for the plants to operate profitably at certain times of the year.

The witness for Agrimark testified that revenue from the manufacture and distribution of Class IV products and sales of Class I and II products essentially subsidize the balancing operations and activities of cooperatives. In the opinion of the witness, these subsidies are required because the balancing costs they incur are not recoverable from the marketplace. The Agrimark witness also provided information relating to one of their specific plants for comparison with the RCBS study in order to validate the RCBS study cost estimates. For example, the witness indicated that a butter-powder plant, owned and operated by Agrimark, was built in 1919 and has been refurbished on a number of occasions. The witness indicated that while their plant costs and the cost estimates in the RCBS study differ on a number of factors, the RCBS study nevertheless can be relied upon in its totality as an accurate reflection of Agrimark's own plant costs.

A third ADCNE witness appearing on behalf of LOL testified that marketwide service payments are needed for the Northeast milk order to keep balancing plants operating, thus benefitting all market participants. According to the LOL witness, only cooperatives incur the brunt of balancing costs and bear the burden of receiving lower blend prices than would be the case if balancing costs were more equitably shared by all producers who pool milk on the Northeast order. Members of cooperatives are therefore at a disadvantage in the marketplace as compared to independent producers who do not pay for balancing through cooperative membership dues or reduced revenues, the LOL witness concluded.

The LOL witness testified that the ADCNE cooperatives provided balancing services for as much as 21.8 million pounds of milk per day during peak milk production months during 2001. The witness testified that this evidence was based on a survey that LOL conducted using data received from ADCNE member butter-powder plants for the months of May and November of that year. In addition, the LOL witness noted, as did the Agrimark witness, that the Market Administrator's data indicates that 80 percent of independent producer milk is delivered directly to distributing plants for Class I use even though milk supplied by cooperatives represented the bulk of reserve milk pooled on the Northeast order.

Relying on Market Administrator data and the methodology for estimating balancing costs from the RCBS study, the LOL witness asserted that to properly balance the Northeast marketing area, the cooperatives operating butter-powder plants must operate with a 20 percent operating reserve of milk during all seasons. According to the witness, during months of high fluid milk demand, draws on milk supplies from butter-powder plants for delivery to the Class I market resulted in unused butter-powder capacity of as much as 11.5 million pounds in a single month. Accordingly, the witness asserted, the cooperative's butter-powder plants should receive compensation for the cost of maintaining this available but unused processing capacity. According to the witness, the existence of such capacity benefits all producers and handlers participating in the Northeast marketing area and provides a needed alternative outlet for milk.

The LOL witness noted that the balancing cost estimation developed in the RCBS study suggests that four modern, efficient, optimally located, three-million pounds per day butter-powder plants would efficiently balance the Northeast market even though there are seven actual plants located in the marketing area. Nevertheless, the LOL witness was of the opinion that the RCBS study of four theoretical manufacturing plants is an appropriate proxy for all butter-powder plants currently operating in the Northeast region. The witness asserted that LOL's own data and analysis validates the RCBS study's methodology. According to the witness, because the theory so accurately reflects actual marketing conditions, the operators of the seven butter-powder plants have a sound basis

to justify a marketwide service payment for unrecovered costs incurred by balancing the market.

Testimony offered in opposition to the marketwide service payment proposal and the need in general for a balancing credit was advanced by representatives of NYSDF, representatives from the International Dairy Foods Association (IDFA), several proprietary handlers including Friendship Dairy, Queensboro Farms, Marcus Dairy, and Worcester Creameries, Dean Foods, H.P. Hood, and two independent dairy farmers. Representatives for the proprietary handlers testified and all maintained that if a balancing credit feature were adopted, they would not be eligible to receive the proposed marketwide service payments even though they too incur costs for performing market balancing functions. These witnesses also testified that if Proposal 7 were adopted, they would be placed at a competitive disadvantage in procuring milk when compared to large cooperative handlers because they would need to pay a higher effective price for milk. In this regard, the witnesses indicated that as small businesses they would be treated unfairly. Each of the proprietary handlers pointedly observed that the benefit of marketwide service payments would accrue only to the large-scale butter-powder processors located in the Northeast marketing area.

A witness for Queensboro Farms testified that as an operator of a supply plant, the company provides balancing services for the market that are similar to those performed by large-scale NFDM plants and accordingly should receive compensation for providing balancing services if a balancing credit for the order is adopted. However, the witness emphasized and asserted that the proposal unfairly excludes proprietary handlers on the basis of the milk volume eligibility criteria. The witness said that as a matter of fairness and competitive equity, no handler should receive a balancing credit if it is made available only to the largest handlers.

Witnesses appearing on behalf of Marcus Dairy and Worcester Creameries provided testimony supporting the Queensboro Farms witness. The witness for Marcus Dairy noted that the company's cost of sourcing milk would be higher, thus the prices paid to farmers by them would be lower than prices paid by the largest cooperative handlers who would be eligible to receive a marketwide service payment. However, because Marcus Dairy is a small business entity, it would not be eligible for receiving a payment. Similarly, witnesses for Worcester Creameries and Friendship Dairy, both proprietary handlers and small businesses, provided supporting testimony concluding that adoption of a balancing credit, limited to criteria that only a large cooperative could meet, would needlessly harm them by increasing their milk procurement costs.

A witness testifying on behalf of NYSDF noted that every handler in the Northeast marketing area performs some market balancing functions and therefore should be eligible to receive a credit if the decision is to adopt a balancing credit feature for the Northeast milk order. The witness asserted that if the largest handlers received marketwide service payments, then smaller handlers would face relatively higher costs and would therefore be placed at a competitive disadvantage in the price they pay for a supply of milk.

A consultant witness for NYSDF testified that adoption of Proposal 7 would serve to unduly enhance the power of larger cooperatives at the expense of smaller cooperatives. The witness asserted that smaller cooperatives pooling milk on the Northeast order whose monthly milk receipts are not sufficient to meet the proposed criteria for receiving a balancing credit might be forced to affiliate with a larger cooperative eligible to receive marketwide balancing credits. The witness speculated that although smaller cooperatives might receive partial benefit from the credits through affiliation, they also might be absorbed into a larger cooperative's milk marketing operations as the price for receiving this benefit. This witness was also of the opinion that the members of ADCNE have failed to reveal or consider that handlers are charged over-order premiums, give-up fees, or other variously named charges that are essentially already compensating for balancing costs.

A witness appearing on behalf of Dean Foods testified that surplus milk from the Northeast marketing area could at times be shipped to the fluid milk deficit markets of the Southeast and Florida marketing areas. According to the witness, satisfying the demand for fluid milk of the southern marketing areas could serve the same balancing function for the Northeast market's producers seeking compensation to recover costs arising from operating butter-powder plants.

Two independent dairy farmers, one from western New York State and another from Pennsylvania, testified that dairy farmers already pay for balancing as part of the expenses deducted from their milk checks by handlers. The dairy farmers testified that while no specific fee is explicitly itemized as a market balancing charge, they viewed the deduction as a cost they pay for balancing. They testified that they and other producers have been informed by their cooperative handlers, who market their milk, that the cost of balancing is a component of the handling charges that are deducted from their milk checks.

A witness representing IDFA testified in opposition to Proposal 7. The witness noted that the costs of balancing the Northeast milk market are already recovered through revenues received in over-order premiums charged for milk diverted from Class IV to Class I use. In addition, the witness pointed out that the Class IV product pricing formula make allowance factors include balancing costs in determining the Class IV milk price. In this regard, the IDFA witness viewed Proposal 7 as requiring handlers to essentially pay anew for a function already accounted for in market prices.

In addition, the IDFA witness expressed the opinion that consideration of a marketwide service payment proposal to compensate certain handlers for market balancing services should be heard on a national basis instead of on a limited basis for only the Northeast milk order. The IDFA witness stated that adopting Proposal 7 would have multi-regional impacts and perhaps national impacts.

The IDFA witness noted that USDA had previously rejected proposals for marketwide service payments for balancing advanced by ADCNE cooperatives for the Northeast order as part of Federal milk order reform. According to the IDFA witness, USDA rejected these proposals, in part, because the make allowances for Class IV products already included a factor for balancing cost recovery and that the resulting Class IV prices would be at market-clearing levels. The witness concluded that this negates the need for additional compensation for costs already compensated.

The Agricultural Marketing Agreement Act of 1937 (AMAA), as amended, provides authority for milk marketing orders to contain provisions for marketwide service payments. In this context, a marketwide service payment is a charge to all producers of milk, irrespective of the use classification of such milk, that is deducted before computing the order's statistical uniform price. The AMAA specifically identifies the types of services that may be of marketwide benefit. They include, but are not

limited to: (1) Providing facilities to furnish additional supplies of milk needed by handlers and to handle and dispose of milk supplies in excess of quantities needed by handlers; (2) handling on specific days quantities of milk that exceed quantities needed by handlers; and (3) transporting milk from one location to another for the purpose of fulfilling requirements for milk of a higher use classification or for providing a market outlet for milk of any use classification.

A current example of Federal milk marketing orders that provides for marketwide service payments is the transportation funds for qualified handlers in the Southeast and Appalachian milk marketing orders. In these marketing orders, handlers pay an assessment on producer milk assigned to Class I each month into separate transportation credit balancing funds maintained and operated by the Market Administrator for each order. These funds, originally established in four pre-reform milk orders, were carried into these two consolidated milk marketing orders as a result of the need to import milk into the southeastern regions of the country from other areas during certain times of the year. The provisions provide payments from the funds to handlers who import supplemental milk for fluid use during the generally low milk production months of July through December. The provisions restrict the payments to milk received from other plants or farms located outside of the marketing areas.

Another example of marketwide service payment provision includes the transportation credits and assembly credits employed in the Upper Midwest milk marketing order. Unlike the marketwide service payments of the Appalachian and Southeast orders, the Upper Midwest order's marketwide service payment provides credits to handlers for their total class use value before the blend price is calculated. Because the credits reduce the total dollar value of the pool, it results in a lower blend price to all producers.

In the pre-reform New York-New Jersey milk marketing order, a payment was available to certain cooperative handlers in the form of a cooperative service payment and a balancing payment. These provisions predate the AMAA's amendment by the 1985 Farm Bill. Under the pre-reform New York-New Jersey order, qualified cooperatives could receive up to three cents per cwt on the amount of milk pooled on the order in the form of a cooperative service payment. Plus, there was a component for a balancing payment that could have been up to one cent per cwt provided a cooperative association operated a manufacturing facility. By comparison, the marketwide service payment proposal considered in this proceeding is dedicated entirely to compensating eligible handlers for balancing functions and the rate of compensation at six cents per cwt is much higher.

From testimony by proponents and opponents, as well as in the data supplied for the record by the Market Administrator, it is evident that the Northeast order has certain unique characteristics and marketing conditions. The Northeast marketing area is the single largest marketing area for Class I milk. Approximately 75 percent of the milk pooled on the order is from members of cooperatives with the remainder supplied by independent producers. In this regard, the Northeast marketing area has the largest base of independent producers that pool milk on the order relative to the other 10 Federal milk marketing orders. The marketing area's independent producers tend to be the predominant suppliers of the Class I needs of the marketing area as revealed by evidence showing that some 80 percent of independent milk supplies are pooled by a Class I handler in comparison to cooperative milk supplies. Cooperative milk supplies for the Northeast marketing area supply the vast majority of the marketing area's milk used in Class III and Class IV dairy products.

The Northeast's market structure also is unique given the large use of milk for Class II products such as ice cream, sour cream, yogurt, and cottage cheese. The marketing area can also be characterized as unique by the relatively large number of proprietary handlers, many of them manufacturing entities, located in the marketing area. These handlers provide dairy farmers with alternative outlets for their milk. None of the handlers individually provide balancing services on the scale offered at the plants owned and operated by the large cooperative members of the ADCNE. However, taken as a whole, these plants do provide real and important balancing services that are similar to those provided by the member cooperatives of ADCNE.

The basis of the argument advanced by the proponents of Proposal 7 is that without marketwide service payments, balancing functions are unprofitable and cost recovery is not otherwise supported by market forces. The underpinning of identifying costs relies on the theoretical results of a RCBS study that examined the costs of balancing incurred by cooperatives that operate butter-powder plants in the Northeast by placing a value on unused plant processing capacity. The optimal cost structure for balancing the Northeast marketing area is presented by the proponents as an accurate reflection of the existing structure of the regional milk market. However, actual costs, together with the profitability or lack of profitability of these butter-powder plants, are never adequately addressed. Profitability is important to the issue as it can speak directly to whether or not a marketwide service payment can be justified. This is important because it is the position of the proponents that balancing activities might not otherwise be provided to the marketplace and because there are no other viable market mechanisms through which excess milk supplies can be adequately disposed of other than through the butter-powder balancing facilities of the region's six largest cooperative handlers.

Typically, a review of the profitability would include a presentation and discussion of actual costs and revenues. In this proceeding, neither actual costs nor actual revenues generated from the sale of Class IV products or other methods used to generate revenue are addressed. The record does not contain information regarding revenues for Class IV products generated by the butter-powder operations or related joint-product production processes from some plants that produce NFDM.

Regarding costs, the proponents preferred to rely on a theoretical cost estimating framework rather than on actual costs incurred in performing balancing services. Without actual revenues and costs available for review, it is impossible to credibly assess whether balancing costs are inequitably shared. Similarly, without historical cost and revenue data series, it is not possible to reasonably consider how the profitability of these operations has changed over time under prevailing and/or changing marketing conditions. It is therefore not possible on the basis of the record, to determine if there is a credible need to compensate cooperatives for balancing the market through the use of marketwide service payments.

The record does not support recommending adoption of a marketwide service payment provision for balancing services for the Northeast milk marketing order. Arguments contained in the record in support of Proposal 7 have focused on the need to share the costs that are not recoverable from the marketplace for balancing the Class I needs of the Northeast marketing area more equitably with all producers who pool their milk on the order. Costs have been explained primarily by attempting to place a value on unused

butter-powder manufacturing plant capacity where unused plant capacity is caused by seasonal fluctuations in the relative demands for fluid milk given available milk supplies. Proponents have relied primarily on a theoretical framework developed in an RCBS study, and to a much more limited extent, actual plant replacement cost data to estimate the costs they incur for balancing the market. A balancing cost estimate is derived in the RCBS study from an analysis of competing milk uses that cause butter-powder plants to be operated at less than full capacity which, in turn, is caused by seasonal fluctuations in the demand for Class I milk.

For all intents and purposes, butter-powder plants operated in the Northeast milk marketing area are owned and operated by members of ADCNE. The ADCNE member proponents argue that a significant share of independent producers (dairy farmers who are not members of cooperatives), do not bear the cost burdens that cooperative members (producers) bear by operating and maintaining butter-powder plants that provide a market outlet for cooperatives and independent milk when not needed for the fluid market and that such outlets provide a service that is of marketwide benefit. Proponents for adoption of Proposal 7 maintain that the blend price received by independent producers is higher than it would otherwise be if independent producers had the burden of maintaining and providing services which balance the market.

The central discussion of the proposal to establish a marketwide service payment by proponents is long on articulating costs associated with balancing. However, the discussion of the role and adequacy of revenues generated from providing balancing related activities or revenue generated in the marketplace from the sale of Class IV products is nearly absent. For example, proponent testimony is nearly silent concerning the roles of over-order premiums, give-up charges, make allowances already a part of the pricing formulae of the order, and other charges that generate revenue to offset costs incurred and characterized as associated with providing balancing functions. Nevertheless, it is clear from the testimony that producers and proprietary handlers pay charges and fees for either a supplemental supply of milk or for the removal of milk when not needed for fluid use. Producers and proprietary handlers have had it explained, in varying ways, that such charges and fees are due to costs associated with balancing—that is—supplying additional milk to meet fluid demand, or the removal of milk for surplus disposal when not needed by distributing plants.

Opponents, including proprietary handlers and independent dairy farmers, also argue that balancing costs have already been recouped by the large cooperatives in various ways. The record reveals that proprietary handlers pay give-up charges and over order premiums to cooperative suppliers to obtain milk for Class I use when needed. Costs also are recouped by the imposition of variously-named charges and fees incurred by Class I handlers diverting some of their independent milk supply to a butter-powder plant when not needed for fluid use and in fees deducted from independent producer milk checks that have been explained in various ways to be fees charged for balancing.

Opponents correctly note that the costs of balancing have already been considered and are accounted for in the Class IV product-price formula make allowance used in all Federal milk marketing orders for establishing the Class IV milk price. The Class III/IV pricing formulae adopted in the Class III/IV Interim Decision (65 FR 768832, published December 7, 2002) included a factor to offset the cost of balancing performed by butter-powder manufacturing plants. Official notice is hereby taken of the Class III/IV Final Decision (67 FR 67906, published November 7, 2002). The Class III/IV Final Decision that adopted product price formulas for all Federal milk marketing orders, including the Northeast order, gave specific recognition to costs associated with balancing in the make allowance factor in setting the Class III and Class IV milk price.

Proprietary handlers also stress their opposition to adoption of Proposal 7 on the basis that they would be excluded from receiving a balancing credit, not because they do not provide balancing services, but because of their size. In their view, the exclusion of small businesses would create inequity among handlers in the price they pay for a milk supply because small handlers would need to pay a higher price for milk relative to large cooperative handlers who would be eligible to receive a balancing credit. Independent of the other reasons discussed for not recommending the adoption of a marketwide service payment for balancing, this decision can find no record evidence that adequately addresses why business size should have a bearing on the exclusion of small handlers who perform balancing function but would not be eligible for a balancing credit.

None of the witnesses appearing on behalf of ADCNE would provide information for the record concerning fees charged to distributing plants and other commercial customers from whom cooperative handlers receive payments to compensate for, or to offset, balancing costs. But the record is clear, however, that such fees are charged in various ways and forms. Because balancing costs are recoverable and, in fact, are recovered in various ways, the record cannot support the notion that whatever cost burden is being borne by any financially interested business entity is so inequitable that it necessitates having the Federal government establish a provision to supervise the transfer of funds from one set of business entities to another.

Conversely, the record contains evidence that investments by the large cooperatives in balancing facilities have taken place. For example, testimony by the LOL representative of ADCNE reveals that balancing services and plant expansion for balancing operations took place repeatedly at their Carlisle, PA, facility over the period of 1984–2000, a time span during which no marketwide service payment was provided under the terms of then Middle Atlantic milk marketing order. Testimony by the Agrimark witness similarly reveals repeated investment in their butter-powder plant at Springfield, MA, at a time when no marketwide service payment was provided under the terms of the New England milk marketing order.

In post hearing briefs and comments, support for Proposal 7 was completely withdrawn by Agrimark, one of the cooperatives comprising ADCNE. In addition, LOL, another cooperative member of the ADCNE, changed their position from support to a neutral position.

The record contains no persuasive argument or compelling evidence to find that there are cost inequities that prevail between cooperative dairy farmers and independent dairy farmers to the extent that would warrant adoption of a provision providing payments from one group of producers to another that is supervised by government regulation. The applicable Class III and Class IV pricing formulae and other free market transactions charged by the large cooperatives with balancing facilities sufficiently offset balancing costs and are adequate to sustain existing balancing facilities and operations. Additionally, the Northeast order Class I price is sufficiently high to ensure that a sufficient supply of milk

for fluid use, together with the Class IV price as established under the order, will provide for the orderly disposal of milk when not needed for fluid use. The Northeast order already provides for cost equity in the minimum pricing mechanisms and the marketplace is providing the ability for transactions outside the terms of the order that currently do not exhibit the need for additional regulation.

The record also does not support adoption of Proposal 7 on the basis of strictly theoretical costs. Offsetting costs by providing a balancing payment must be based on evidence of actual costs incurred for two reasons. First, an estimate of actual costs serves to provide and define a reasonable basis from which to determine a total value of the service being provided and corresponding rate at which reimbursement should be made. Secondly, it is real dollars that will be transferred from one group of producers to another.Accordingly, it is reasonable to suppose that those who will have their blend price reduced have an adequate and supportable explanation why, in the interest of producer and handler equity, their revenue will be reduced. In this regard, the record does not provide any indication, other than proponent assertions, that the revenues generated are insufficient to offset inequitably borne costs. Because actual costs are not provided, a finding cannot be made to determine whether or not the proposed balancing credit rate of six cents per cwt is reasonable.

There is no evidence to suggest that milk of producers pooled on the Northeast order will be unable to find markets without the establishment of a balancing credit. The record is clear in demonstrating that balancing functions and services are performed by large cooperatives and they are able to recover costs from those they serviced without government intervention. The record does not reveal or contain evidence demonstrating disorderly marketing conditions occurring because balancing facilities and services are not sufficiently recovering their costs.

This decision concludes that the qualification criteria of Proposal 7 for receipt of a balancing credit would unduly disadvantage handlers who perform a balancing function for the market, but for no reason other than their size, renders them ineligible to recover balancing costs by receipt of a credit. These handlers would suffer adverse business consequences from the higher effective prices they would need to pay to procure a supply of milk. The record does not reveal any justification that explains why other handlers should be denied a credit for performing a similar service. Accordingly, this decision concludes that the eligibility criteria of Proposal 7 would have an adverse impact on these businesses in the Northeast marketing area.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Northeast order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which a hearing has been held.

Recommended Marketing Agreement and Order Amending the Order

The recommended marketing agreement is not included in this decision because the regulatory provisions thereof would be the same as those contained in the order, as hereby proposed to be amended. The following order amending the order, as amended, regulating the handling of milk in the Northeast marketing area is recommended as the detailed and appropriate means by which the foregoing conclusions may be carried out.

List of Subjects in 7 CFR Part 1001

Milk marketing orders.

For the reasons set forth in the preamble, 7 CFR part 1001, is proposed to be amended as follows:

PART 1001—MILK IN THE NORTHEAST MARKETING AREA

1. The authority citation for 7 CFR part 1001 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 1001.7 is amended by:

a. Revising paragraphs (c)(1) and (c)(2);

b. Removing paragraph (c)(3);

c. Redesignating paragraphs (c)(4) and (c)(5) as (c)(3) and (c)(4);

d. Revising paragraphs (e)(1) and (e)(2); and

e. Removing paragraph (h)(7).

The revisions read as follows:

§ 1001.7 Pool plant.

* * * * *

(c) * * *

(1) In each of the months of January through August and December, such shipments and transfers to distributing plants must not equal less than 10 percent of the total quantity of milk (except the milk of a producer described in § 1001.12(b)) that is received at the plant or diverted from it pursuant to § 1001.13 during the month.

(2) In each of the months of September through November, such shipments and transfers to distributing plants must equal not less than 20 percent of the total quantity of milk (except the milk of a producer described in § 1001.12(b)) that is received at the plant or diverted from it pursuant to § 1001.13 during the month.

* * * * *

(e) * * *

(1) At least one of the plants in the unit qualifies as a pool distributing plant pursuant to paragraph (a) of this section;

(2) Other plants in the unit must process at least 60 percent of monthly receipts of producer milk, including cooperative 9(c) milk, only as Class I or Class II products and must be located in the Northeast marketing area, as defined in § 1001.2, in a pricing zone providing the same or a lower Class I price than

the price applicable at the distributing plant(s) included in the unit; and

* * * * *

3. Section 1001.13 is amended by:

a. Revising paragraph (d)(1)

b. Redesignating paragraph (d)(2) as paragraph (d)(3); and

c. Adding paragraphs (d)(2), (d)(4), (d)(5) and (e).

The revision and additions read as follows:

§ 1001.13 Producer milk.

* * * * *

(d) * * *

(1) Milk of a dairy farmer shall not be eligible for diversion unless one day's milk production of such dairy farmer was physically received as producer milk and the dairy farmer has continuously retained producer status since that time. If a dairy farmer loses producer status under the order in this part (except as a result of a temporary loss of Grade A approval), the dairy farmer's milk shall not be eligible for diversion unless milk of the dairy farmer has been physically received as producer milk at a pool plant during the month;

(2) Of the total quantity of producer milk received during the month (including diversion but excluding the quantity of producer milk received from a handler described in § 1000.9(c) or which is diverted to another pool plant), the handler diverted to nonpool plants not more than 80 percent during each of the months of September through November and 90 percent during each of the months of January through August and December. In the event that a handler causes the milk of a producer to be over diverted, a dairy farmer will not lose producer status;

(3) * * *

(4) Any milk diverted in excess of the limits set forth in paragraph (d)(2) of this section shall not be producer milk. The diverting handler shall designate the dairy farmer deliveries that shall not be producer milk. If the handler fails to designate the dairy farmer deliveries which are ineligible, producer milk status shall be forfeited with respect to all milk diverted to nonpool plants by such handler; and

(5) The delivery day requirement and the diversion percentages in paragraphs (d)(1) and (d)(2) of this section may be increased or decreased by the market administrator if the market administrator finds that such revision is necessary to assure orderly marketing and efficient handling of milk in the marketing area. Before making such a finding, the market administrator shall investigate the need for the revision either on the market administrator's own initiative or at the request of interested persons if the request is made in writing at least 15 days prior to the month for which the requested revision is desired effective. If the investigation shows that a revision might be appropriate, the market administrator shall issue a notice stating that the revision is being considered and inviting written data, views, and arguments. Any decision to revise an applicable percentage or delivery day requirement must be issued in writing at least one day before the effective date.

(e) Producer milk shall not include milk of a producer that is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program imposed under the authority of another government entity.

4. Section 1001.30 is amended by revising the introductory text to read as follows:

§ 1001.30 Reports of receipts and utilization.

Each handler shall report monthly so that the market administrator's office receives the report on or before the 10th day after the end of the month, in the detail and on prescribed forms, as follows:

* * * * *

5. Section 1001.62 is amended by:

a. Revising the introductory text; and

b. Adding paragraph (h).

The revision and addition read as follows:

§ 1001.62 Announcement of producer prices.

On of before the 14th day after the end of the month, the market administrator shall announce the following prices and information;

* * * * *

(h) If the 14th falls on a Saturday, Sunday, or national holiday, the market administrator may have up to two additional days business days to announce the producer price differential and the statistical uniform price.

6. Section 1001.71 is amended by revising the introductory text to read as follows:

§ 1001.71 Payments to the producer settlement fund.

Each handler shall make payment to the producer-settlement fund in a manner that provides receipt of the funds by the market administrator no later than two days after the announcement of the producer price differential and the statistical uniform price pursuant to § 1001.62 (except as provided for in § 1000.90). Payment shall be the amount, if any, by which the amount specified in paragraph (a) of this section exceeds the amount specified in paragraph (b) of this section:

* * * * *

7. Section 1001.72 is revised to read as follows:

§ 1001.72 Payments from the producer settlement fund.

No later than the day after the due date required for payment to the market administrator pursuant to § 1001.71 (except as provided in § 1001.90), the market administrator shall pay to each handler the amount, if any, by which the amount computed pursuant to § 1001.71(b) exceeds the amount computed pursuant to § 1001.71(a). If, at such time, the balance in the producer-settlement fund is insufficient to make all payments pursuant to this section, the market administrator shall reduce uniformly such payments and shall complete the payments as soon as the funds are available.

8. Section 1001.73 is amended by revising paragraphs (a)(1), (a)(2) introductory text, and (e) introductory text to read as follows:

§ 1001.73 Payments to producers and to cooperative associations.

* * * * *

(a) * * *

(1) Partial payment. For each producer who has not discontinued shipments as of the 23rd day of the month, payment shall be made so that it is received by the producer on or before the last day of the month (except as provided for in § 1000.90) for milk received during the first 15 days of the month at not less than the lowest announced class price for the preceding month, less proper deductions authorized in writing by the producer.

(2) Final payment. For milk received during the month, payment shall be made during the following month so it is received by each producer no later than the day after the required date of payment by the market administrator, pursuant to § 1001.72, in an amount computed as follows:

* * * * *

(e) In making payments to producers pursuant to this section, each handler shall furnish each producer (except for a producer whose milk was received from a cooperative association handler described in § 1000.9(a) or 9(c)), a supporting statement in such form that it may be retained by the recipient which shall show:

* * * * *

Dated: March 17, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–6459 Filed 3–24–04; 8:45 am]

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Federal Register

Thursday,
March 25, 2004

Part V

Department of Housing and Urban Development

24 CFR Part 206

Home Equity Conversion Mortgage (HECM) Program; Insurance for Mortgages To Refinance Existing HECMs; Interim Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 206

[Docket No. FR–4667–I–02]

RIN 2502–AH63

Home Equity Conversion Mortgage (HECM) Program; Insurance for Mortgages To Refinance Existing HECMs

AGENCY: Office of Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Interim rule.

SUMMARY: On June 5, 2001, HUD published a proposed rule to implement certain statutory changes to the Home Equity Conversion Mortgage (HECM) Program made by section 201 of the American Homeownership and Economic Opportunity Act of 2000 (AHEOA). The HECM Program enables older homeowners to withdraw some of the equity in their home in the form of payments for life, a fixed term, or at intervals through a line of credit. The statutory changes include authorization to offer mortgage insurance for refinancing of existing HECMs and providing consumers with safeguards for such refinancing. This interim rule follows publication of a June 5, 2001, proposed rule, and takes into consideration the public comments received on the proposed rule. In addition, this rule implements another statutory change to the HECM Program authorized by AHEOA and requests comments on this regulatory provision. Specifically, this rule provides for a reduced initial mortgage insurance premium (MIP) on a HECM refinancing.

DATES: *Effective Date:* April 26, 2004.

Comment Due Date: Comments on § 206.53(c) are due on May 24, 2004.

ADDRESSES: Interested persons are invited to submit comments regarding § 206.53(c)to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500. Electronic comments may be submitted through Regulations.gov (*http://www.regulations.gov*). Communications should refer to the above docket number and title. Facsimile (FAX) comments are not acceptable. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: Vance T. Morris, Director, Office of Single Family Program Development, Office of Insured Single Family Housing, Room 9266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–8000; telephone (202) 708–2121 (this is not a toll-free number). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

On June 5, 2001 (66 FR 30278), HUD published a proposed rule for public comment to revise its regulations for the HECM Program. The HECM Program helps homeowners 62 years of age or older who have paid off their mortgages or have small mortgage balances to stay in their homes while using some of their equity. The program enables these homeowners to get financing with a Federal Housing Administration (FHA) insured reverse mortgage, which is a mortgage that converts equity into income. The FHA insures HECM loans to protect lenders against loss. Such a loss could occur if amounts withdrawn exceed equity when the property is sold. The statutory authority for the HECM Program is section 255 of the National Housing Act (12 U.S.C. 1715z–20) (NHA). HUD's implementing regulations are located at 24 CFR part 206. More information on the HECM Program can be found on HUD's Web site at *http://www.hud.gov/buying/reverse.cfm.*

Section 201 of the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106–569, approved December 27, 2000) (AHEOA) made several changes to the HECM Program. Among other amendments, section 201(a) of AHEOA added a new section 255(k) to the NHA, which authorizes FHA to offer mortgage insurance for refinancing existing HECMs and establishes several requirements concerning such refinancings for the protection of homeowners and to expedite the refinancing process. For example, the statute establishes an ''anti-churning'' disclosure requirement for HECM refinancings, and authorizes the waiver of the HECM counseling requirements under certain circumstances. These expedited procedures for refinancing will enable elderly homeowners to quickly take advantage of declining interest rates and increasing home prices in particular areas.

The purpose of the June 5, 2001, proposed rule was to implement these statutory provisions regarding refinancing. Specifically, HUD proposed to create a new § 206.53, which would contain the requirements applicable for a refinanced HECM to be eligible for mortgage insurance. HUD also proposed to amend § 206.31 (which concerns the allowable fees and charges that may be collected in the origination of a HECM loan) to clarify the procedures and requirements regarding HECM origination fees. The preamble to the proposed rule provides more information on the proposed regulatory amendments to HUD's HECM regulations.

II. This Interim Rule; Significant Changes Made to June 5, 2001, Proposed Rule

This interim rule follows publication of the June 5, 2001, proposed rule and takes into consideration the public comments received on the proposed rule. The most significant differences between this interim rule and the June 5, 2001, proposed rule are as follows:

1. *Clarification of applicability of origination fee limit to loan correspondents and mortgage brokers.* The interim rule revises the proposed regulatory language regarding the payment of origination fees to loan correspondents and mortgage brokers. The interim rule more closely tracks the language of Mortgage Letter 00–10 (issued on March 8, 2000), which provided useful guidance on the role of loan correspondents and mortgage brokers in the HECM Program. Consistent with the Mortgage Letter, this interim rule clarifies that the HECM origination fee limit includes the full amount of any origination fee paid to both mortgage brokers and loan correspondents. The mortgagor is not permitted to pay any additional origination fee of any kind to a mortgage broker or loan correspondent. A mortgage broker's fee can be included as part of the origination fee only if the mortgage broker is engaged independently by the homeowner and if there is no financial interest between the mortgage broker and the mortgagee.

2. *Timing of anti-churning disclosure.* This interim rule provides that the anti-churning disclosure must be provided at the same time as the other disclosures required under § 206.43 of the HECM regulations.

III. Interim Regulatory Change Regarding Reduced Initial Mortgage Insurance Premium for HECM Refinancings and Request for Public Comment

In addition to the amendments proposed in the June 5, 2001, proposed rule, section 201 of AHEOA made several other changes to the HECM Program that were not part of the June

5, 2001, proposed rule. For example, section 201 added a new section 255(k)(4) of the NHA, which authorizes HUD to reduce the amount of the initial mortgage insurance premium (MIP) collected on a HECM refinancing. In response to public comments that requested that HUD exercise this statutory authority, HUD has established a reduced initial MIP for HECM refinancings in this interim rule. Specifically, § 206.53(c) of this rule provides that the initial MIP for a HECM refinancing may not exceed 2 percent of the increase in the maximum claim amount (*i.e.*, the difference between the maximum claim amount for the new HECM loan and the maximum claim amount for the existing HECM loan being refinanced). This regulatory provision will take effect, along with the other amendments being made by this interim rule, on April 26, 2004. However, in order to provide for public comments on the amount of the MIP, HUD is issuing this regulatory provision on an interim basis and is requesting comment for a period of 60 days on the amount of the initial MIP. With the exception of the reduced initial MIP provision, HUD will not consider comments submitted in response to other provisions of this interim rule. These provisions were contained in the June 5, 2001, proposed rule and, therefore, have already been the subject of public comments. A discussion of the significant issues raised by the public commenters on the June 5, 2001, proposed rule, and HUD's responses to these comments is located in section V of this preamble. HUD will issue a follow-up final rule addressing the significant issues raised by the public commenters on the reduction of the initial MIP.

IV. Announcement of the Second Criterion for Waiver of the HECM Housing Counseling Requirement

Section 255(k)(3) provides that mortgagors refinancing a HECM may elect to forego housing counseling if certain requirements are satisfied. The statute establishes three conditions that must be met in order to waive the housing counseling requirement: (1) The mortgagor has received the required anti-churning disclosure; (2) the increase in the mortgagor's principal limit (as described in the anti-churning disclosure) exceeds the total cost of the refinancing by an amount established by HUD; and (3) the time between the closing on the original HECM and the application for refinancing does not exceed 5 years.

In the June 5, 2001, proposed rule, HUD stated that the second condition for waiver of the housing counseling requirement would be satisfied if the increase in the mortgagor's principal limit exceeds five times the total cost of the refinancing. The preamble also provided that, after consideration of the public comments received on the proposed rule, HUD would announce the threshold amount in the preamble to this interim rule. This interim rule announces that HUD is adopting the proposed threshold amount without change. A discussion of the public comments received on this matter is found in section V of this preamble.

As provided in the preamble to the proposed rule, the amount necessary to satisfy the second condition for a waiver will not be specified in the regulatory text. This amount may need to be updated on a periodic basis due to changes in the available financial data or changes in the housing market. Codification of the threshold amount would require that HUD use rulemaking procedures each time the amount is revised, which may delay HUD's ability to update this figure in response to changing conditions. Therefore, any changes to the second waiver criterion will be announced through a **Federal Register** notice. In order to provide HECM program participants with sufficient time to adjust to any such change, HUD will delay the effective date of any such revision for a period of not less than 30 days following publication in the **Federal Register**.

V. Discussion of the Public Comments Received on the June 5, 2001, Proposed Rule

The public comment period for the proposed rule closed on July 5, 2001. HUD received four comments on the proposed rule. Comments were received from a public interest group representing retired persons, a mortgage lender, and two national mortgage lending associations. Three of the commenters expressed support for the rule and HUD's codification of the provisions streamlining refinancing of HECM loans. All four commenters offered suggestions to further clarify and strengthen the rule in order to better serve the consumer. This section of the preamble presents a summary of the significant issues raised by the public commenters on the June 5, 2001, proposed rule and HUD's responses to these comments.

A. Comments Regarding Allowable Origination Fees and Charges (§ 206.31)

Comment: Initial MIP should be reduced for HECM refinancings. Two commenters suggested that HUD implement its statutory authority to reduce the initial MIP for HECM refinancings. One of the commenters offered a suggestion on how such a limit should be implemented.

HUD Response. HUD agrees with the commenters and has revised the rule accordingly. Based upon the results of a Congressionally-mandated actuarial study, HUD has revised the proposed rule to provide for a reduced initial MIP for refinanced HECM loans. Section 206.53(c), provides that the initial MIP for a HECM refinancing may not exceed 2 percent of the increase in the maximum claim amount (*i.e.*, the difference between the maximum claim amount for the new HECM loan and the maximum claim amount for the existing HECM loan being refinanced). The maximum claim amount is based upon the value of the home, and property values have risen for almost all properties for which refinancing would be a viable option. As noted above, however, HUD is issuing this regulatory provision on an interim basis and is specifically requesting public comment on the amount of the reduced MIP.

HUD believes that the initial MIP limit announced in this rule will result in a lower initial MIP for a refinanced HECM loan than for a comparable ''first'' HECM loan secured by a similar property. The MIP limit is based upon the findings of a Congressionally-mandated actuarial study. Section 255(k)(4) of the NHA requires that any reduction to the initial MIP must be based upon the results of an actuarial study that analyzes the adequacy of the insurance premiums collected for HECM refinancings with respect to several statutorily mandated factors. HUD has completed the required study, which reviewed several possible changes to HECM insurance premiums using several analytical models. Among other factors, this study analyzed the potential effects on the FHA General Insurance Fund of establishing an initial MIP limit for HECM refinancings. The study concluded that this reduction to the initial MIP, although lowering the expected balance of the FHA General Insurance Fund, would not adversely impact the Fund and would be sufficient to maintain its soundness.

A copy of the actuarial study is available for public review between 8 a.m. and 5 p.m. weekdays, in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Comment: HUD should establish a reduced origination fee for HECM refinancings. One commenter wrote that HUD's proposal to adopt the existing origination fee limits for HECM

refinancings would result in much higher fees than those paid by HECM borrowers on their original loans. The commenter noted that the existing fee limits for ''original'' HECMs are set at the greater of $2,000 or 2 percent of the maximum claim amount (which is based on the property value). Since property values have risen for almost all loans where HECM refinancing is viable, the maximum origination fees for a refinancing will be higher than for the ''original'' HECM loan. The commenter wrote that while relatively high origination fees may be justified for ''original'' HECM loans, they are hard to justify for refinancings. According to the commenter, HUD allows higher fees for HECM loans than for ''regular'' mortgage loans because of factors such as greater marketing costs per closing, the need for more intensive lender interaction with consumers, and a higher consumer drop-out rate. The commenter wrote that these factors do not apply to most HECM refinancings. For example, the commenter wrote that pre-closing marketing costs are lower for HECM refinancings, since lenders can readily find refinancing candidates by analyzing their portfolios of closed HECM loans. Accordingly, the limit on origination fees for refinancing should be less than the comparable limit for ''original'' HECM loans.

HUD Response. HUD has not revised the rule in response to this comment. The insurance of refinancings authorized by this interim rule is a new feature of the HECM program, and HUD is not yet in a position to evaluate whether origination costs are lower for such refinancings. Accordingly, at this time, HUD is not prepared to reduce the amount of the origination fee for HECM refinancings. The fee will be the same as the fee for original HECM loans. HUD may consider a reduction of such fees at a later date, after it has had an opportunity to evaluate the operation and costs associated with HECM refinancings.

Comment: HUD should permit the borrower to avoid the cost of a new appraisal under certain circumstances. One commenter wrote that when the original appraisal yielded a value above the applicable FHA principal limit cap HUD should allow the borrower to avoid the cost of a new appraisal by relying on the original.

HUD Response. HUD has not revised the rule in response to this comment. One of the primary reasons an individual might consider refinancing is because the value of his/her property has increased. The best way to confirm such an increase in property value is through a new appraisal. Further, since the condition of a property may also deteriorate over time, there is a concern that repair and maintenance issues may have an adverse impact on the value of some properties.

Comment: HUD should limit the fee for the re-issuance of title insurance and waive the flood certification fee for HECM refinancings. One commenter made this suggestion.

HUD Response. HUD has not adopted the suggestion made by the commenter. The goal of this rule is to lower the overall cost of refinancing HECM loans. It is expected that lenders will seek re-issue and re-certification rates for title policies and flood certifications when appropriate for their HECM refinance consumers.

B. Comments Regarding the Role of Mortgage Brokers and Loan Correspondents (§ 206.31)

Comment: Proposed rule may inappropriately limit correspondent mortgagee compensation. One commenter objected to the proposed language of § 206.31(a)(1) providing that the HECM origination fee limits ''shall include any fees paid to correspondent mortgagees.'' The commenter wrote that it has always been HUD's policy that, with respect to loans originated by correspondent mortgagees approved by the Secretary and sponsored by an FHA-approved mortgagee, the origination fee limit does not apply to any additional limited compensation the correspondent might receive from the mortgagee related to the loan-servicing rights. The commenter wrote that HUD already limits such additional compensation at § 206.207(b) of the HECM program regulations (which concerns servicing charges). Accordingly, the commenter recommended that HUD add an explanatory phrase to § 206.31(a)(1) clarifying that the HECM origination fee limit does not cover any loan-servicing charges provided to correspondents.

HUD Response. The commenter is correct that loan-servicing charges paid to a loan correspondent under the HECM program are not subject to the origination fee limit. As the commenter correctly noted, servicing charges are covered under § 206.207(b) of the HECM regulations. The purpose of the proposed regulatory language was not to revise HUD policy, but only to clarify that the origination fee charged to the HECM borrower must include the full amount of any fee paid to a loan correspondent related to the origination of the mortgage. This is consistent with HUD's existing policy regarding HECM origination fees, as described in Mortgagee Letter 00–10 (issued on March 8, 2000). HUD, however, agrees that the proposed regulatory language was confusing. The interim rule revises this language to more closely track the language of Mortgagee Letter 00–10 for purposes of clarity and consistency with the guidance provided in the Mortgagee Letter. A copy of Mortgagee Letter 00–10 may be downloaded from the HUD Client Information and Policy System (HUDCLIPS) Web site at *http://www.hudclips.org.*

Comment: The proposed rule appears to undercut HUD's guidance on the role of mortgage brokers in the HECM program. Related to the preceding comment, two commenters wrote that the proposed language of § 206.31(a)(1) rule contradicted the guidance provided in Mortgagee Letter 00–10. The commenters wrote that the Mortgagee Letter provides that the HECM origination fee limit includes the full amount of any origination fee paid to both mortgage brokers and loan correspondents. The commenters wrote that, by only referring to loan correspondent fees, the third sentence of proposed § 206.31(a)(1) appears to undercut the guidance provided in Mortgagee Letter 00–10. According to the commenters, the proposed regulatory language could be interpreted to permit only loan correspondent mortgagees, and not also mortgage brokers, to receive fees within the origination fee cap. The commenters urged that § 206.31(a)(1) be revised to more closely track the language of the Mortgagee Letter, and explicitly provide that the origination fee shall include fees paid to mortgage brokers under the circumstances permitted by the Secretary.

HUD response. As noted in the response to the preceding comment, HUD agrees that the proposed regulatory language was confusing and has revised the language for purposes of clarity. The revised language more closely tracks the guidance provided in Mortgagee Letter 00–10, and clarifies that the HECM origination fee limit includes the full amount of any fee related to the origination of the HECM loan paid to a mortgage broker or loan correspondent.

C. Comment Regarding Procedures for HECM Refinancing (§ 206.53)

Comment: The proposed rule incorrectly assumes that a RESPA Good Faith Estimate must be provided in connection with a HECM loan. The proposed rule provides that the mortgagee must provide the anti-churning disclosure concurrently with the Good Faith Estimate required under RESPA. One commenter wrote that this provision incorrectly assumes that the RESPA Good Faith Estimate must be

provided in connection with a HECM loan. The commenter wrote that the source of the incorrect assumption is § 206.43(a) of the HECM program regulations, which refers to the RESPA Good Faith Estimate. The commenter noted that HUD's RESPA regulations at 24 CFR 3500.7 provide that ''[i]n the case of a federally related mortgage loan involving an open-line of credit (home-equity plan) covered under the Truth in Lending Act and Regulation Z, a lender or mortgage broker that provides the borrowers with the disclosures required by 12 CFR 226.5b of Regulation Z at the time the borrower applies for such loan shall be deemed to satisfy the [Good Faith Estimate] requirements of this section.'' According to the commenter, HECM loans are open-lines of credit under Regulation Z and, therefore, not subject to the RESPA Good Faith Estimate disclosure requirements.

HUD Response. HECM loans may be either open-end or closed-end lines of credit. The commenter is correct that the RESPA regulations provide that lenders and mortgage brokers may satisfy RESPA disclosure requirements for open-end lines of credit if they provide borrowers with the disclosures required under the Truth in Lending Act (TILA) and Regulation Z. Therefore, for HECM loans that are open-end lines of credit, lenders and mortgage brokers may satisfy RESPA disclosure requirements if they provide the disclosures required by TILA and Regulation Z. The RESPA Good Faith Estimate is only required for those HECM loans that are closed-end lines of credit. The lender is responsible for determining whether a particular HECM loan is an open-end or closed-end line of credit, and whether the RESPA or TILA and Regulation Z disclosure requirements are applicable to the transaction.

The references to the RESPA Good Faith Estimate contained in the existing HECM regulations and the June 5, 2001, proposed rule were not meant to modify or expand the scope of the RESPA disclosure requirements. Rather, these references were designed to remind program participants that their HECM loan might be subject to the Good Faith Estimate RESPA requirement. HUD agrees that the reference in the proposed rule regarding the timing of the anti-churning disclosure might be confusing and lead to the incorrect assumption that all HECM loans are subject to RESPA. Accordingly, this interim rule removes this reference to RESPA and simply provides that the anti-churning disclosure must be provided at the same time as the other disclosures required under § 206.43.

Comment: HUD should issue a Mortgagee Letter providing an illustration of how to calculate the total cost of refinancing as defined by the proposed rule and how it is used in determining whether the housing counseling requirement may be waived. One commenter made this suggestion. The commenter wrote that such an illustration would provide additional clarity and prevent varied interpretations of the rule.

HUD Response. HUD agrees that additional non-regulatory guidance might be helpful in clarifying the requirements of this interim rule and facilitating implementation of the regulatory requirements. HUD intends to issue a Mortgagee Letter in the near future providing such guidance, including the illustration suggested by the commenter.

Comment: HUD should reconsider the second criterion for waiver of the housing counseling requirement. Two commenters wrote that the proposed threshold of five times the total cost of refinancing would require a very large increase in the principal limit and, thus, may be unattainable by most HECM consumers. Both commenters advocated that HUD lower the amount necessary to satisfy the second criterion. One of the commenters recommended that HUD decrease the multiple from five times the total cost of refinancing to two times the total cost of refinancing. The commenter wrote that the lower threshold would still protect seniors from ''churning'' while at the same time providing a truly streamlined refinance option for borrowers that have already satisfied the housing counseling requirement with their original HECM loan.

HUD Response. HUD has not adopted these comments. In establishing the amount required for the second waiver criterion, HUD has attempted to assure that mortgagors who may be subject to predatory fees receive housing counseling. At the same time, HUD is aware of the statutory intent to waive a potentially duplicative requirement for HECM mortgagors who wish to refinance and who have already received counseling. Accordingly, HUD proposed to establish a relatively high threshold of five times the total cost of the refinancing. HUD continues to believe that a refinanced HECM with an increase in the principal limit that does not exceed this threshold is more likely to contain the excessive fees that frequently characterize predatory loans. However, HUD is cognizant that the threshold may need to be revised as a result of, among other factors, HUD's experience in administering the HECM refinancing program, the availability of new financial data, or changes in the housing market. The interim rule continues to provide for a streamlined procedure for making such updates through **Federal Register** notice, rather than through the lengthier rulemaking process. In order to provide HECM program participants with sufficient time to adjust to any such change, HUD will delay the effective date of the revision for a period of not less than 30 days following publication of the **Federal Register** notice.

D. Comment Regarding Method for Announcing Changes to Counseling Waiver Criterion and Origination Fee Limits

*Comment: HUD should consider announcing changes to the second housing counseling waiver criterion and to the allowable origination fee on refinanced HECMs via Mortgagee Letter rather than through the **Federal Register** notice.* One commenter made this suggestion. The commenter wrote that this would be less cumbersome and a more efficient method of implementing these changes.

HUD Response. HUD has not revised the rule in response to these comments. Notification through **Federal Register** notice is required to ensure that HECM program participants are provided with sufficient notice of any changes to the counseling waiver threshold and origination fee limits.

VI. Justification for Interim Rulemaking on Reduction of Initial MIP

As noted above in this preamble, this rule makes an interim change to the HECM regulations that was not part of the June 5, 2001, proposed rule. Specifically, § 206.53(c) implements the statutory authority provided to HUD by section 255(k) of the NHA to reduce the initial MIP for HECM refinancings. HUD generally publishes regulatory changes for public comment before issuing them for effect, in accordance with its own regulations on rulemaking in 24 CFR part 10. However, part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impractical, unnecessary, or contrary to the public interest'' (*see* 24 CFR 10.1). For the following reasons, HUD has determined that it would be contrary to the public interest to delay the effectiveness of this regulatory change in order to solicit prior public comments. Further, delaying the effectiveness of this change to solicit comment is unnecessary, since the

change will benefit consumers and have no adverse impact on lenders.

By reducing or eliminating the HECM initial MIP, the regulatory change will reduce the costs of obtaining a HECM loan, thereby better enabling older citizens to refinance their existing HECMs. Delaying implementation of the change to permit prior public comment would deny the benefits of these reduced costs to HECM consumers during the public comment period. Lenders involved in the origination and servicing of HECM loans will not be adversely affected by these changes, since the initial MIP is payable to HUD and not the lenders. As noted above, the actuarial study conducted by HUD to evaluate the adequacy of HECM insurance premiums concluded that the reduction to the initial MIP would not negatively impact the soundness of the FHA General Insurance Fund. Accordingly, the regulatory change will provide an immediate economic benefit to HECM consumers, while having minimal, if any, adverse economic effect on lenders or HUD.

This change is being issued for effect, along with the other amendments being made by this interim rule. However, in order to provide an opportunity for public comment, HUD is issuing this regulatory provision on an interim basis and is requesting public comments on the reduced MIP. HUD will be accepting comments on this issue for a 60-day period. HUD will issue a follow-up final rule addressing the significant issues raised by the public commenters on the reduction of the initial MIP.

VII. Findings and Certifications

Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action'' as defined in section 3(f) of the order (although not economically significant, as provided in section 3(f)(1) of the order). Any changes made to this rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Information Collection Requirements

The information collection requirements contained in § 206.53 have been approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520) and assigned OMB control number 2502–0546. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid control number.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments and the private sector. This rule does not impose any federal mandates on any state, local, or tribal government or the private sector within the meaning of the UMRA.

Environmental Impact

A Finding of No Significant Impact with respect to the environment was made at the proposed rule stage in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding remains applicable to this interim rule and is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Room 10276, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–0500.

Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed and approved this interim rule and in so doing certifies that this rule will not have a significant economic impact on a substantial number of small entities. The reasons for HUD's determination are as follows:

The amendments made by this interim rule will impose minimal, if any, economic costs on small lenders and other participants in the HECM Program. For example, the origination fee limits that will be established under this interim rule for HECM refinancing do not impose any economic burden on lenders (the same fee limits are already applicable to original financing under the HECM Program). The anti-churning disclosure (although a new information collection requirement) also does not add new costs or impose additional economic burdens on lenders. Neither will lenders be adversely affected by the reductions in the initial MIP established by this interim rule, since the initial MIP is payable to HUD and not the lenders.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding any less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the rule preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This interim rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Catalog of Domestic Assistance Number

The Catalog of Domestic Assistance Number for the HECM Program is 14.871.

List of Subjects in 24 CFR Part 206

Aged, Condominiums, Loan programs—housing and community development, Mortgage insurance, Reporting and recordkeeping requirements.

■ Accordingly, HUD amends 24 CFR part 206 as follows:

PART 206—HOME EQUITY CONVERSION MORTGAGE INSURANCE

■ 1. The authority citation for 24 CFR part 206 continues to read as follows:

Authority: 12 U.S.C. 1715b, 1715z-1720; 42 U.S.C. 3535(d).

■ 2. Revise § 206.31(a)(1) to read as follows:

§ 206.31 Allowable charges and fees.

(a) * * *

(1) A charge to compensate the mortgagee for expenses incurred in originating and closing the mortgage loan, which may be fully financed with the mortgage. The Secretary may establish limitations on the amount of any such charge. HUD will publish any such limit in the **Federal Register** at least 30 days before the limitation takes effect. The mortgagor is not permitted to pay any additional origination fee of any kind to a mortgage broker or loan correspondent. A mortgage broker's fee can be included as part of the origination fee only if the mortgage broker is engaged independently by the

homeowner and if there is no financial interest between the mortgage broker and the mortgagee.

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■ 3. Add § 206.53 under a new undesignated center heading ''REFINANCING OF EXISTING HOME EQUITY CONVERSION MORTGAGES'' to read as follows:

§ 206.53 Refinancings.

(a) *General.* This section implements section 255(k) of NHA. Except as otherwise provided in this section, all requirements applicable to the insurance of home equity conversion mortgages under this part apply to the insurance of refinancings under this section. HUD may, upon application by a mortgagee, insure any mortgage given to refinance an existing home equity conversion mortgage presently insured under this part.

(b) *Definition of ''total cost of the refinancing.''* For purposes of paragraphs (c) and (d) of this section, the term ''total cost of the refinancing'' means the sum of the allowable charges and fees permitted under § 206.31 and the initial MIP described in § 206.105(a) and paragraph (c) of this section.

(c) *Initial MIP limit.* The initial MIP paid by the mortgagee pursuant to § 206.105(a) shall not exceed two percent of the increase in the maximum claim amount (*i.e.*, the difference between the maximum claim amount for the new home equity conversion mortgage and the maximum claim amount for the existing home equity conversion mortgage that is being refinanced).

(d) *Anti-churning disclosure*— (1) *Contents of anti-churning disclosure.* In addition to providing the required disclosures under § 206.43, the mortgagee shall provide to the mortgagor its best estimate of:

(i) The total cost of the refinancing to the mortgagor; and

(ii) The increase in the mortgagor's principal limit as measured by the estimated initial principal limit on the mortgage to be insured less the current principal limit on the home equity conversion mortgage that is being refinanced under this section.

(2) *Timing of anti-churning disclosure.* The mortgagee shall provide the anti-churning disclosure concurrently with the disclosures required under § 206.43.

(e) *Waiver of counseling requirement.* The mortgagor may elect not to receive counseling under § 206.41, but only if:

(1) The mortgagor has received the anti-churning disclosure required under paragraph (d) of this section.

(2) The increase in the mortgagor's principal limit (as provided in the anti-churning disclosure) exceeds the total cost of the refinancing by an amount established by the Secretary through **Federal Register** notice. HUD may periodically update this amount through publication of a notice in the **Federal Register**. Publication of any such revised amount will occur at least 30 days before the revision becomes effective.

(3) The time between the date of the closing on the original home equity conversion mortgage and the date of the application for refinancing under this section does not exceed five years (even if less than five years have passed since a previous refinancing under this section).

Dated: January 30, 2004.

John C. Weicher,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 04–6558 Filed 3–24–04; 8:45 am]

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Federal Register

Thursday,
March 25, 2004

Part VI

Securities and Exchange Commission

17 CFR Parts 228, 229, et al.
Additional Form 8–K Disclosure Requirements and Acceleration of Filing Date; Final Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 228, 229, 230, 239, 240 and 249

[Release Nos. 33–8400; 34–49424; File No. S7–22–02]

RIN 3235–AI47

Additional Form 8–K Disclosure Requirements and Acceleration of Filing Date

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: We are expanding the number of events that are reportable on Form 8–K under the Securities Exchange Act of 1934. These amendments add eight new items to the form, transfer two items from the periodic reports and expand disclosures under two existing Form 8–K items. Due to the increase in reportable events under the form, we are reorganizing the Form 8–K items into topical categories. The amendments also shorten the Form 8–K filing deadline for most items to four business days after the occurrence of an event triggering the disclosure requirements of the form. Finally, we are adopting a limited safe harbor from liability for failure to file certain of the required Form 8–K reports. These amendments are responsive to the ''real time issuer disclosure'' mandate in Section 409 of the Sarbanes-Oxley Act of 2002. They are intended to provide investors with better and faster disclosure of important corporate events.

EFFECTIVE DATE: August 23, 2004.

FOR FURTHER INFORMATION CONTACT: Ray Be, Special Counsel, or Julie A. Bell, Special Counsel, each at (202) 942–2910, Division of Corporation Finance, U.S. Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0312.

SUPPLEMENTARY INFORMATION: We are adopting amendments to Form 8–K,[1] Form 10–K,[2] Form 10–KSB,[3] Form 10–Q,[4] Form 10–QSB,[5] Rule 12b–23,[6] Rule 13a–10,[7] Rule 13a–11,[8] Rule 15d–10,[9] and Rule 15d–11,[10] under the Securities Exchange Act of 1934,[11] Form S–2,[12] Form S–3,[13] and Rule 144[14] under the Securities Act of 1933,[15] and Item 601[16] of Regulation S–B[17] and Item 601[18] of Regulation S–K.[19]

Table of Contents

I. Background

On June 17, 2002, we proposed to increase the number of events required to be disclosed on Form 8–K.[20] Form 8–K is the Exchange Act form for current reports. Prior to the amendments being adopted today, Form 8–K required disclosure regarding nine different specified events.[21] At the time, the proposals would have increased the number of reportable events under the form to 22. The proposals also would have shortened the form's filing deadline from five business days or 15 calendar days, depending on the particular event, to two business days with an automatic two business day extension upon a company's filing of a Form 12b–25. In response to these proposals, we received approximately 85 comment letters from various constituencies, including investors, issuers, accounting firms, law firms and associations representing the interests of such constituencies.

Under the previous Form 8–K regime, companies were required to report very few significant corporate events. The limited number of Form 8–K disclosure items permitted a public company to delay disclosure of many significant events until the due date for its next periodic report. During such a delay, the market was unable to assimilate such undisclosed information into the value of a company's securities. The revisions

[1] 17 CFR 249.308.
[2] 17 CFR 249.310.
[3] 17 CFR 249.310b.
[4] 17 CFR 249.308a.
[5] 17 CFR 249.308b.
[6] 17 CFR 249.12b–23.
[7] 17 CFR 249.13a–10.
[8] 17 CFR 240.13a–11.
[9] 17 CFR 240.15d–10.
[10] 17 CFR 240.15d–11.
[11] 15 U.S.C. 78a *et seq.*
[12] 17 CFR 239.12.
[13] 17 CFR 239.13.
[14] 17 CFR 230.144.
[15] 15 U.S.C. 77a *et seq.*
[16] 17 CFR 228.601.
[17] 17 CFR 228.10 *et seq.*
[18] 17 CFR 229.601.
[19] 17 CFR 229.10 *et seq.*

[20] Release No. 33–8106 (June 17, 2002) [67 FR 42914].

[21] In addition, three additional items of the form provided for voluntary disclosure of other significant events of a company, the filing of financial statements and exhibits, and disclosure of information pursuant to Regulation FD [17 CFR 243.100 *et seq.*]

that we adopt today will benefit markets by increasing the number of unquestionably or presumptively material events that must be disclosed currently. They will also provide investors with better and more timely disclosure of important corporate events.

On July 29, 2002, Congress enacted the Sarbanes-Oxley Act of 2002.[22] Section 409 of this Act requires public companies to disclose ''on a rapid and current basis'' material information regarding changes in a company's financial condition or operations as we, by rule, determine to be necessary or useful for the protection of investors and in the public interest. These amendments also further the goals of Section 409 of the Sarbanes-Oxley Act.

At the same time, we have taken into account a number of important comments on the proposals by adopting a modified version of the proposed Form 8–K amendments. We have addressed the commenters' concern regarding potential premature disclosure in a number of respects. We also have addressed the concerns raised by several commenters regarding the length of the Form 8–K filing period by extending it beyond the originally proposed two business day period and significantly reducing the amount of analysis required by the specific items of the form. Our general rules, however, prohibiting material omissions that make the contents of the disclosure misleading, of course, continue to apply.[23] We have also taken into account the concerns expressed by commenters regarding the liabilities that could arise for failure to make current disclosure of some events in what are still tight timeframes. In response to these comments, we have replaced the proposed safe harbor that would have afforded protection from potential Exchange Act Section 13(a) or 15(d) liability stemming from a company's failure to file a required Form 8–K to instead afford protection from potential liability arising under Exchange Act Section 10(b) and Rule 10b–5 thereunder.

II. Discussion of Amendments

A. Shortened Form 8–K Filing Deadline and Availability of Form 12b–25

The amendments to Form 8–K require issuers that are subject to the reporting requirements of Section 13(a) and Section 15(d) of the Exchange Act, other than foreign private issuers that file annual reports on Form 20–F [24] or 40–F,[25] to file required current reports on Form 8–K within four business days of a triggering event.[26] These amendments do not affect the filing deadline for disclosures under Regulation FD (Item 7.01), voluntary disclosures (Item 8.01) and certain exhibits.

In the proposing release, we proposed a two business day deadline for Form 8–K, with provision for an automatic two business day extension upon a company's filing of Form 12b–25. Thus, the proposals would have permitted a four business day filing period whenever a company filed a Form 12b–25.

We received numerous comments and recommendations regarding appropriate filing deadlines.[27] The comments ranged from support of the two business day deadline to recommendations of as much as ten business days. Similarly, we received mixed comments on the Form 12b–25 proposal.[28] Some commenters noted that the Form 12b–25 proposal would complicate the process and that increased filings would reduce the significance of a Form 12b–25 filing.[29] We are persuaded by these commenters that modifications to the proposals are warranted. Thus, we are not adopting the proposal to extend the Form 8–K filing deadline via Form 12b–25. Rather, we are adopting a four business day deadline for Form 8–K, with no provision for extension under Rule 12b–25.[30] We believe that this change addresses commenters' concerns regarding the sufficiency of the filing period and simplifies the logistics of filing the four business day period.

B. Reorganization of Form 8–K Items

Because we are adding a number of new items to the form, we believe it is appropriate to organize the required reportable items into topical categories. Commenters generally supported such reorganization. The amendments organize the Form 8–K items under the following section headings and with the following new numbering system:

Section 1—Registrant's Business and Operations
- Item 1.01 Entry into a Material Definitive Agreement
- Item 1.02 Termination of a Material Definitive Agreement
- Item 1.03 Bankruptcy or Receivership

Section 2—Financial Information
- Item 2.01 Completion of Acquisition or Disposition of Assets
- Item 2.02 Results of Operations and Financial Condition
- Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant
- Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement
- Item 2.05 Costs Associated with Exit or Disposal Activities
- Item 2.06 Material Impairments

Section 3—Securities and Trading Markets
- Item 3.01 Notice of Delisting or Failure to Satisfy a Continued Listing Rule or Standard; Transfer of Listing
- Item 3.02 Unregistered Sales of Equity Securities
- Item 3.03 Material Modifications to Rights of Security Holders

Section 4—Matters Related to Accountants and Financial Statements
- Item 4.01 Changes in Registrant's Certifying Accountant
- Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

Section 5—Corporate Governance and Management
- Item 5.01 Changes in Control of Registrant
- Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers
- Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year
- Item 5.04 Temporary Suspension of Trading Under Registrant's Employee Benefit Plans
- Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics

Section 6—[Reserved]

Section 7—Regulation FD
- Item 7.01 Regulation FD Disclosure

Section 8—Other Events
- Item 8.01 Other Events

Section 9—Financial Statements and Exhibits

[22] 15 U.S.C. 78m(l).

[23] See, for example, Exchange Act Rule 12b–20 [17 CFR 240.12b–20].

[24] 17 CFR 249.220f.

[25] 17 CFR 249.240f.

[26] Instruction B.1. to Form 8–K.

[27] See, for example, the letters from American Institute of Certified Public Accountants (''AICPA''), City Bar of New York (''NY City Bar''), Deloitte & Touche, Dan Nguyen, Emerson Electric Co. (''Emerson''), Boeing Company (''Boeing''), Morgan Stanley and Perkins Coie.

[28] See, for example, the letters from the AICPA, KPMG, Cleary Gottlieb, Steen & Hamilton (''Cleary Gottlieb''), PriceWaterhouseCoopers (''PWC''), Intel Corporation (''Intel'') and Ronald Stauber.

[29] See the letters from Cleary Gottlieb and PWC.

[30] For example, if a reportable event occurred on a Wednesday, the Form 8–K filing deadline would typically be the following Tuesday.

Item 9.01 Financial Statements and Exhibits

This new numbering system avoids re-use of the former single-digit item numbering system previously used in Form 8–K to avoid confusion about the subject of particular items. For example, the Form 8–K item permitting voluntary disclosure of ''other events'' that was formerly designated as Item 5 now appears as Item 8.01. Thus, anyone searching the EDGAR database for such filings made before and after the change will need to search for both Items 5 and 8.01. In addition, a company amending a Form 8–K that it filed before the effective date of the rules we are adopting today must file the amendment using the form's new numbering system. For example, a company amending a Form 8–K previously filed under former Item 2, Acquisition or Disposition of Assets, to add the required financial statements must reference new Item 9.01, Financial Statements and Exhibits, when filing the amendment.

C. Expansion of Form 8–K Items

We are adding eight new items to the list of events that require a company to file a current report on Form 8–K and transferring, in part, two items from the periodic reports.[31] In addition, we are expanding two pre-existing Form 8–K items. Based on our review of Form 8–K filings, as well as public comment letters, we believe that these items represent events that unquestionably or presumptively have such significance that current disclosure should be required. These amendments will operate prospectively only.[32] The following is a discussion of the individual items in the revised Form 8–K.

Section 1—Registrant's Business and Operations

Item 1.01 Entry Into a Material Definitive Agreement

New Item 1.01 requires the disclosure of material definitive agreements entered into by a company that are not made in the ordinary course of business. The item parallels Items 601(b)(10) of Regulation S–K[33] with regard to the types of agreements that are material to a company, a standard already familiar to reporting companies.[34]

Under Item 1.01, a company must also disclose any material amendment to a material definitive agreement. Disclosure of a material amendment may be required under Item 1.01 even if the underlying agreement previously has not been disclosed by the company. This could occur if, for example, the agreement was entered into prior to the effective date of this Item 1.01, or the amendment results in the agreement becoming a material definitive agreement of the company.

A company must disclose the following information upon entry into, or material amendment of, a material definitive agreement:

- The date on which the agreement was entered into or amended, the identity of the parties to the agreement and a brief description of any material relationship between the company or its affiliates and any of the parties, other than in respect of the material definitive agreement or amendment; and
- A brief description of the terms and conditions of the agreement or amendment that are material to the company.

We received substantial comment on this item at the proposing stage. In particular, many commenters opposed our proposal to require disclosure of letters of intent and other non-binding agreements in addition to disclosure of definitive agreements that are material to the company.[35] They noted that disclosure of non-binding agreements could cause significant competitive harm to the company and create excessive speculation in the market.[36] Several companies also stated that they use letters of intent extensively, but that few such letters culminate in a completed transaction.[37]

In response to the commenters, we eliminated the requirement that companies disclose their entry into non-binding agreements from this item.[38] We have further replaced the proposed definition of ''agreement'' with a definition of ''material definitive agreement'' and have moved this definition from a proposed instruction into Item 1.01(b). We have clarified that only agreements which provide for obligations that are material to and enforceable against a company, or rights that are material to the company and enforceable by the company against one or more other parties to the agreement by the company, are required to be disclosed pursuant to Item 1.01, regardless of whether the material definitive agreement is enforceable subject to stated conditions.[39]

We have also eliminated the specific requirements to disclose each party's rights and obligations under the material definitive agreement and the duration and termination provisions of the agreement. To the extent that any of these provisions is material to the company, it must be briefly described under paragraph (a)(2) of the item.

Filing of Exhibits

The proposals would have required a company to file a material agreement required to be disclosed under Item 1.01 as an exhibit to its Form 8–K. We received numerous comments on this proposal. A primary concern of commenters was that companies would not always be able to prepare and submit requests for confidential treatment of sensitive terms of the agreement within the short Form 8–K filing period.[40] They recommended several alternatives, including streamlined treatment of such requests, such as by creating a short-form confidential treatment request process,[41] and delaying the company's obligation to file the exhibit until it files

[31] The two items which we have modified from existing disclosure requirements in periodic reports and included in Form 8–K are Item 3.02 Unregistered Sales of Equity Securities and Item 3.03 Material Modifications to Rights of Security Holders, each of which previously was required to be reported pursuant to Forms 10–Q, 10–QSB, 10–K and 10–KSB, as applicable. As discussed more fully below, however, we have retained in these applicable periodic reports a requirement to disclose any sales of unregistered equity securities that do not meet the numeric thresholds of the new Form 8–K item.

[32] However, certain subsequent events, such as a material amendment to a material definitive agreement, may trigger a disclosure requirement even though the initial entry into the material definitive agreement occurred prior to the effectiveness of these amendments.

[33] Unless otherwise noted, throughout this release, where we refer to a particular item of Regulation S–K, we also refer to, and include, the comparable item under Regulation S–B.

[34] See Instruction 1 to Item 1.01.

[35] See, for example, the letters of the AICPA, American Bar Association, Section of Business Law (''ABA''), NY City Bar, Cleary Gottlieb, Financial Executives International (''FEI''), Intel and Morgan Stanley.

[36] See, for example, the letters of Compass Bancshares, Inc. (''Compass Bancshares''), NY City Bar and Hogan & Hartson.

[37] Many of these companies were real estate investment trusts. See, for example, the letter from the National Association of Real Estate Investment Trusts (''NAREIT'').

[38] We note, however, that there may be instances under our other rules and regulations or applicable case law in which a company would be required to disclose such non-binding agreements, notwithstanding the absence of a Form 8–K requirement.

[39] Thus, for example, a material definitive agreement which is subject to customary closing conditions, such as the delivery of legal opinions or comfort letters, completion of due diligence or regulatory approval, must be disclosed under Item 1.01 when such agreement is enforceable against or by the company despite the fact that such conditions have not yet been satisfied. However, if a company enters into a non-binding letter of intent or memorandum of understanding that also contains some binding, but non-material elements, such as a confidentiality agreement or a no-shop agreement, the letter or memorandum does not need to be filed because the binding provisions are not material.

[40] See, for example, the letters from the ABA, NY City Bar and FEI.

[41] See the letter from the NY City Bar.

its next periodic report.[42] In addition, some commenters were concerned that the process of preparing to submit such lengthy documents in proper EDGAR format would hinder the ability of a company to report the event promptly.

In response to these comments, we have eliminated the proposed requirement to file the material agreement as a Form 8–K exhibit. Prior to these amendments, material agreements did not need to be filed until the company's next periodic report as there was no Form 8–K item requiring disclosure of the event. Thus, the amendments do not change current requirements with regard to filing material agreements as exhibits, nor do they affect the process for requesting confidential treatment of terms of those agreements. Given the initial disclosure of the agreement and its material terms, delayed filing of the exhibit should have minimal effect on the utility of the Item 1.01 disclosure. Pursuant to amended Item 601 of Regulation S–K, a company will have to file such agreement as an exhibit to the company's next periodic report or registration statement.[43] However, we encourage companies to file the exhibit with the Form 8–K when feasible, particularly when no confidential treatment is requested.

Considerations Regarding Business Combinations

New Item 1.01 requires disclosure of all material definitive agreements specified by the item, including business combination agreements and other agreements that relate to extraordinary corporate transactions. The filing of the Form 8–K may constitute the first ''public announcement'' for purposes of Rule 165[44] under the Securities Act and Rule 14d–2(b)[45] or Rule 14a–12[46] under the Exchange Act[47] and thereby trigger a filing obligation under those rules.

In the proposing release, we solicited comment on whether Form 8–K should include boxes on the cover page to enable the filer to indicate that the Form 8–K filing also satisfies a separate filing obligation under Rule 165, Rule 14d–2(b) and/or 14a–12.[48] We received favorable comments on this issue.[49] Thus, to avoid duplicative filings, we are amending Form 8–K to enable a company to check one or more boxes on the cover page to indicate that it is simultaneously satisfying its filing obligations under these rules, provided that the Form 8–K contains all of the information required by those rules.[50]

Item 1.02 Termination of a Material Definitive Agreement

We are adopting a new Form 8–K item requiring disclosure if a material definitive agreement not made in the ordinary course of business to which a company is a party is terminated, other than by expiration of the agreement on a stated termination date or as a result of all parties completing their obligations under such agreement, and such termination of the agreement is material to the company. In such an event, the company must disclose the following information:

- The date of the termination of the material definitive agreement, the identity of the parties to the agreement and a brief description of any material relationship between the company or its affiliates and any of the parties other than in respect of the material definitive agreement;
- A brief description of the terms and conditions of the agreement that are material to the company;
- A brief description of the material circumstances surrounding the termination; and
- Any material early termination penalties incurred by the company.[51]

Several commenters believed that an agreement that terminates ''by its terms'' should not trigger disclosure.[52] We have addressed these concerns by excluding termination as a result of expiration of the agreement on its stated termination date or as a result of completion by all parties of their obligations.

Commenters also were concerned that one party to an agreement may use this item as a negotiation tool to induce another party to the agreement to modify the agreement on terms more favorable to the first party, or else potentially suffer a negative market reaction to disclosure about termination of the agreement.[53] We believe these comments are addressed by Instruction 1 to Item 1.02 which states that no disclosure is required under the item during negotiations or discussions regarding termination of a material definitive agreement unless and until the agreement has been terminated.

In addition, in response to commenters' concerns, we have further clarified in Instruction 2 to Item 1.02 that no disclosure is required under the item if the company believes, in good faith, that the agreement has not been terminated, unless the company has received a notice of termination pursuant to the terms of the agreement. If a company believes in good faith that a material definitive agreement has not been terminated, but determines nevertheless to make disclosure under Item 1.02, the company could disclose under this item a statement of its good faith belief as to any relevant matter, including, for example, that not all conditions to termination have been satisfied or that a termination has otherwise not occurred. In such event, an amendment[54] under this Item 1.02 may be required if the company's conclusion as to termination changes due to a loss of, or change in, its good faith belief.

Other commenters were concerned about the proposed requirement to disclose management's analysis of the effect of the termination, which some referred to as a ''mini–MD&A.''[55] We

[42] See, for example, the letters from the AICPA, Compass Bancshares and Sullivan & Cromwell.

[43] See General Instruction B.4 to Form 8–K.

[44] 17 CFR 230.165.

[45] 17 CFR 240.14d–2(b).

[46] 17 CFR 240.14a–12.

[47] Rule 165 provides an exemption from Section 5 of the Securities Act for communications relating to the business combination made before the filing of a registration statement in connection with that business combination if all written communications are filed under Securities Act Rule 425 [17 CFR 230.425]. Rule 14d–2(b) allows communications by the bidder before the commencement of the tender offer provided that all written communications are filed. Rule 14a–12 allows solicitations to be made before a proxy statement meeting the requirements of Rule 14a–3(a) [17 CFR 240.14a–3(a)] is furnished to security holders if the written solicitations are filed.

[48] The Form 8–K filing must generally include the substantive information and legends required by those rules. The appropriate EDGAR tag (specifically, ''425,'' ''TO–C'' or ''DEFA14A'') also will be necessary. An interpretation of the Division of Corporation Finance (see Q&A No. I.B.13, Manual of Publicly Available Telephone Interpretations, Third Supplement, July 2001) stated that a company that files information regarding a business combination on Form 8–K may be required to make a separate filing under Rule 425 [17 CFR 230.425]. As of the August 23, 2004 compliance date for these amendments, a separate filing no longer will be necessary if the company indicates on the cover of its Form 8–K report that the filing is intended to satisfy the requirements of Rule 425.

[49] See, for example, the letters from the ABA, NY City Bar, Compass Bancshares, and Sullivan & Cromwell.

[50] As Instruction A.2 to the Form 8–K indicates, however, because the information required by Rule 425(c) would otherwise be present in a Form 8–K report, such information need not be placed in the location specified by Rule 425(c).

[51] Disclosure of the termination of a material definitive agreement may be required under this item even if the agreement was not disclosed previously because, for example, the agreement was entered into prior to effectiveness of Item 1.01.

[52] See, for example, the letters from CIGNA Corporation (''CIGNA''), Cleary Gottlieb, John Deere Co. (''John Deere'') and Shearman & Sterling.

[53] See, for example, the letters from Boeing, Intel, NY City Bar and Sullivan & Cromwell.

[54] In such event, the company will have to amend the Form 8–K to provide this updated information within four business days from the date that conclusion changes.

[55] These commenters likened the proposed analysis to Item 303 of Regulation S–K, which requires a company to include an MD&A section in

Continued

agree with the commenters that in some cases such analysis may be difficult to provide within the abbreviated Form 8–K filing period and may be more relevant and complete when discussed in the context of full financial statements. Thus, we have removed this proposed requirement from specific required terms of the final rule. Nevertheless, any disclosure made in a report on Form 8–K must include all other material information, if any, that is necessary to make the required disclosure, in the light of the circumstances under which it is made, not misleading.[56]

Item 1.03 Bankruptcy or Receivership

This item retains the basic substantive requirements formerly included in Item 3 of Form 8–K regarding a company's entry into bankruptcy or receivership. As proposed, however, we are adopting minor changes to make the item more readable, such as breaking out embedded lists from the text and moving some language currently included in the text into an instruction to the item.

Section 2—Financial Information

Item 2.01 Completion of Acquisition or Disposition of Assets

This item retains most of the substantive requirements included in former Item 2 of Form 8–K. It requires disclosure if a company, or any of its majority-owned subsidiaries, has acquired or disposed of a significant amount of assets, otherwise than in the ordinary course of business.

We recognize that there will frequently be a relationship between the disclosure provided under this item and the disclosure required by new Item 1.01, ''Entry into a Material Definitive Agreement.'' Typically, a company will report its entry into a material definitive agreement to acquire or dispose of assets under Item 1.01, and then later disclose the closing of the acquisition or disposition transaction under Item 2.01. However, a company will not necessarily be required to provide the Item 2.01 disclosure regarding every material definitive acquisition or disposition agreement disclosed under Item 1.01 as Item 2.01 includes a bright-line reporting threshold that is not included in Item 1.01. Under this threshold, a company need only report a completed acquisition or disposition of assets if the transaction meets the significant asset test as set forth in the item.[57]

We received several comments recommending harmonization between the reporting thresholds in Items 1.01 and 2.01.[58] It is our intention, however, that Item 1.01 address a different scope of agreements than those that will trigger disclosure under Item 2.01, which only applies to the acquisition or disposition of assets. We believe that the use of two different thresholds for these items will not cause undue confusion. Indeed, both items use existing thresholds, one from Item 601 of Regulation S–K, the other from former Item 2 of Form 8–K.

Several commenters believed that the disclosure requirements regarding the source of funding for an acquisition typically have not produced meaningful disclosure and should be limited to instances where a material relationship exists between the company and the source of the funding.[59] They suggested adding the same type of limitation regarding the disclosure that a company must provide about the formula or principle followed in determining the amount of the consideration involved in the acquisition or disposition. We agree with those commenters and have limited those disclosure requirements to instances in which such a relationship is present.

As proposed, this item requires the same basic disclosure formerly required by Item 2 of Form 8–K, except that disclosure no longer is required regarding the nature of the business in which the acquired assets were used and whether the company acquiring the assets intends to continue such use. In addition, while we proposed revision of the disclosure regarding the source of funds used to effect a change in control, we believe that Congress intended for certain procedures to be present with regard to the disclosure of the identity of a bank involved in such a transaction when the bank is loaning funds in the ordinary course of its business.[60] Thus, we are not adopting the proposed changes to this aspect of the item.

Item 2.02 Results of Operations and Financial Condition

We have retained in new Item 2.02 all of the substantive requirements of former Item 12 of Form 8–K regarding public announcements or releases of material non-public information regarding a company's results of operations or financial condition.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant

This new item requires disclosure of the following information if the company becomes obligated under a direct financial obligation that is material to the company:

- The date on which the company becomes obligated on the direct financial obligation and a brief description of the transaction or agreement creating the obligation;
- The amount of the obligation, including the terms of its payment and, if applicable, a brief description of the material terms under which it may be accelerated or increased and the nature of any recourse provisions that would enable the company to recover from third parties; and
- A brief description of the other terms and conditions of the transaction or agreement that are material to the company.

In addition, if the company becomes directly or contingently liable for an obligation that is material to the company arising out of an off-balance sheet arrangement, it must provide the following information:

- The date on which the company becomes directly or contingently liable on the obligation and a brief description of the transaction or agreement creating the arrangement and obligation;
- A brief description of the nature and amount of the obligation of the company under the arrangement, including the material terms under which it may become a direct obligation, if applicable, or may be accelerated or increased and the nature of any recourse provisions that would enable the company to recover from third parties;
- The maximum potential amount of future payments (undiscounted) that the company may be required to make, if different;[61] and

periodic filings and registration statements containing financial statements. See the letter from Joseph Grundfest and seven Silicon Valley law firms (''Grundfest Group''), as well as the letters from the ABA, NY City Bar, and NAREIT.

[56] See Rule 12b–20 under the Exchange Act, as well as Exchange Act Section 10(b) [15 U.S.C. 78j(b)] and Rule 10b–5 [17 CFR 240.10b–5] thereunder.

[57] This test is the same as the test in former Item 2 of Form 8–K. It states that an acquisition or disposition is deemed significant if (1) the company's and its other subsidiaries' equity in the net book value of the assets or the amount paid or received for the assets exceeded 10% of the total assets of the company and its consolidated subsidiaries, or (2) the transaction involved a business that is significant under Regulation S–X.

[58] See the letters from Compass Bancshares, Kellogg, the New York State Bar Association (''NY State Bar''), Shearman & Sterling and Sullivan & Cromwell.

[59] See the letters from the NY State Bar and Sullivan & Cromwell.

[60] See 15 U.S.C. 13(d)(1)(B).

[61] Instruction 4 to Item 2.03 provides that the maximum amount of future payments may not be reduced by the effect of any amounts that may possibly be recovered by a company under recourse

• A brief description of the other terms and conditions of the obligation or arrangement that are material to the company.[62]

The item defines a ''direct financial obligation'' as any of the following:

• A long-term debt obligation, as defined in Item 303(a)(5)(ii)(A) of Regulation S–K (17 CFR 229.303(a)(5)(ii)(A));

• A capital lease obligation, as defined in Item 303(a)(5)(ii)(B) of Regulation S–K (17 CFR 229.303(a)(5)(ii)(B));

• An operating lease obligation, as defined in Item 303(a)(5)(ii)(C) of Regulation S–K (17 CFR 229.303(a)(5)(ii)(C)); or

• A short-term debt obligation that arises other than in the ordinary course of business.

The item refers to Item 303(a)(4)(ii) of Regulation S–K for the definition of the term ''off-balance sheet arrangement.''[63] It also defines the term ''short-term debt obligation'' as a payment obligation under a borrowing arrangement that is scheduled to mature within one year, or, for those companies that use the operating cycle concept of working capital, within a company's operating cycle that is longer than one year, as discussed in Accounting Research Bulletin No. 43, Chapter 3A, *Working Capital*.[64]

This new item also contains an instruction clarifying that a company need not file a report under this Item 2.03 until the company enters into an agreement enforceable against it, whether or not subject to conditions, under which the direct financial obligation will arise or be created or issued. If there is no such agreement, the company must provide the disclosure within four business days after the occurrence of the closing or settlement of the transaction or arrangement under which the direct financial obligation arises or is created.[65]

Another instruction clarifies that a company must provide the disclosure required regarding off-balance sheet arrangements, whether or not the company is also a party to the transaction or agreement creating the contingent obligation arising under the off-balance sheet arrangement.[66] In the event that neither the company nor any affiliate of the company is also a party to the transaction or agreement creating the contingent obligation arising under the off-balance arrangement in question, the four business day period for reporting the event under this Item 2.03 would begin on the earlier of (i) the fourth business day after the contingent obligation is created or arises, and (ii) the day on which an executive officer[67] of the company becomes aware of the contingent obligation.[68]

The third instruction clarifies that if the company enters into a facility, program or similar arrangement that creates or may give rise to direct financial obligations in connection with multiple transactions, the company must disclose the entering into of the facility, program or similar arrangement, and disclose its obligations, to the extent the obligations are material, as they arise or are created under the facility or program (including when a series of previously undisclosed individually immaterial obligations become material in the aggregate).[69]

A final instruction[70] provides that if the obligation required to be disclosed under this Item 2.03 is a security, or a term of a security, that has been or will be sold pursuant to an effective registration statement of the company, the company is not required to file a Form 8–K pursuant to the item, provided that the prospectus relating to the sale contains the information required by this item and is filed within the required time period under Securities Act Rule 424.[71]

We received numerous comments on this item. Many commenters requested clarification regarding the scope of obligations covered by this item.[72] Since we proposed the amendments, we have adopted new rules requiring a company to provide disclosure about its off-balance sheet arrangements.[73] Those rules define the term ''off-balance sheet arrangement.'' Because these are the types of contingent obligations about which Item 2.03 seeks disclosure, new Item 2.03 incorporates the definition of ''off-balance sheet arrangement'' used in Item 303(a)(4)(ii) of Regulation S–K.

The new off-balance sheet arrangement disclosure rules also require disclosure of certain direct financial obligations in tabular form. We have revised the definition of ''direct financial obligation'' to refer to much of the same accounting literature used in these rules. We believe this approach will encourage consistency and reduce confusion regarding the scope of this item.

Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement.

This new item requires a company to file a Form 8-K report if a triggering event causing the increase or acceleration of a direct financial obligation of the company occurs and the consequences of the event are material to the company. In such case, the company must provide the following information:

• The date of the triggering event and a brief description of the agreement or transaction under which the direct financial obligation was created and is increased or accelerated;

• A brief description of the triggering event;

• The amount of the direct financial obligation, as increased if applicable, and the terms of payment or acceleration that apply; and

• Any other material obligations of the company that may arise, increase, be accelerated or become direct financial obligations as a result of the triggering event or the increase or acceleration of the direct financial obligation.

Also, if a triggering event occurs causing a company's obligation under

or collateralization provisions in any guarantee agreement, transaction or arrangement.

[62] See generally Financial Accounting Standards Board (FASB) Interpretation No. 45, *Guarantor's Accounting and Disclosure Requirements for Guarantees, Including Indirect Guarantees and Indebtedness of Others.*

[63] See paragraph (d) of Item 2.03 of Form 8–K.

[64] This definition is comparable to the definition of ''short term obligation'' in Statement of Financial Accounting Standards No. 6 (SFAS No. 6), *Classification of Short-Term Obligations Expected to Be Refinanced.* SFAS No. 6 defines ''short term obligation'' as those obligations that are scheduled to mature within one year after the date of an enterprise's balance sheet or, for those enterprises that use the operating cycle concept of working capital, within an enterprise's operating cycle that is longer than one year.

[65] See Instruction 1 to Item 2.03 of Form 8–K.

[66] For example, assume Company A enters into an agreement with Bank B pursuant to which Company A agrees with Bank B that Company C, an unconsolidated subsidiary of Company A, will maintain equity of at least $1. Six months later, Company C borrows $100 million from Bank B. Three months later, Company C defaults on its debt obligation to Bank B. In this fact pattern, upon entering into the initial agreement with Bank B, Company A would generally have no disclosure requirement under Item 2.03 on Form 8–K. However, when Company C borrows $100 million from Bank B, Company A will be required to file a Form 8–K under Item 2.03 as Company A has become contingently liable for an obligation arising out of an off-balance sheet arrangement, assuming such contingent obligation is material to Company A. Upon Company C's default on it debt obligation to Bank B, a further Form 8–K filing obligation will be required under Item 2.04, as discussed below, as a contingent obligation of Company A has become a direct financial obligation, assuming such direct financial obligation is material to Company A.

[67] The term ''executive officer'' is defined in Exchange Act Rule 3b–7 (17 CFR 240.3b–7).

[68] See Instruction 2 to Item 2.03 of Form 8–K.

[69] See Instruction 3 to Item 2.03 of Form 8–K.

[70] See Instruction 5 to Item 2.03 of Form 8–K.

[71] 17 CFR 230.424.

[72] See, for example, the letters from the ABA, Emerson, Intel, NY State Bar and Sullivan & Cromwell.

[73] Release No. 33–8182 (January 28, 2003) (68 FR 5982).

an off-balance sheet arrangement to increase or be accelerated, or causing a company's contingent obligation under an off-balance sheet arrangement to become a direct financial obligation of the company, and the consequences of such event are material to the company, it must disclose the following information:

- The date of the triggering event and a brief description of the off-balance sheet arrangement;
- A brief description of the triggering event;
- The nature and amount of the obligation, as increased if applicable, and the terms of payment or acceleration that apply; and
- Any other material obligations of the company that may arise, increase, be accelerated or become direct financial obligations as a result of the triggering event or the increase or acceleration of the obligation under the off-balance sheet arrangement or its becoming a direct financial obligation of the company.

Item 2.04 defines the term ''direct financial obligation'' by reference to the definition provided in Item 2.03, but adds for purposes of Item 2.04 that such term includes an obligation arising out of an off-balance sheet arrangement that is accrued under the FASB Statement of Financial Accounting Standards No. 5, *Accounting for Contingencies*[74] (SFAS No. 5) as a probable loss contingency. ''Off-balance sheet arrangement'' is defined by reference to the definition provided in Item 2.03.[75] Finally, Item 2.04(e) defines the term ''triggering event'' as an event, including an event of default, event of acceleration or similar event, as a result of which a direct financial obligation of the company or an obligation of the company arising under an off-balance sheet arrangement is increased or becomes accelerated or as a result of which a contingent obligation of the company arising out of an off-balance sheet arrangement becomes a direct financial obligation of the company.

We have added four instructions to this item. Similar to Item 2.03, the first instruction clarifies that disclosure is required if a triggering event occurs in respect of the company's obligation under an off-balance sheet arrangement and the consequences are material to the company, whether or not the company is also a party to the transaction or agreement under which the triggering event occurs.[76] The second instruction states that no disclosure is required unless and until a triggering event has occurred in accordance with the terms of the relevant agreement, transaction or arrangement, including, if required, the sending to the company of notice of the occurrence of a triggering event pursuant to the terms of the agreement, transaction or arrangement and the satisfaction of all conditions to such occurrence, except the passage of time.

The third instruction provides that, similar to new Item 1.02 of Form 8-K, no disclosure is required if the company believes, in good faith, that no triggering event has occurred, unless the company has received a notice as described in Instruction 2 to Item 2.04. Similar to Item 1.02, a company may wish to disclose under this Item 2.04 a statement of its good faith belief as to any relevant matter, including, for example, that not all conditions to occurrence of a triggering event have been satisfied or that a triggering event otherwise has not occurred. In such event, an amendment under this Item 2.04 may be required if the company's conclusion as to the triggering event changes due to a loss of, or change in, its good faith.[77]

Finally, Instruction 4 to Item 2.04 explains that, if a company is subject to an obligation arising out of an off-balance sheet arrangement, whether or not disclosed pursuant to Item 2.03, if a triggering event occurs as a result of which under that obligation an accrual for a probable loss is required under SFAS No. 5, the obligation arising out of the off-balance sheet arrangement becomes a direct financial obligation for purposes of Item 2.04. In this situation, if the consequences as determined under Item 2.04(b) are material to the company, disclosure is required under Item 2.04.

Similar to those who objected to the proposed analysis provision in Item 1.02, one commenter opposed requiring disclosure of management's analysis of the effect of the triggering event on the company.[78] Again, we agree that it is appropriate to delete this requirement as a specific term of this Form 8–K item. We once again, however, remind companies that any disclosure made in a report on Form 8–K must include all other material information, if any, that is necessary to make the required disclosure, in the light of the circumstances under which it is made, not misleading.[79]

Item 2.05 Costs Associated With Exit or Disposal Activities

This new item requires disclosure when the board of directors, a committee of the board of directors, or an authorized officer or officers if board action is not required, commits the company to an exit or disposal plan or otherwise disposes of a long-lived asset or terminates employees under a plan of termination described in paragraph 8 of FASB Statement of Financial Accounting Standards No. 146 *Accounting for Costs Associated with Exit or Disposal Activities* (SFAS No. 146), under which material charges will be incurred under generally accepted accounting principles applicable to the company. The item requires a company to disclose:

- The date of the commitment to the course of action and a description of the course of action, including the facts and circumstances leading to the expected action and the expected completion date;
- For each major type of cost associated with the course of action (for example, one-time termination benefits, contract termination costs and other associated costs), an estimate of the total amount or range of amounts expected to be incurred in connection with the action;
- An estimate of the total amount or range of amounts expected to be incurred in connection with the action; and
- The company's estimate of the amount or range of amounts of the charge that will result in future cash expenditures.

If at the time of filing the company is unable to make a good faith estimate of the amount of the charges, it need not disclose an estimate at that time, but must nevertheless file the Form 8–K report describing the company's commitment to a course of action under which it will incur a material charge. Within four business days after the company formulates an estimate, the company must amend its earlier Form 8–K filing to include the estimate.

We initially proposed that disclosure under Item 2.05 would have been triggered upon a ''definitive'' commitment of the company to a course of action. We have eliminated the term ''definitive'' because we believe that the tem ''commitment'' by itself adequately conveys the idea that a company has

[74] 74 See Item 2.04(c).

[75] 75 See Item 2.04(d).

[76] See, for example, note 66 above.

[77] In such event, the company would have to amend the Form 8–K to provide this updated information within four business days from the date that its conclusion changes.

[78] See the letter from the ABA.

[79] See Rule 12b–20 under the Exchange Act, as well as Exchange Act Section 10(b) and Rule 10b–5 thereunder.

made a final determination regarding a course of action.

A number of commenters opposed this item. They noted that such events can occur over time, making it difficult to determine the exact date of the triggering event.[80] They suggested that it would be more appropriate for this type of disclosure to appear in a company's periodic reports. We believe that it is important for investors to receive this information on a current basis and that, by tying the Form 8–K filing requirement to the board's, committee's or officers' determination, the timing of the disclosure is sufficiently precise.

One commenter believed that a discussion of a single piece of financial information outside of the context of the complete financial statements would be difficult and potentially misleading.[81] Nonetheless, we believe that the occurrence of these events are important to investors making investment decisions. Others noted that a company often may not have estimated of the relevant charges at the time the plan is adopted.[82] We acknowledge this possibility and thus have revised the item to permit later disclosure of such estimates within four business days after they are determined.

Other commenters noted that, since we proposed this item, FASB has issued SFAS No. 146 which changed previous requirements regarding the timing of recognition of costs associated with exit or disposal activities.[83] SFAS No. 146, however, also requires disclosure of such events, prior to recognition, similar to that required in this item.[84] We have revised the disclosure requirements to more closely track the disclosures required in the footnotes to the financial statements required by SFAS No. 146. Thus, we do not believe that this item is inconsistent with current accounting literature, particularly in light of the added flexibility we have granted with regard to estimates.

Commenters were also concerned about the requirement that management provide an analysis, or ''mini-MD&A,'' of the effect of this event on the company.[85] Consistent with similar revisions that we have made to Items 1.02 and 2.04, we have eliminated this specific disclosure provision from the Item 2.05 disclosure requirements. Once again, we remind companies that any disclosure made in a report on Form 8-K must include all other material information, if any, that is necessary to make the required disclosure, in the light of the circumstances under which it is made, not misleading.[86]

Finally, commenters recommended that we not use the terms ''write-off'' or ''restructuring'' in Item 2.05 as such terms are not defined in the accounting literature.[87] We have revised the title and references in the item to reflect these comments and use terminology consistent with those used in the accounting literature.

Item 2.06 Material Impairments

This new item requires disclosure when a company's board of directors, a committee of the board of directors, or an authorized officer or officers if the company, if board action is not required, concludes that a material charge for impairment to one or more of its assets, including, without limitation, an impairment of securities or goodwill, is required under generally accepted accounting principles applicable to the company. Specifically, the company must:

- Disclose the date of the conclusion that a material charge is required and describe the impaired asset or assets and the facts and circumstances leading to the conclusion that the charge for impairment is required;
- Disclose the company's estimate of the amount or range of amounts of the impairment charge; and
- Disclose the company's estimate of the amount or range of amounts of the impairment charge that will result in future cash expenditures.

Comments on this item paralleled those on Item 2.05. We have made similar revisions to this item in response by providing greater flexibility regarding timing of the disclosure of estimates and eliminating the proposed ''mini-MD&A'' requirement.

We also recognize that tests for impairment or recoverability often occur in conjunction with the preparation, review or audit of financial statements. In light of the fact that a periodic report with complete financial statements will be made available to the public, we have added an instruction indicating that no Form 8–K disclosure is required pursuant to this item if the conclusion regarding the material charge is made in connection with the preparation, review or audit of financial statements at the end of a fiscal quarter or year and the plan is disclosed in the company's Exchange Act report for that period.[88]

Section 3—Securities and Trading Market

Item 3.01 Notice of Delisting or Failure To Satisfy a Continued Listing Rule or Standard; Transfer of Listing

New Item 3.01(a) requires a company to report its receipt of a notice from the national securities exchange or national securities association (or facility thereof) that maintains the principal listing for any class of the company's common equity,[89] indicating that:

- The company or such class of its securities does not satisfy a rule or standard for continued listing on the exchange or association;
- The exchange has submitted an application under Exchange Act Rule 12d2–2 to the Commission to delist such class of the company's securities; or
- The association has taken all necessary steps under its rules to delist the security from its automated inter-dealer quotation system.[90]

A company that receives this type of a notice must disclose the following information:

- The date that it received the notice;

[80] See the letters from the New York State Society of Certified Public Accountants (''NYSSCPA'') and Radin, Glass & Co. (''Radin Glass'').

[81] See the letter from Shearman & Sterling.

[82] See the letters from the AICPA, Cleary Gottlieb, Deloitte & Touche and FPL Group, Inc. (''FPL Group'').

[83] See the letters from the AICPA, Compass Bancshares, FEI, Intel and PWC.

[84] Paragraph 20 of SFAS No. 146 requires companies to disclose specified information in the notes to financial statements to periodic reports covering periods in which an exit or disposal activity is initiated. Paragraph 21 of SFAS No. 146 states that an exit or disposal activity is initiated when management, having the authority to approve the action, commits to an exit or disposal plan or otherwise disposes of a long-lived asset.

[85] See the letters from the FPL Group, PWC and Radin Glass.

[86] See Exchange Act Section 10(b) and Rule 10b–5 as well as Rule 12b–20 under the Exchange Act.

[87] See the letters from Ernst & Young and KPMG.

[88] See Instruction to Item 2.06.

[89] This term is defined in Exchange Act Rule 12b–2 [17 CFR 240.12b–2].

[90] We note that Instruction 3 to Item 3.01 provides that companies whose securities are quoted exclusively (*i.e.*, the securities are not otherwise listed on an exchange or association) on automated inter-dealer quotation systems, such as the over-the-counter bulletin board, or OTCBB, and The Electronic Pink Sheets, are not subject to Item 3.01. Thus, these companies will not be required to file a Form 8–K pursuant to Item 3.01 if the securities cease to be quoted on such quotation system. These quotation systems do not provide companies with the ability to list their securities, but, rather, serve as a medium for the over-the-counter securities market by collecting and distributing market maker quotes to subscribers. These automated inter-dealer quotation systems do not maintain or impose listing standards, nor do they have a listing agreement or arrangement with the companies whose securities are quoted through them. Although market makers may be required to review and maintain specified information about a company and to furnish that information to the inter-dealer quotation system, the companies whose securities are quoted on such systems do not have any filing or reporting requirements imposed by the system. In some cases, however, a security that is listed on an exchange or association may also be quoted on such an automated inter-dealer quotation system. In that case, the company is be subject to Item 3.01 if any of the events specified in Item 3.01 occur.

• The rule or standard for continued listing on the national securities exchange or national securities association that the company fails, or has failed, to satisfy; and

• Any action or response that, at the time of filing, the company has determined to take in response to the notice.

In addition, under Item 3.01(b), if the company [91] has notified the national securities exchange or national securities association (or a facility thereof) that maintains the principal listing for any class of the company's common equity that the company is aware of any material noncompliance with a rule or standard for continued listing on the exchange or association, the company must disclose:

• The date that the company provided such notice to the exchange or association;

• A rule or standard for continued listing on the exchange or association that the registrant fails, or has failed, to satisfy; and

• Any action or response that, at the time of filing, the company has determined to take regarding its noncompliance.

Furthermore, under Item 3.01(c), if a national securities exchange or national securities association (or a facility thereof) that maintains the principal listing for any class of the company's common equity, in lieu of suspending trading in or delisting such class of the company's securities, issues a public reprimand letter or similar communication indicating that the company has violated a rule or standard of the exchange or association, the company must state the date and summarize the contents of the letter or communication.

Finally, Item 3.01(d) requires that, if the company's board of directors, a committee of the board of directors or the officer or officers of the company authorized to take such action if board action is not required, has taken definitive action to cause the listing of a class of its common equity to be withdrawn from the national securities exchange, or terminated from the automated inter-dealer quotation system of a registered national securities association, where such exchange or association maintains the principal listing for such class of securities, the company must describe the action taken and state the date of the action.

This requirement includes disclosure of action taken by a company to transfer such a listing or quotation of its securities to another securities exchange or quotation system. The definitive action taken by the company may also include the adoption of a resolution by the board of directors, or committee of the board, to delist the class of securities.

Pursuant to Instruction 1 to Item 3.01, the company is not required to disclose any information required by paragraph (a) of Item 3.01 where, generally, the delisting is a result of one of the following:

• The entire class of the security has been called for redemption, maturity or retirement and, if required by the terms of the securities, funds sufficient for the payment of all such securities have been deposited with an agency authorized to make such payments and such funds have been made available to security holders;

• The entire class of the security has been redeemed or paid at maturity or retirement;

• The instruments representing the entire class of securities have come to evidence, by operation of law or otherwise, other securities in substitution therefor and represent no other right, except, if true, the right to receive an immediate cash payment; or

• All rights pertaining to the entire class of the security have been extinguished.

These exceptions are specifically referenced in Rule 12d2–2, the rule pursuant to which national securities exchanges file applications with the Commission to delist a security from the exchange.

In addition, Instruction 2 to Item 3.01 provides that a company must provide the disclosure required by paragraph (a) or (b) of this Item 3.01, as applicable, regarding any failure to satisfy a rule or standard for continued listing on the national securities exchange or national securities association (or a facility thereof) that maintains the principal listing for any class of the company's common equity even if the company has the benefit of a grace period or similar extension period during which it may cure the deficiency that triggers the disclosure requirement.

We had proposed to require companies to disclose notifications by an exchange or association of delisting or noncompliance with required listing requirements or standards. Since the time that the Form 8–K proposals were issued, we approved new rules [92] submitted by the New York Stock Exchange, the National Association of Securities Dealers, on behalf of The Nasdaq Stock Market, and the American Stock Exchange that require listed companies to notify the relevant market when an executive officer of the listed issuer becomes aware of any material noncompliance with the listing rules or standards relating to corporate governance.[93] In addition, as part of its recent amendments pertaining to corporate governance listing standards, the NYSE may issue a public reprimand letter to listed issuers that violate specified listing rules or standards.[94] This public reprimand letter is intended to serve as a lesser sanction than the delisting of the issuer's securities.

Furthermore, Exchange Act Rule 10A–3(a)(4) [95] requires an exchange or association to adopt standards requiring listed companies to notify the exchange or association promptly after an executive officer of the listed issuer becomes aware of any material noncompliance by the listed company with the requirements of the rule. In addition, under certain exchange or association listing standards or agreements, a listed company may be generally required to notify the exchange or association in the event they no longer comply with a particular listing standard. As a result, we believe the inclusion of Items 3.01(b) and (c) is necessary to ensure that all communications between a company and an exchange or association regarding delisting matters or noncompliance with a rule or standard for continued listing are disclosed.

In response to commenters, we have clarified that the relevant listing requirements or standards for this item are the rules or standards for continued listing on the exchange or association. Typically, exchanges and quotation systems have different standards for determining whether a security is qualified to enter the exchange or quotation system than for determining whether a security can remain listed. Because the entry standards are not relevant to whether the securities may continue trading on such exchange or

[91] Disclosure pursuant to this Item 3.01(b) is required if a particular exchange or association rule specifically provides that a particular officer or other authorized individual, such as the chief executive officer, must provide the notice to the exchange or association, rather than the company itself.

[92] See, for example, Release No. 34–48745 (November 4, 2003) [68 FR 64154].

[93] See, for example, Rule 303A.12(b) of the NYSE Listing Manual and Rule 4350(m) of The Nasdaq Stock Market, Inc. Marketplace Rules.

[94] See Rule 303A.13 of the NYSE Listing Manual.

[95] 17 CFR 240.10A–3(a)(4). Rule 10A–3 requires the rules of each registered national securities exchange and national securities association to prohibit the initial or continued listing of any security of a company that is not in compliance with the audit committee requirements of Rule 10A–3.

quotation system, we have made this clarification.

Also, in response to commenters, we have revised the third element of the disclosure requirements regarding any action that the company has determined to take in response to a notice of delisting or failure to satisfy a listing standard. Commenters noted that, in light of the short Form 8–K filing deadline, a company may not have sufficient time to determine its course of action or to fully analyze the effect of such delisting on the company.[96] Thus, the item only requires identification of the company's anticipated action or response as of the Form 8–K filing date.[97] In addition, to clarify when an event triggering disclosure under new Item 3.01 occurs, we have revised the language in the item to more closely track and reference delisting rules and delisting procedures.[98]

Some commenters believed that the filing of a letter from the exchange or association as a Form 8–K exhibit would not significantly enhance the disclosures already required to be made by the company.[99] In response, we are not adopting the proposed provision that companies file the actual written notice received from the exchange or association as an exhibit.

One commenter requested clarification that ''early warning'' notices should not trigger disclosure.[100] While we agree with this commenter, we believe that the language of the item is clear in this regard. An early warning notice that merely informs the company that it is in danger of falling out of compliance with a rule or standard for continued listing on the exchange or association is not a notice that the company no longer satisfies that rule or standard. Thus, a company's receipt of such a notice will not trigger a disclosure obligation under the item. However, if the warning notice informs the company that it is out of compliance with a rule or standard for continued listing, but that the company will not be delisted if it cures the problem within a specified time, such a notice will trigger a Form 8–K filing requirement.

As a result, we generally anticipate two filings in the typical involuntary delisting process under Items 3.01(a) and (b). An initial filing will be made when the company receives the first notice that it does not comply with a rule or standard for continued listing, or when it notifies the exchange or association that it no longer complies with a rule or standard for continued listing on the exchange or association.[101] A second Form 8–K filing will be required under Item 3.01(a) upon the company's receipt of a notice regarding the actual delisting of a class of the company's securities.[102]

Item 3.02 Unregistered Sales of Equity Securities

This new item requires a company to disclose the information specified in paragraphs (a) and (c) through (e) of Item 701 of Regulation S–K regarding the company's sale of equity securities in a transaction that is not registered under the Securities Act. This disclosure is currently required in Item 2(c) of Forms 10–Q and 10–QSB and Item 5(a) of Forms 10–K and 10–KSB.[103]

The amendments to Form 8–K will require earlier disclosure of certain issuances of unregistered equity securities, as discussed below. We believe that more timely disclosure of such issuances will benefit investors due to the fact that unregistered sales of equity securities can have a significant effect on the capital structure of the company and the security holdings of existing investors. Issuances not reported on Form 8–K, however, will continue to be required to be reported in periodic reports.

In response to concerns raised by commenters,[104] we have limited the disclosure of sale of unregistered equity securities required to be filed on Form 8–K. Under the new item, no Form 8–K need be filed if the equity securities sold in the aggregate since the company's last report filed under this item or last periodic report, whichever is more recent, constitute less than 1% of the company's outstanding securities of that class.[105] In the case of a small business issuer,[106] if the securities sold in the aggregate since the small business issuer's last report filed under this item or last periodic report, whichever is more recent, constitute less than 5% of the small business issuer's outstanding securities of that class, the information need not be disclosed on Form 8–K. We believe that these quantitative thresholds are appropriate given that companies will be required to continue to report all other unregistered sales of equity securities in their periodic reports.

For purposes of determining the required Form 8–K filing date under this item, we have provided that a company has no obligation to disclose information under Item 3.02 until the company enters into an agreement enforceable against it, whether or not subject to conditions, under which the equity securities are to be sold. If there is no such agreement, the company must provide the disclosure within four business days after the occurrence of the closing or settlement of the transaction or arrangement under which the equity securities are sold.

Commenters suggested that issuances of unreported equity securities through conversion and similar transactions should not require an Item 8–K filing. We believe that, given the 1% and 5% thresholds we have adopted and the importance of equity security issuances, these types of transactions should be covered.

Item 3.03 Material Modifications to Rights of Security Holders

This new item requires a company to disclose material modifications to the rights of the holders of any class of the company's registered securities and to briefly describe the general effect of such modifications on such rights. The substance of the disclosure is the same as previously required by Items 2(a) and (b) of Forms 10–Q and 10–QSB.[107]

We proposed to eliminate an existing instruction regarding working capital restrictions and other limitations upon

[96] See the letters from the Grundfest Group and NY State Bar.

[97] A company may, of course, voluntarily file an amendment to the previously filed Form 8–K regarding any changes to the anticipated action or response.

[98] The item now specifically references provisions of Rule 12d2–2, pursuant to which national securities exchanges file applications with the Commission to delist a security from that exchange.

[99] See the letters from the ABA, Investment Counsel Association of America (''ICAA'') and Shearman & Sterling.

[100] See the letter from the NY State Bar.

[101] Instruction 3 to Item 3.01 states that subsequent notices or other communications that continue to indicate that the company does not comply with the same rule or standard for continued listing that was the subject of the initial notice are not required to be filed, but may be filed voluntarily.

[102] We note that Item 3.01 refers to a national securities exchange or a national securities association (or a facility thereof). Thus, for example, a notification by The Nasdaq Stock Market that a company does not satisfy a rule or standard for continued listing on Nasdaq, if Nasdaq maintains the principal listing of any class of the company's common equity, would be subject to Item 3.01.

[103] See 17 CFR 249.308a, 249.308b, 249.310 and 249.310a.

[104] See, for example, the letters from the ABA, Compass Bancshares, Deloitte & Touche and John Deere.

[105] Instruction 2 to Item 3.02 states that ''the number of shares outstanding'' refers to the actual number of shares of equity securities of the class outstanding and does not include outstanding securities convertible into or exchangeable for such equity securities.

[106] As defined under Item 10(a)(1) of Regulation S–B [17 CFR 228.10(a)(1)]. See Instruction 3 to Item 3.02.

[107] See 17 CFR 249.308a and 249.308b.

the payment of dividends because we believed that it was clear that such restrictions and limitations constitute material modifications to the rights of security holders. One commenter disagreed and recommended that we keep the instruction.[108] To clarify that this item requires disclosure of such provisions, we are including the existing instruction in the new item.

The proposals would not have required disclosure about a particular material modification to the rights of security holders if the company previously had described the modification in its proxy statement at the time it proposed the modification. One commenter noted that, although the proposed modification would have been disclosed, investors would not be informed as to whether the proposal had been approved by shareholders and ultimately adopted by the company until the company filed its next required periodic report.[109] In response to this comment, we have eliminated this exception from Item 3.02. In addition, once a company has reported a material modification to the rights of its security holders on Form 8–K, the company need not make any duplicative disclosure about the modification in any of its subsequently filed periodic reports.[110]

Section 4—Matters Related to Accountants and Financial Statements

Item 4.01 Changes in Registrant's Certifying Accountant

This item is substantively the same as former Item 4 of Form 8–K, requiring disclosure of the resignation, dismissal or engagement of an independent accountant. The only revision we have made to the substantive requirements of former Item 4 is to delete the phrase ''and the related instructions to Item 304'' as a company routinely needs to consider and comply with the instructions to all of our disclosure items containing instructions.

Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

This new item requires a company to file a Form 8–K if and when its board of directors, a committee of the board of directors, or an authorized officer or officers if board action is not required, concludes that any of the company's previously issued financial statements covering one or more years or interim periods no longer should be relied upon because of an error in such financial statements as addressed in Accounting Principles Board Opinion No. 20 (APB Opinion No. 20). This item requires the company to disclose the following information:

- The date of the conclusion regarding the non-reliance and an identification of the financial statements and years or periods covered that should no longer be relied upon;
- A brief description of the facts underlying the conclusion to the extent known to the company at the time of filing; and
- A statement of whether the audit committee, or the board of directors in the absence of an audit committee, or authorized officer or officers, discussed with the company's independent accountant the subject matter giving rise to the conclusion.

Similarly, if the company is advised by, or receives notice from, its independent accountant that disclosure should be made or action should be taken to prevent future reliance on a previously issued audit report or completed interim review related to previously issued financial statements, it must disclose the following information:

- The date on which the company was so advised or notified;
- Identification of the financial statements that should no longer be relied upon;
- A brief description of the information provided by the accountant; and
- A statement of whether the audit committee, or the board of directors in the absence of an audit committee, or authorized officer or officers, discussed with the independent accountant the subject matter giving rise to the notice.

In addition, if the company receives such an advice or notice from its independent accountant, the company must provide the independent accountant with a copy of the disclosures it is making under Item 4.02(b) no later than the same day it files these disclosures with the Commission. The company also must request the independent accountant to furnish to the company as promptly as possible a letter addressed to the Commission stating whether the accountant agrees with the statements made by the company and, if not, stating the respects in which it does not agree. The company must then amend its previously filed Form 8–K by filing the independent accountant's letter as an exhibit to the filed Form 8–K within two business days of the company's receipt of the letter.

Commenters believed that the scope of the proposed item was too broad. Specifically, one commenter noted that there are some circumstances under which a company may need to restate its financial statements, or accountants may refuse to allow reliance on their reports, that do not implicate a problem with the financial statements.[111] For example, a company may be required to restate its financial statements as a result of the completion of a stock split.[112] In response to these comments, we have modified this item to require disclosure under Item 4.02(a) where the company concludes that a prior statement should not be relied on because of an error or, under Item 4.02(b), where an independent accountant has notified a company that it should take action to prevent future reliance on previously issued financial statements audited or reviewed by the accountant.

Commenters also opposed the proposed requirement that a company disclose its plan to address the issue. They were concerned that, within the short Form 8–K filing timeframe, the company may not have sufficient time to complete its analysis regarding the impact of the error on the company's financial statements, which could require discussions with numerous parties, including the accountants.[113] We agree with those commenters and have revised this item to eliminate this proposed requirement.[114]

We have also separated the situation in which the company makes the determination internally regarding non-reliance on its financial statements from that in which the company's independent accountant notifies the company of non-reliance on a previously issued audit report or completed interim review by including them in two different paragraphs to clarify the requirements of the item.

[108] See the letter from Shearman & Sterling.

[109] See the letter from the NY State Bar.

[110] See Instruction B.3 to Form 8–K.

[111] See the letter from the ABA.

[112] Another example would include a plan to discontinue operations (see Statement of Financial Accounting Standards No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*). As these examples illustrate, certain events that occur after the end of a fiscal year may require retroactive restatement of that year's financial statements if such statements are reissued, but are not events that would trigger disclosure under Item 4.02.

[113] See the letters from Foley Hoag and Radin Glass.

[114] Regarding the requirement of a company to disclose under Item 4.02(a) a brief description of the facts underlying the conclusion to the extent known to the company at the time of filing, a company may, of course, voluntarily file an amendment to the previously filed Form 8–K regarding any changes to the facts underlying the conclusion.

Section 5—Corporate Governance and Management

Item 5.01 Changes in Control of Registrant

We are adopting this pre-existing item of Form 8–K substantially as proposed. We are not adopting the proposed revision regarding the source of funds used to effect a change in control due to the Congressional intent issue discussed under Item 2.01 above. We have, however, streamlined the language of the item to make it read more clearly. We have also not included the proposed instruction to Item 5.01 stating that disclosure pursuant to this item could be provided by incorporation by reference to a previous filing. We believe that Instruction B.3 to Form 8–K makes this clear.

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers

a. Disclosure under Item 5.02(a) when a director resigns or refuses to stand for re-election due to a disagreement or is removed for cause.

Paragraph (a) of Item 5.02 broadens the scope of former Item 6 of Form 8–K. Former Item 6 required disclosure only if a director departed as a result of a disagreement, provided a letter to the company describing the disagreement and then requested that the company publicly disclose the matter. Thus, the action necessary to trigger disclosure pursuant to the former item rested solely with the director.

Under the revised item, if a director has resigned or refuses to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the company, known to an executive officer of the company,[115] on any matter relating to the company's operations, policies or practices, or if a director has been removed for cause from the board of directors, the company must disclose:

- The date of the director's resignation, refusal to stand for re-election or removal;
- Any positions held by the director on any committee of the board of directors at the time of the director's resignation, refusal to stand for re-election or removal; and
- A brief description of the circumstances representing the disagreement that management believes caused, in whole or in part, the director's resignation, refusal to stand for re-election or removal.

[115] The term ''executive officer'' is defined in Exchange Act Rule 3b–7.

In addition, if the director furnishes the company with any written correspondence concerning the circumstances surrounding his or her resignation, refusal or removal, the company must file a copy of the correspondence as an exhibit to the report on Form 8–K regardless of whether the director requests that the company take such action. The company must provide the director with a copy of the disclosures it is making in response to this item no later than the day that the company files the disclosures with the Commission. The company must also provide the director with the opportunity to furnish a letter addressed to the company as promptly as possible stating whether he or she agrees with the company's disclosures in response to this item and, if not, the respects in which he or she does not agree. Finally, the company must file any letter it receives from the director with the Commission as an exhibit by amendment to the previously filed Form 8–K within two business days after receipt by the company.

Several commenters were concerned that the company may not be aware that the director departed because of a disagreement.[116] We believe that the phrase ''known to an executive officer of the company'' means that the company must be aware of the disagreement. As such, we have adopted this provision of Item 5.02(a) as proposed.

b. Disclosure under Item 5.02(b) when certain officers retire, resign or are terminated and disclosure when a director retires, resigns, is removed or refuses to stand for re-election for any reason other than as a result of a disagreement or for cause.

Paragraph (b) of Item 5.02 requires disclosure when the company's principal executive officer, president, principal financial officer, principal accounting officer, principal operating officer or any person performing similar functions retires, resigns, or is terminated from that position. The item also requires disclosure when a director retires, resigns, is removed or declines to stand for re-election and the company is not required to provide disclosure under Item 5.02(a).

Several commenters were concerned about our proposal to require disclosure of the reasons for the departure of an officer.[117] They noted that requiring disclosure of reasons such as personal infirmity may cause unnecessary embarrassment to the departing officer. Some commenters similarly suggested that, if the officer leaves for reasons other than those disclosed by the company, such disclosure potentially could lead to a defamation action by the officer against the company. Other commenters believed that requiring disclosure of a disagreement regarding matters such as company policy or strategy between two officers would usurp the typical corporate decision-making process. We believe these concerns are valid and have therefore eliminated this proposed requirement.

c. Disclosure under Item 5.02(c) and (d) when the registrant appoints certain new officers or a new director is elected.

Paragraph (c) of Item 5.02 requires disclosure if the company appoints a new principal executive officer, president, principal financial officer, principal accounting officer, principal operating officer or person performing similar functions. The company must disclose the officer's name, position, the date of the appointment, information regarding the background of the officer and certain related transactions with the company,[118] and a brief description of the material terms of any employment agreement between the company and the officer.

In addition, if a new director is elected to the board, except by a vote of security holders at an annual meeting or a special meeting convened for such purpose, paragraph (d) of Item 5.02 requires disclosure of the new director's name, the election date, a brief description of any arrangement or understanding pursuant to which the new director was selected as a director, any committees to which the new director has been, or at the time of the disclosure is expected to be, named, and information regarding certain related transactions between the new director and the company.[119]

Instruction 2 to Item 5.02 provides that, to the extent that information regarding an employment contract of a newly-appointed executive officer, or the board committee or related party transaction information associated with a newly-elected director, is not determined or is unavailable at the time of the required Form 8–K filing, a company must include a statement to

[116] See the letters from Cleary Gottlieb, Radin Glass and Shearman & Sterling.

[117] See, for example, the letters from the ABA, Cleary Gottlieb, D'Ancona & Pflaum, Grundfest Group, Kellogg, Sullivan & Cromwell and Wells Fargo.

[118] Specifically, Item 5.02(c) requires disclosure of the information required by Items 401(b), 401(d), 401(e) and 404(a) of Regulation S–K [17 CFR 229.401(b), (d) and (e) and 229.404(a)], or, in the case of a small business issuer, Items 401(a)(4), 401(a)(5), 401(c) and 404(a) of Regulation S–B [17 CFR 228.401(a)(4), (a)(5) and (c), and 228.404(a) and (b)].

[119] Specifically, Item 5.02(d) requires disclosure of information required by Item 404(a) of Regulation S–K.

this effect in the filing and then must file an amendment to the Item 5.02 Form 8–K filing containing the information within four business days after the information is determined or becomes available.

One commenter was concerned that requiring immediate disclosure of the appointment of an officer could interfere with the company's ability to plan for a smooth transition of authority.[120] It stated that companies need time to make proper introductions within the organization before publicly announcing such appointment. In response to this comment, we have inserted an instruction to Item 5.01(c) that permits a company to delay such disclosure until the day on which the company first makes public announcement of the appointment if the company intends to make a public announcement of the appointment other than by means of a report on Form 8–K.

One commenter believed that the departure or appointment of directors and officers of certain companies should not be reportable under this item.[121] We agree and have inserted an instruction to exclude a company that is a wholly-owned subsidiary of a reporting company from the reporting requirements of Item 5.02.[122]

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

This item requires a company with a class of equity securities registered under Section 12 of the Exchange Act to disclose any amendment to its articles of incorporation or bylaws if the company did not propose the amendment in a previously filed proxy statement or information statement. The item requires the company to disclose the effective date of the amendment and a description of the provision adopted or changed by amendment and, if applicable, the previous provision.

If the company determines to change the fiscal year from that used in its most recent filing with the Commission by means other than a submission to a vote of security holders through the solicitation of proxies or otherwise, or by an amendment to its articles of incorporation or bylaws, the company must state the date of that determination, the date of the new fiscal year end and the form on which the report covering the transition period will be filed.

One commenter noted that Item 601 of Regulation S–K requires a company to file a complete copy of its articles of incorporation or bylaws as amended.[123] The commenter was concerned that companies may not have sufficient time to prepare the restated copies for filing within the allotted timeframe. Thus, we have added an instruction to this item, as well as to Item 601 of Regulations S–K and S–B, clarifying that if an amendment to the articles of incorporation or bylaws is reported on Form 8–K, the company need only file the text of the amendment as an exhibit to the filing. If it does so, it must file the restated articles of incorporation or bylaws as an exhibit to its next periodic report.

One commenter suggested that the item be limited to companies with a class of equity securities registered under Section 12 of the Exchange Act.[124] Companies that do not have equity securities registered under the Exchange Act are typically debt issuers. The rights of holders of such securities are reflected in the debt documents and changes to those rights would typically be reflected under Item 3.03. We have revised this item accordingly in response to this comment.

D. Proposed Form 8–K Items Not Being Adopted

We proposed several additional new Form 8–K items which we are not adopting. First, we proposed an item that would have required disclosure of temporary suspension of trading under a company's employee benefit plans. Section 306 of the Sarbanes-Oxley Act required us to adopt rules requiring such disclosure on or before January 26, 2003. In response, we adopted Regulation BTR and former Item 11 of Form 8–K.[125] We have redesignated former Item 11 as Item 5.04 in the reorganized Form 8–K.[126]

Second, we proposed an item that would have required certain information regarding ratings received from rating agencies. On January 24, 2003, we issued a study on credit rating agencies and subsequently issued a concept release.[127] We continue to consider the appropriate regulatory approach for rating agencies.

Finally, we proposed an item that would have required disclosure regarding the termination or reduction of a business relationship with a customer. Many commenters opposed this item on the basis that it would be difficult for a company to determine when such a termination or reduction occurs. In addition, commenters were concerned about possible competitive harm caused by customers using such disclosure as a negotiation ploy. The proposed item would have some of the same types of concerns as are posed by new Item 1.02. In Item 1.02, we have sought to resolve the competitive harm issue by granting companies some latitude in determining when a contract has been terminated. We agree with commenters, however, that a reduction of customer orders can be difficult to discern as such reductions can happen over a period of time.[128] Thus, we have decided not to adopt this proposed item.[129]

E. Safe Harbor and Eligibility To Use Forms S–2 and S–3 and To Rely on Rule 144

Several commenters recommended that we adopt a safe harbor to protect a company against potential liability under Exchange Act Section 10(b) and Rule 10b–5 stemming from the company's failure to timely file a required Form 8–K.[130] While we are not convinced that we should extend a Section 10(b) and Rule 10b–5 safe harbor to all of the Form 8–K items, we recognize that several of the new Form 8–K disclosure items may require management to quickly assess the materiality of an event or to determine whether a disclosure obligation has been triggered. In this respect, these items raise issues analogous to those we considered in our adoption of the Section 10(b) and Rule 10b–5 safe harbor under Regulation FD.[131]

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[120] See the letter from the ABA.

[121] See the letter from the ABA.

[122] See Instruction 1 to Item 5.02.

[123] See the letter from the ABA.

[124] See the letter from the ABA.

[125] Release No. 34–47225 (January 22, 2003) [68 FR 4337].

[126] As discussed more fully below, we have also changed the due date for the Form 8-K filing under Item 5.04 to, generally, four business days after the company receives the notice required by section 101(i)(2)(E) of the Employment Retirement Income Security Act of 1974 [29 U.S.C. 1021(i)(2)(E)].

[127] See Report on the Role and Function of Credit Rating Agencies in the Operation of the Securities Markets (January 24, 2003) [68 FR 35258], available at www.sec.gov/news/studies/creditratingreport0103.pdf, and Release No. 33–8236 (June 4, 2003) [68 FR 35258].

[128] See, for example, the letters from the NY City Bar, Cleary Gottlieb, Grundfest Group, PWC and Shearman & Sterling.

[129] However, we remind companies that Item 303 of Regulations S–K and S–B [17 CFR 229.303 and 17 CFR 228.303], Management's Discussion and Analysis of Financial Condition and Results of Operations, requires disclosure of known trends or uncertainties that have had, or that the company reasonably expects will have, a material favorable or unfavorable impact on net sales or revenues or income from continuing operations.

[130] See the letters from Emerson, NAREIT, NY City Bar and Shearman & Sterling.

[131] Item 7.01, Regulation FD Disclosures, is already subject to a safe harbor from Section 10(b) and Rule 10b–5 pursuant to Regulation FD (17 CFR 243.100–243.103). Also, because Item 8.01, Other

As a result, we have decided to adopt a new limited safe harbor from public and private claims under Exchange Act Section 10(b) and Rule 10b-5 for a failure to timely file a Form 8-K regarding the following items:

Item 1.01 Entry into a Material Definitive Agreement
Item 1.02 Termination of a Material Definitive Agreement
Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant
Item 2.04 Triggering Events that Accelerate or Increase a Direct Financial Obligation under an Off-Balance Sheet Arrangement
Item 2.05 Costs Associated with Exit or Disposal Activities
Item 2.06 Material Impairments
Item 4.02(a) Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review (in the case where a company makes the determination and does not receive a notice described in Item 4.02(b) from its accountant)

In light of this new limited safe harbor under Section 10(b) and Rule 10b–5, we have eliminated the proposed safe harbor from liability under Section 13(a) or 15(d). As a result, the new safe harbor will not affect our ability to enforce any of the Form 8–K filing requirements under these sections.

The safe harbor for these items states that no failure to file a report on Form 8–K that is required solely pursuant to the provisions of Form 8–K shall be deemed to be a violation of Section 10(b) and Rule 10b–5 under the Exchange Act. The safe harbor only applies to a failure to file a report on Form 8–K. Thus, material misstatements or omissions in a Form 8–K will continue to be subject to Section 10(b) and Rule 10b–5 liability.

In addition, if the company has a duty to disclose information that is the subject of any of the Form 8–K items covered by the safe harbor for any reason apart from the Form 8–K requirement, the safe harbor will not provide protection from Section 10(b) and Rule 10b–5 that may arise from the company's failure to satisfy such separate disclosure obligation. For example, if a company publicly sells or repurchases its own securities while in possession of material non-public information that is required to be disclosed in a Form 8–K report pursuant to an item that is covered by the safe harbor, the safe harbor will not protect the company from Section 10(b) and Rule 10b–5 liability regarding its separate disclosure obligation pursuant to the offering of securities.

Furthermore, we are amending Forms 10–Q, 10–QSB, 10–K and 10–KSB to provide that the new safe harbor extends only until the due date of the periodic report of the company for the relevant period in which the Form 8–K was not timely filed. Thus, for example, if an event occurs that required the filing of a Form 8–K during a particular quarter, but the company fails to make the required timely disclosure on Form 8–K, the company must provide the disclosure prescribed by the relevant Form 8–K item in its Form 10–Q or 10–QSB filed for the quarter during which that event occurred. Failure to make such disclosure in the periodic report will subject a company to potential liability under Section 10(b) and Rule 10b–5, in addition to the potential liability under Section 13(a) or15(d).

Similarly, several commenters stated that failure to file all required Form 8–K reports in a timely manner should not disqualify companies from being eligible to use Securities Act Form S–2 and S–3 registration statements.[132] Under our current rules, to be eligible to use Form S–2 or S–3, among other things, a company must have timely filed all reports required to be filed under Exchange Act Section 13(a) or 15(d) during the 12 months prior to filing of the registration statement.[133]

In response to these comments, we are revising the Form S–2 and S–3 eligibility requirements. Under the revised instructions to these forms,[134] companies that fail to file timely reports required by Items 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 and 4.02(a) will not lose their eligibility to use Form S–2 and S–3 registration statements. These are the same items that are covered by the new limited safe harbor from Section 10(b) and Rule 10b–5 liability.

As stated above, we believe that these items may require management to make rapid materiality and similar judgments within the compressed Form 8–K filing timeframe. The potential significant burden that could result from a company's sudden loss of eligibility to use Form S–2 or S–3 under these circumstances could be a disproportionately large negative consequence of an untimely Form 8–K filing. We also believe that a carve-out of the same list of items as covered by the Section 10(b) and Rule 10b–5 safe harbor provides a beneficial measure of regulatory consistency.

We have clarified in the revised instructions, however, that a company must be current in its Form 8–K filings with respect to the items listed above at the actual time of a Form S–2 or S–3 filing. Thus, a company must have filed the disclosure required by any of these Form 8–K items on or before the date that it files a Form S–2 or Form S–3 registration statement to satisfy the eligibility requirements of these forms.[135] With respect to the other Form 8–K items not listed above, a company's failure to timely file Form 8–K pursuant to any of these items will result in a loss of Form S–2 or S–3 eligibility for the 12 months following the Form 8–K due date.[136] Many of these items are currently required Form 8–K disclosure items and are thus familiar to companies, while the other new Form 8–K items not included above generally do not require the same degree of analysis.

Commenters also recommended that we clarify that a company's failure to timely file a Form 8–K report would not affect a security holder's ability to rely on Securities Act Rule 144 to resell securities. Rule 144 eligibility is conditioned on, among other things, the availability of current public information about the company.[137] Because of the significant burden that would be placed on selling security holders if eligibility to rely on Rule 144 were conditioned on a company's satisfaction of the new Form 8–K requirements, we have amended Securities Act Rule 144 to clarify that a

Events, is designated for voluntary filings, it does not, by itself, impose a duty to disclose for purposes of Section 10(b) and Rule 10b–5.

[132] See, for example, the letters from the ABA, AICPA, Ernst & Young, NAREIT, NY City Bar, NY State Bar, Shearman & Sterling, Sullivan & Cromwell and Wyrick Robbins.

[133] See General Instruction I.C to Form S–2, referenced in 17 CFR 239.12 and General Instruction I.A.3 to Form S–3, referenced in 17 CFR 239.13, respectively.

[134] See revised General Instruction I.C to Form S–2 and revised General Instruction I.A.3 to Form S–3, as well as the revisions to 17 CFR 239.12 and 239.13.

[135] For example, if a company fails to file an Item 1.01 Form 8–K regarding the entry into a material definitive agreement, the company must include the disclosure required by Item 1.01 in the periodic report filed for the period in which the company failed to timely file the Form 8–K. This disclosure must be made before the company files a later Form S–3 registration statement (assuming that the registration statement is filed within 12 months of the missed Form 8–K) in order for the company to be current in its periodic reports and thus eligible to use Form S–3. If the company fails to include such disclosure in its quarterly report or annual report, as applicable, the company must amend the report to include the Item 1.01 information before filing the Form S–3 registration statement.

[136] For example, if a company fails to timely file an Item 3.01 Form 8–K regarding a delisting notice received from a national securities association, the company would be ineligible to use Form S–2 or S–3 for the next 12 months.

[137] See 17 CFR 230.144(c).

company need not have filed all required Form 8–K reports during the 12 months preceding a sale of securities pursuant to Rule 144 to satisfy the rule's ''current public information'' condition. As required by Rule 144(h),[138] however, a security holder will continue to be required to represent that he or she does not have inside information.[139]

F. Other Matters Related to Form 8–K Filings and Conforming Amendments

1. Events Falling under Multiple Items

We recognize that a company may need to report a given event under Item 1.01 as well as one or more other items, such as Item 2.03. We note that General Instruction D to Form 8–K permits a company to file a single Form 8–K to satisfy one or more disclosure items, provided that the company identifies by item number and caption all applicable items being satisfied and provides all of the substantive disclosure required by each of the items.

2. Amendments to Item 601 of Regulation S–K and Regulation S–B

Certain new Form 8–K items require new exhibits to be filed with the report. Exhibits to periodic filings are addressed by Item 601 of Regulation S–K. We are adding or modifying entries describing these exhibits to the Item 601 exhibit table. These new or modified exhibit entries include: (a) Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review; (b) correspondence regarding the departure of director; (c) articles of incorporation; and (d) bylaws.

We are also adopting amendments to Item 601 to footnote the ''8–K'' column in the Exhibit Table to clarify that a company need only file the exhibits marked in the ''8–K'' column of the table that are relevant to a particular report on Form 8–K. Again, companies that have previously submitted an exhibit with another periodic filing may incorporate the exhibit by reference into the applicable Form 8–K report.

Finally, we are adopting a corrective amendment to eliminate the reference in Item 601 to submission of Financial Data Schedules.[140] We eliminated the requirement to file a Financial Data Schedule on May 30, 2000.[141]

3. Clarification of Filing Status of Exhibits

We have received several questions regarding whether an exhibit attached to a Form 8–K report furnished pursuant to Regulation FD is considered filed or furnished. In response to these questions, we have clarified General Instruction 2 to state clearly that if a report on Form 8–K contains disclosures under Item 2.02, Results of Operations and Financial Condition, or 7.01, Regulation FD Disclosure, whether or not the report contains disclosures regarding other items, all exhibits to that report relating to Item 2.02 or 7.01 will be deemed furnished, and not filed, unless the registrant specifies exhibits, or portions of exhibits, that are intended to be deemed filed rather than furnished. This amendment is intended only to clarify our position on this matter and does not change our existing position.

4. Revisions to Forms 10–Q, 10–QSB, 10–K and 10–KSB

As proposed, the amendments modify or eliminate several items in Forms 10–Q, 10–QSB, 10–K and 10–KSB. Portions of the disclosures called for in these items are no longer required in quarterly and annual reports because they will be more promptly reported on Form 8–K. We have revised or deleted, as applicable, the following items in Part II of Forms 10–Q and 10–QSB:

- Revised the heading for Item 2 in Part II—Other Information;
- Removed Items 2(a), 2(b) and 6(b);
- Redesignated paragraphs (c), (d) and (e) in Item 2 as paragraphs (a), (b) and (c);
- Revised newly redesignated paragraph (a) in Item 2;
- Revised the Instructions to Item 3;
- Revised Item 5;
- Removed the words ''and Reports on Form 8–K (§ 249.308 of this chapter)'' from the heading of Item 6; and
- Removed the paragraph (a) designation in Item 6.

We have also made the following changes to Form 10–K:

- Revised paragraph (a) of Item 5, Market for Registrant's Common Equity and Related Stockholder Matters to require disclosure only of unregistered sales of equity securities not previously disclosed on Form 8–K;
- Revised Item 9, Changes in and Disagreements With Accountants on Accounting and Financial Disclosure to require disclosure only of matters required by Item 304(b) of Regulation S–K; [142]
- Added Item 9A, Other Information;
- Revised the heading of Item 15 to read ''Exhibits and Financial Statement Schedules;''
- Deleted paragraph (b) of Item 15, Exhibits, Financial Statement Schedules, and Reports on Form 8–K; and
- Redesignated paragraphs (c) and (d) in Item 15 as paragraphs (b) and (c).

We have made the following changes to Form 10–KSB:

- Revised paragraph (a) of Item 5, Market for Registrant's Common Equity and Related Stockholder Matters to require disclosure only of unregistered sales of equity securities not previously disclosed on Form 8–K;
- Revised Item 8, Changes in and Disagreements With Accountants on Accounting and Financial Disclosure to require disclosure only of matters required by Item 304(b) of Regulation S–B [143];
- Added Item 8B, Other Information;
- Removed the words ''and Reports on Form 8–K'' from the heading to Item 13;
- Deleted paragraph (b) of Item 13, Exhibits and Reports on Form 8–K;
- Removed the paragraph (a) designation in Item 13;
- Revised Item 3 in Part II of ''Information Required in Annual Report of Transitional Small Business Issuers;'' and
- Removed Item 6 in Part II of ''Information Required in Annual Report of Transitional Small Business Issuers.''

As discussed above, however, we are adding an item to these forms that requires disclosure of any event required to be disclosed on a previous Form 8–K filing during the period covered by the forms which was not disclosed on Form 8–K.[144] In addition, we have retained the requirement to disclose the information required pursuant to Item 304(b) of Regulation S–K in Form 10–K and 10–KSB as such information is not required pursuant to Item 4.01 of Form 8–K.

5. Certification Under Section 906 of the Sarbanes-Oxley Act of 2002

In June of 2003, the Commission adopted rules requiring the public filing of both the Sarbanes-Oxley Act Sections 302 and 906 chief executive officer and chief financial officer certifications as exhibits to various Exchange Act periodic reports. [145] The adopting

[138] 17 CFR 230.144(h).

[139] See generally Form 144 [17 CFR 239.144].

[140] See current Item 601(a)(1) of Regulations S-B and S–K [17 CFR 228.601(a)(1) and 229.601(a)(1)].

[141] Release No. 33–7855 (April 24, 2000) [65 FR 24788].

[142] 17 CFR 229.304(b).

[143] 17 CFR 228.304(b).

[144] See Item 5 of Forms 10–Q and 10–QSB, new Item 9 of Form 10–K and new Item 8 of Form 10–KSB.

[145] Release No. 33–8238 (June 5, 2003) [68 FR 36636].

release noted that there had been questions raised about whether the certifications required by Section 906 of the Sarbanes-Oxley Act applied to Form 8–K. In that release, we noted our concern that extending Section 906 certifications to Form 8–K could potentially chill the disclosure of information by companies. The release also noted that we were considering the questions in consultation with the Department of Justice.

As a result of this review with the Department of Justice and representatives from the Department serving on the President's Corporate Fraud Task Force, the Department of Justice and we have jointly concluded that Section 906 does not apply to Form 8–K.[146]

6. Other Conforming Amendments

We have revised former Item 11 (new Item 5.04) of Form 8–K, regarding the temporary suspension of trading under company's employee benefit plans, to clarify that the required Form 8–K must be filed no later than the fourth business day after which the company receives the notice required by section 101(i)(2)(E) of the Employment Retirement Income Security Act of 1974 [147] or, if such notice is not received by the company, on the same date on which the company transmits a timely notice to an affected officer or director within the time period prescribed by Rule 104(b)(2)(i)(B) or 104(b)(2)(ii) of Regulation BTR.[148] The former Item 11 provided that the Form 8–K must be filed not later than the date prescribed for transmission of the notice required by Rule 104(b)(2) of Regulation BTR. We have also provided for the filing of the updated notices under Rule 104(b)(2)(iii) of Regulation BTR.[149]

We have also amended the General Instructions to Form 8–K to combine Instruction B.6 with Instruction B.2. These two instructions are largely identical beyond the fact that they apply to different items. Therefore we have combined them into a single instruction addressing both items.

We have amended Note 1 at the end of Exchange Act Rules 13a–10 and 15d–10 regarding transition reports.[150] The previous note referred to Item 8 of Form 8–K, which has been re-designated as Item 5.03. Thus, we have conformed this reference accordingly. In addition, we have amended Item 9.01 of Form 8–K, Financial Statements and Exhibits, to ensure that financial statements required to be filed subsequent to an acquisition reported under Item 2.01 are due 71 days after the date the initial report on Form 8–K was required to be filed.

Finally, we have revised Exchange Act Rule 12b–23 [151] to make clear that companies may incorporate by reference into their registration statements and reports information previously disclosed on Form 8–K without the requirement to file such Form 8–K reports as exhibits to the statements or reports.

III. Paperwork Reduction Act

A. Background

The amendments contain ''collection of information'' requirements within the meaning of the Paperwork Reduction Act of 1995 (PRA). We published a notice requesting comment on the collection of information requirements in the proposing release, and submitted requests to the Office of Management and Budget (OMB) for approval in accordance with the PRA. These requests were approved by the OMB.

The titles for the collections of information are:

- Form 8–K (OMB Control No. 3235–0060);
- Form 12b–25 (OMB Control No. 3235–0058);
- Form 10–K (OMB Control No. 3235–0063);
- Form 10–KSB (OMB Control No. 3235–0420);
- Form 10–Q (OMB Control No. 3235–0070);
- Form 10–QSB (OMB Control No. 3235–0416);
- Regulation S–K (OMB Control No. 3235–0071); and
- Regulation S–B (OMB Control No. 3235–0417).

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.

B. Summary of Amendments

The amendments add eight new disclosure items to Form 8–K, transfer two existing items from the periodic reports and expand disclosures under two existing Form 8–K requirements. The amendments also reorganize the Form 8–K items into topical categories, shorten the Form 8–K filing deadline for most items to four business days after the occurrence of an event triggering the disclosure requirements of the form, provide a new limited safe harbor from liability under Exchange Act Section 10(b) and Rule 10b–5 for failure to file certain of the required Form 8–K reports, and provide limited relief from loss of eligibility to use Forms S–2 and S–3 stemming from a company's failure to timely file a Form 8–K report. These amendments are responsive to the ''real time issuer disclosure'' provision in Section 409 of the Sarbanes-Oxley Act of 2002. They are intended to provide investors with better and faster disclosure of important corporate events.

C. Summary of Comment Letters and Revisions to Proposals

We requested comment on the PRA analysis contained in the proposing release. Several commenters believed that the burdens would be higher than our estimates. One commenter believed that the burden and costs would be twice as much as our estimated burden and cost for complying with the proposed amendments.[152] Another commenter believed that it would have been required to file 15–20 more reports on Form 8–K during the past two years if the proposed requirements had been imposed during that period.[153] Neither commenter provided us with evidence to suggest that their estimates would apply to all companies.

We also received comments directed at the substance of the proposed Form 8–K items. In response to these comments, we have revised numerous items to simplify determinations of whether a reportable event has occurred. We also have reduced the amount of information and analysis that must be disclosed under many of the items. Furthermore, we are not adopting two of the proposed items.[154] Finally, in response to commenters' concerns regarding the difficulty of reporting events within two business days, as originally proposed, we have extended the filing deadline to four business days.

D. Revisions to PRA Reporting and Cost Burden Estimates

In response to the comments that we received on our estimates, we believe that companies may, on average, file

[146] Section 906 certifications also do not apply to filings on Form 6–K or Form 11–K [17 CFR 249.306 and 17 CFR 249.311].

[147] 29 U.S.C. 1021(i)(2)(E).

[148] 17 CFR 245.104(b)(2)(i)(B) and 17 CFR 245.104(b)(2)(ii), respectively.

[149] 17 CFR 245.104(b)(2)(iii).

[150] 17 CFR 240.13a–10 and 17 CFR 240.15d–10.

[151] 17 CFR 240.12b–23.

[152] Letter of Radin, Glass & Co.

[153] Letter of John Deere. It was unclear whether this commenter included all routine financings in its estimate. Item 2.03 requires disclosure of short-term debt obligations only if they are made out of the ordinary course of business. We are uncertain as to whether the commenter's estimate would be the same under the adopted amendments.

[154] We are not adopting in this release proposed Item 1.03 Termination or Reduction of a Business Relationship with a Customer and proposed Item 3.01 Rating Agency Decisions.

more reports on revised Form 8–K than we previously estimated. In the proposing release, we estimated that a company would, on average, file two more reports on Form 8–K per year.[155] For purposes of the PRA, we now estimate that the amendments will cause, on average, an increase of five reports on Form 8–K per company per year. We recognize, however, that the actual number of reports a company must file is highly dependent on the nature of its activities. For example, a company with an active acquisition or financing program is more likely to be affected by these amendments than others. Thus, we expect that the amendments will impose a greater-than-average burden on some companies, and a less-than-average burden on others.

We estimate that each entity spends, on average, approximately five hours completing the form. We estimate that 75% of the burden is prepared by the company and that 25% of the burden is prepared by outside counsel retained by the company at an average cost of $300 per hour. We estimated the average number of hours each entity spends completing the form, and the average hourly rate for outside securities counsel, by contacting a number of law firms and other persons regularly involved in completing the forms and based on our experience with disclosure on Form 8–K.

As of the end of our 2003 fiscal year, we estimate that there were 11,800 companies filing reports on Form 8–K.[156] Based on our new estimate of five additional Form 8–K reports per company per year as a result of these amendments, we estimate an increase of 59,000 filings per year. This results in an estimate of 221,250 additional burden hours[157] and a cost of approximately $22,125,000 for the services of outside professionals.[158]

Form 12b–25

The proposed rules would have permitted a company unable to timely file a Form 8–K to report the late filing on Form 12b–25 and to receive an automatic two business day filing extension. In the proposing release, we estimated that, of the expected 61,500 filings for which Form 12b–25 would be available, 6,700 would be late, resulting in an incremental Form 12b–25 burden of 16,750 hours and a total annual burden of 31,750 hours. These estimates were based on the current rate of late filings on Form 8–K. Because we have lengthened the proposed Form 8–K filing deadline to four business days, we are not adopting the proposed Form 12b–25 amendments.

Forms 10–Q, 10–QSB, 10–K and 10–KSB

We are transferring, in part, two disclosure requirements from Forms 10–Q, 10–QSB, 10–K and 10–KSB to Form 8–K. Because these items generally will be disclosed in the Form 8–K, companies do not have to repeat this disclosure in the annual and quarterly report. We estimate that these changes will result in a decrease of one burden hour per company per filing in connection with preparing and filing each quarterly report on Form 10–Q or 10–QSB and the annual report on Form 10–K or 10–KSB.

Item 601 of Regulation S–K and Regulation S–B

The revisions to Item 601 of Regulation S–K and Item 601 of Regulation S–B amend the exhibit tables to identify exhibits that must be filed with Form 8–K. We have incorporated the burden of actually submitting those exhibits in the estimated Form 8–K filing burden. These items do not, separate from the form, require any additional filing and thus do not add to the burden on companies. As a result, we do not expect any change in the total annual burden of reporting under these items. We assign one burden hour and no cost to Regulations S–B and S–K for administrative convenience to reflect the fact that these regulations do not impose any direct burden on companies.

Compliance with the revised disclosure requirements is mandatory. There is no mandatory retention period for the information disclosed, and responses to the disclosure requirements will not be kept confidential.

IV. Costs and Benefits

A. Background

After we proposed the amendments to Form 8–K in June 2002, Congress enacted the Sarbanes-Oxley Act of 2002. Section 409 of that Act, entitled ''Real Time Issuer Disclosures,'' states that ''[e]ach issuer reporting under section 13(a) or 15(d) shall disclose to the public on a rapid and current basis such additional information concerning material changes in the financial condition or operations of the issuer * * * as the Commission determines, by rule, is necessary or useful for the protection of investors and in the public interest.'' We believe these amendments are responsive to this provision of the Sarbanes-Oxley Act.

Prior to these amendments, Form 8–K required companies to disclose eight enumerated events within five business days or 15 calendar days, depending on the event. These amendments decrease this filing deadline to four business days after the event occurs for all events, other than Item 8.01 (current Item 5), which has no deadline, Item 7.01 (current Item 9), relating to Regulation FD disclosures and certain exhibits. The amendments also add 10 new events that would trigger a Form 8–K filing requirement, including two items transferred from the periodic reports. The amendments reorganize the Form 8–K items, create a limited safe harbor from liability under Exchange Act Section 10(b) and Rule 10b–5 for failure to file certain items, and provide limited relief from loss of eligibility to use Forms S–2 and S–3 for failure to file a Form 8–K on a timely basis. These changes will affect all companies reporting under Section 13(a) and 15(d) of the Exchange Act, other than foreign private issuers that file annual reports on Form 20–F[159] or 40–F.[160]

B. Benefits

Markets rely on timely dissemination of information to accurately and quickly value securities. These amendments increase the amount of significant information that a company must disclose to the public on a current basis, enhancing the ability of markets to respond to those corporate events. Under the prior system, predicated primarily on a periodic reporting system, the securities of a company could be trading on less complete information if an important corporate event has occurred but the company, under no duty to report that event, does not report the event on a timely basis. Such a delay in disclosure permits there to be significant time periods during which important information is not disclosed to the market. These circumstances create opportunity for companies and those with access to non-public information to misuse that information. The amendments adopted today will reduce such opportunities for misuse.

Modern computer and communications systems enable current disclosure to be analyzed and incorporated into the price of a security

[155] During our fiscal year ended September 30, 2003, we received approximately 58,400 Form 8–K reports from approximately 11,800 companies.

[156] 11,800 filers × 5 additional Form 8–K filings per filer = 59,000 additional filings.

[157] 59,000 filings × 5 hours per filing × 0.75 = 221,250 hours.

[158] 59,000 filings × 5 hours per filing × 0.25 × $300 per hour = $22,125,000.

[159] 17 CFR 249.220f.

[160] 17 CFR 249.240f.

quickly. By moving our rules towards a system emphasizing current reporting, our markets may become more effective as price discovery mechanisms during periods between periodic reports.

In addition, these amendments should enhance investor confidence in the financial markets. The requirement of enhanced, timely disclosure should raise investors' expectations regarding the amount and timing of information that reporting companies must make available to the public. Confidence in the expectation of such enhanced disclosure should provide more certainty to those investors that they are making investment decisions in a more transparent market, which should reduce market volatility as a result of uncertainty of the availability of accurate timely information about public companies.

C. Costs

Based on a review of approximately 68,000 Form 8–K filings, approximately 74% of those reports were filed within four business days of the reported event date. Although this review did not investigate whether filers reported the correct event date for each filing, it appears that most companies already file their Form 8–K reports within the new four-business-day timeframe. In addition, we believe that several of our recent rulemakings have caused companies to improve their internal processes for ensuring that material information is reported to management in a more timely manner. For example, we adopted rules requiring certain executive officers to certify that they have designed disclosure controls and procedures, or caused such controls and procedures to be designed, to ensure that material information about the company is reported to those executive officers.[161] Thus, we believe that companies will be able to comply with the four business day deadline without undue burden. Although we found, at the proposing stage, that the majority of filings were made within two calendar days, we recognize that some items may be more difficult to report in a timely manner. Rather than complicate the Form 8–K reporting framework by establishing multiple deadlines, we have decided to extend the proposed deadline to four business days.

We expect that the addition of new Form 8–K items will increase the number of Form 8–Ks that a company is required to file. Based on our estimates for purposes of the PRA, we expect approximately five additional filings per year per company. Assuming a value of $100 per hour for company time, we estimate an increase of approximately $44 million in filing costs associated with Form 8–K due to the adoption of these amendments.

Companies may experience some competitive or other strategic costs caused by the requirement to disclose more categories of information more quickly than they otherwise may have chosen to disclose. These costs are difficult to quantify. Further, we are sensitive to the argument that these enhanced disclosure requirements may increase a company's exposure to liability. Thus, we are adopting a new limited safe harbor from liability under Exchange Act Section 10(b) and Rule 10b–5 for failure to file a report on Form 8–K within the stated deadline for certain events. We are also eliminating any duplicative reporting requirements in annual and quarterly reports. In addition, developments such as EDGARLink that enable a company to file reports easily and directly with the Commission over the Internet,[162] without the added costs of using third parties to submit filings, as well as the industry's increased experience over the past several years using the EDGAR system, should minimize the cost to companies of filing more Form 8–K reports in a shorter timeframe.

V. Effect on Efficiency, Competition and Capital Formation

Section 23(a)(2)[163] of the Exchange Act requires us, when adopting rules under the Exchange Act, to consider the impact that any new rule would have on competition. In addition, Section 23(a)(2) prohibits us from adopting any rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.

Section 2(b)[164] of the Securities Act and Section 3(f)[165] of the Exchange Act require us, when engaging in rulemaking where we are required to consider or determine whether an action is necessary or appropriate in the public interest, to consider, in addition to the protection of investors, whether the action will promote efficiency, competition and capital formation.

The amendments are intended to improve the amount, quality and timeliness of current information available to investors and the financial markets. This should improve the ability of investors to make informed investment and voting decisions. Informed investor decisions generally promote market efficiency and capital formation. Thus, we anticipate that these amendments will enhance the proper functioning of the capital markets. This increases the competitiveness of companies participating in the U.S. capital markets. Because only domestic companies subject to the reporting requirements of Sections 13 and 15 of the Exchange Act are required to make Form 8–K disclosures, competitors not subject to those reporting requirements potentially could gain an informational advantage. The possibility of these effects and their magnitude if they were to occur are difficult to quantify.

We requested comment on whether the proposed amendments, if adopted, would impose a burden on competition or, conversely, promote efficiency, competition and capital formation. Numerous commenters believed that a requirement to disclose non-binding agreements and letters of intent would cause companies competitive harm. Similarly, commenters believed that a disclosure requirement regarding the termination of a material agreement or loss of a significant customer may place the party required to make such disclosures at a competitive disadvantage to the counterparty.

In response to these comments, we have eliminated the proposed disclosure requirement regarding nonbinding agreements and letters of intent. We have also eliminated the proposed item regarding the loss of a significant customer due to the difficulty of identifying the particular date on which such loss occurs. With regard to the termination of a material agreement, we have revised the relevant item to provide a company with more flexibility if it believes that the counterparty is merely using a claim of termination as a negotiation ploy, contrary to the terms of the contract.

Several commenters recommended that we revise the eligibility rules under Forms S–2 and S–3 so that an untimely filing of a report on Form 8–K would not result in the loss of such eligibility. Loss of such eligibility can significantly restrict the ability of a company to raise capital and may be a disproportionately large negative consequence of an untimely filing of a Form 8–K. Although we believe it is important that a company provide full disclosure when it seeks to raise capital in public markets, we also recognize that the shortened timeframes for certain of the Form 8–K items may increase the number of companies that could lose

[161] Release No. 33–8124 (August 28, 2002) [67 FR 57276].

[162] EDGARLink is downloadable free of charge to filers from our Web site at *https://www.edgarfiling.sec.gov.*

[163] 15 U.S.C. 78w(a)(2).

[164] 15 U.S.C. 77b(b).

[165] 15 U.S.C. 78c(f).

eligibility under Forms S–2 and S–3. As a result, we have revised the form eligibility rules to allow a company to use Forms S–2 and S–3 despite the filing of an untimely Form 8–K for certain enumerated items of the form. A company would still need to be current in these Form 8–K reports, however, prior to the filing of a Form S–2 or Form S–3 registration statement. This ensures that when the company files its registration statement, required information under the enumerated items has been publicly disclosed.

Other commenters believed that the volume of reporting that would be required under the amendments may create a considerable distraction for management, which may hinder a company from operating efficiently. We have attempted to limit the new items required to be reported on Form 8–K to unquestionably or presumptively material events. For example, many of the items cover events that happen rarely to a company, such as delisting from an national securities exchange, bankruptcy and restatements of financial statements. Others items are limited by their terms. For example, Item 1.01 requires disclosure only of material definitive agreements outside the ordinary course of business, excluding many types of ordinary course contracts.

VI. Final Regulatory Flexibility Analysis

This Final Regulatory Flexibility Analysis, or FRFA, has been prepared in accordance with the Regulatory Flexibility Act (RFA).[166] This FRFA involves amendments to shorten the filing deadline for Form 8–K and expand the events requiring disclosure on the form. An Initial Regulatory Flexibility Analysis (IRFA) was prepared in accordance with the Regulatory Flexibility Act in conjunction with the proposing release. The proposing release included and solicited comment on the IRFA.

A. Need for the Amendments

We are adopting the amendments to Form 8–K to provide investors and the securities markets with more timely access to a greater range of information concerning significant corporate events than is currently required by Form 8–K. The amendments to Form 8–K increase the list of events that trigger a Form 8–K filing requirement and require most Form 8–K reports to be filed no later than the fourth business day following occurrence of the event to which the report relates. The amendments should enhance investor confidence in the fairness and integrity of the securities markets by requiring companies to provide more current disclosure about several significant corporate events. In addition to accelerating the filing deadlines for events that already trigger the Form 8–K filing requirements, the proposals would expand the types of information covered by Form 8–K.

B. Significant Issues Raised by Public Comment

No comments were raised specifically about the IRFA. However, several commenters recommended that small business issuers be afforded relief from the new reporting requirements, such as being granted longer filing deadlines because they do not have the same resources as larger issuers. Because we believe that different compliance or reporting requirements or timetables for small entities would interfere with the goal of making information about significant corporate events promptly available to investors and the markets, as discussed more fully below, we have generally not differentiated between small issuers and other issuers in the amendments to Form 8–K.

C. Small Entities Subject to the Amendments

The amendments to Form 8–K will affect issuers that are small entities. Exchange Act Rule 0–10(a) [167] defines an issuer, other than an investment company, to be a ''small business'' or ''small organization'' if it had total assets of $5 million or less on the last day of its most recent fiscal year. We estimate that there are approximately 2,500 issuers, other than investment companies, that may be considered small entities. The amendments to Form 8–K apply to any small entity that is subject to Exchange Act reporting requirements.

D. Reporting, Recordkeeping and Other Compliance Requirements

Form 8–K previously consisted of 12 disclosure items. The amendments add 10 new disclosure items, including two transferred from annual and quarterly reports. All small entities that are subject to the reporting requirements of Exhange Act Sections 13(a) or 15(d) are subject to these amendments. Because reporting companies already file Form 8–K for certain events, no additional professional skills beyond those currently possessed by these filers is necessary to prepare the form for the new disclosure items.

We expect that reporting of these new disclosure items will increase costs incurred by small entities because they will have to file Form 8–K more frequently. We have calculated for purposes of the PRA that each filer, including a small entity, will be subject to an added annual reporting burden of approximately 18.75 hours [168] and an estimated annual average cost of $1,875 [169] for disclosure assistance from outside counsel as a result of the amendments.

E. Agency Action To Minimize Effect on Small Entities

The RFA directs us to consider significant alternatives that would accomplish the stated objective, while minimizing any significant adverse impact on small entity issuers. In connection with the proposed revisions to Form 8–K, we considered the following alternatives: (a) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (b) the clarification, consolidation, or simplification of Form 8–K reporting requirements for small entities; (c) the use of performance rather than design standards; and (d) an exemption from coverage of the Form 8–K requirements, or any part thereof, for small entities.

We do not believe that small issuers will have to report more frequently than other issuers or disclose more information in their forms. We believe that different compliance or reporting requirements or timetables for small entities would interfere with achieving the primary goal of making information about significant corporate events promptly available to investors and the public securities markets. We also think that the current and proposed Form 8–K disclosure requirements are clear and straightforward. They generally require brief disclosure indicating that a specific significant corporate event has occurred. Thus, it does not seem necessary to develop separate requirements for small entities.

We recognize, however, that small entities are more likely to participate in securities offerings that constitute a relatively large percentage of their outstanding securities because such entities often do not have many securities outstanding. As a result, with regard to unregistered sales of equity securities, we are adopting a higher numeric threshold for disclosure. In the

[166] 5 U.S.C. 603.

[167] 17 CFR 240.0–10(a).

[168] 5 filings × 5 hours per filing × 0.75 = 18.75 hours.

[169] 5 filings × 5 hours/filing × 0.25 × $300/hour = $1,875.

case of small business issuers, which include small entities, such issuers must disclose unregistered sales of equity securities if the sale represents a threshold of 5% of the company's outstanding shares, rather than the 1% threshold applied to other companies.

The nature of the required disclosures under other items do not generally lend themselves to numeric thresholds that can reliably represent presumptively material occurrences. Thus, similar distinctions have not been applied to other items. We have used design rather than performance standards in connection with the Form 8–K amendments. This is because we want this disclosure to appear in a specific type of disclosure filing so that investors will know where to find information about specific significant corporate events. We also want the Form 8–K information to be filed electronically using the EDGAR filing system to facilitate dissemination of information to markets and the public. We do not believe that performance standards for small entities would be consistent with the purpose of the amendments.

VII. Statutory Basis

We are adopting the amendments pursuant to Sections 7, 10 and 19 of the Securities Act, as amended, and Sections 10, 12, 13, 15 and 23 of the Securities Exchange Act, as amended.

Text of the Amendments

List of Subjects

17 CFR Part 228

Reporting and recordkeeping requirements, Securities, Small businesses.

17 CFR Parts 229, 230 and 239

Reporting and recordkeeping requirements, Securities.

17 CFR Part 240

Brokers, Confidential business information, Fraud, Reporting and recordkeeping requirements, Securities.

17 CFR Part 249

Brokers, Reporting and recordkeeping requirements, Securities.

■ For the reasons set out in the preamble, title 17, chapter II of the Code of Federal Regulations is amended as follows.

PART 228—INTEGRATED DISCLOSURE SYSTEM FOR SMALL BUSINESS ISSUERS

■ 1. The authority citation for Part 228 continues to read in part as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z-2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77jjj, 77nnn, 77sss, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 80a–8, 80a–29, 80a–30, 80a–37, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350.

* * * * *

■ 2. Amend § 228.601 by:

■ a. Revising the exhibit table;

■ b. Adding text to paragraph (b)(7); and

■ c. Revising paragraphs (b)(3) and (b)(17).

The revisions and addition read as follows:

§ 228.601 (Item 601) Exhibits.

(a) * * *

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EXHIBIT TABLE ITEM 601 OF REGULATION S-B									
	Securities Act Forms					Exchange Act Forms			
	SB-2	S-2	S-3	S-4[3]	S-8	10-SB	8-K[5]	10-QSB	10-KSB
(1) Underwriting agreement	X	X	X	X			X		
(2) Plan of purchase, sale, reorganization, arrangement, liquidation or succession	X	X	X	X		X	X	X	X
(3) (i) Articles of Incorporation	X			X		X	X	X	X
(ii) Bylaws	X			X		X	X	X	X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X
(5) Opinion on legality	X	X	X	X	X				
(6) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(7) Correspondence from an independent accountant regarding non-reliance upon a previously issued audit report or completed interim review							X		
(8) Opinion on tax matters	X	X	X	X					
(9) Voting trust agreement and amendments	X			X		X			X
(10) Material contracts	X	X		X		X		X	X
(11) Statement re: computation of per share earnings	X	X		X		X		X	X
(12) No exhibit required	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(13) Annual report to security holders for the last fiscal year, Form 10-Q or 10-QSB or quarterly report to security holders[1]	X	X		X					X
(14) Code of ethics							X		X
(15) Letter on unaudited interim financial information	X	X	X	X	X			X	
(16) Letter on change in certifying accountant[4]	X	X		X		X	X		X
(17) Letter on departure of director							X		
(18) Letter on change in accounting principles								X	X
(19) Reports furnished to security holders								X	
(20) Other documents or statements to security holders or any document incorporated by reference								X	X
(21) Subsidiaries of the small business issuer	X			X		X			X
(22) Published report regarding matters submitted to vote of security holders								X	X
(23) Consents of experts and counsel	X	X	X	X	X		X[2]	X[2]	X[2]
(24) Power of attorney	X	X	X	X	X	X	X	X	X
(25) Statement of eligibility of trustee	X	X	X	X					
(26) Invitations for competitive bids		X	X	X	X				
(27) through (30) [Reserved]									
(31) Rule 13a-14(a)/15d-14(a) Certifications								X	X
(32) Section 1350 Certifications								X	X
(33) through (98)[Reserved]									
(99) Additional exhibits	X	X	X	X	X	X	X	X	X

[1] Only if incorporated by reference into a prospectus and delivered to holders along with the prospectus as permitted by the registration statement; or in the case of a Form 10-KSB, where the annual report is incorporated by reference into the text of the Form 10-KSB.

[2] Where the opinion of the expert or counsel has been incorporated by reference into a previously filed Securities Act registration statement.

[3] An issuer need not provide an exhibit if: (1) an election was made under Form S-4 to provide S-2 or S-3 disclosure; and (2) the form selected (S-2 or S-3) would not require the company to provide the exhibit.

[4] If required under Item 304 of Regulation S-B.

[5] A Form 8-K exhibit is required only if relevant to the subject matter reported on the Form 8-K report. For example, if the Form 8-K pertains to the departure of a director, only the exhibit described in paragraph (b)(17) of this section need be filed. A required exhibit may be incorporated by reference from a previous filing.

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(b) * * *

(3) *Articles of incorporation and bylaws.* (i) A complete copy of the articles of incorporation. Whenever the small business issuer files an amendment to its articles of incorporation, it must file a complete copy of the articles as amended. However, if such amendment is being reported on Form 8–K (§ 249.308 of this chapter), the small business issuer is required to file only the text of the amendment as a Form 8–K exhibit. In such case, a complete copy of the articles of incorporation as amended must be filed as an exhibit to the next Securities Act registration statement or periodic report filed by the small business issuer to which this exhibit requirement applies.

(ii) A complete copy of the bylaws. Whenever the small business issuer files an amendment to its bylaws, it must file a complete copy of the bylaws as amended. However, if such amendment is being reported on Form 8–K (§ 249.308 of this chapter), the small business issuer is required to file only the text of the amendment as a Form 8–K exhibit. In such cases, a complete copy of the bylaws as amended must be filed as an exhibit to the next Securities Act registration statement or periodic report filed by the small business issuer to which this exhibit requirement applies.

* * * * *

(7) *Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review.* Any written notice from the small business issuer's current or previously engaged independent accountant that the independent accountant is withdrawing a previously issued audit report or that a previously issued audit report or completed interim review, covering one or more years or interim periods for which the small business issuer is required to provide financial statements under this Regulation S–B, should no longer be relied upon. In addition, any letter, pursuant to Item 4.02(c) of Form 8–K (§ 249.308 of this chapter), from the independent accountant to the Commission stating whether the independent accountant agrees with the statements made by the small business issuer describing the events giving rise to the notice.

* * * * *

(17) *Correspondence on departure of director.* Any written correspondence from a former director concerning the circumstances surrounding the former director's retirement, resignation, refusal to stand for re-election or removal, including any letter from the former director to the small business issuer stating whether the former director agrees with statements made by the small business issuer describing the former director's departure.

* * * * *

PART 229—STANDARD INSTRUCTIONS FOR FILING FORMS UNDER SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934 AND ENERGY POLICY AND CONSERVATION ACT OF 1975—REGULATION S–K

■ 3. The general authority citation for Part 229 is revised to read as follows:

Authority: 15 U.S.C. 77e, 77f, 77g, 77h, 77j, 77k, 77s, 77z-2, 77z–3, 77aa(25), 77aa(26), 77ddd, 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77nnn, 77sss, 78c, 78i, 78j, 78*l*, 78m, 78n, 78o, 78u–5, 78w, 78*ll*, 78mm, 79e, 79j, 79n, 79t, 80a–8, 80a–9, 80a–20, 80a–29, 80a–30, 80a–31(c), 80a–37, 80a–38(a), 80a–39, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 4. Amend § 229.601 by:

■ a. Revising the exhibit table;

■ b. Adding text to paragraph (b)(7); and

■ c. Revising paragraphs (b)(3) and (b)(17).

The revisions and addition read as follows:

§ 229.601 (Item 601) Exhibits.

(a) * * *

Instructions to the Exhibit Table

BILLING CODE 8010–01–P

EXHIBIT TABLE ITEM 601 OF REGULATION S-K														
	Securities Act Forms										Exchange Act Forms			
	S-1	S-2	S-3	S-4[3]	S-8	S-11	F-1	F-2	F-3	F-4[3]	10	8-K[5]	10-Q	10-K
(1) Underwriting agreement	X	X	X	X	---	X	X	X	X	X	---	X	---	---
(2) Plan of acquisition, reorganization, arrangement, liquidation or succession	X	X	X	X	---	X	X	X	X	X	X	X	X	X
(3) (i) Articles of incorporation	X	---	---	X	---	X	X	---	---	X	X	X	X	X
(ii) Bylaws	X	---	---	X	---	X	X	---	---	X	X	X	X	X
(4) Instruments defining the rights of security holders, including indentures	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(5) Opinion re legality	X	X	X	X	X	X	X	X	X	X	---	---	---	---
(6) [Reserved]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(7) Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review	---	---	---	---	---	---	---	---	---	---	---	X	---	---
(8) Opinion re tax matters	X	X	X	X	---	X	X	X	X	X	---	---	---	---
(9) Voting trust agreement	X	---	---	X	---	X	X	---	---	X	X	---	---	X
(10) Material contracts	X	X	---	X	---	X	X	X	---	X	X	---	X	X
(11) Statement re computation of per share earnings	X	X	---	X	---	X	X	X	---	X	X	---	X	X
(12) Statements re computation of ratios	X	X	X	X	---	X	X	X	---	X	X	---	---	X
(13) Annual report to security holders, Form 10-Q and 10-QSB, or quarterly report to security holders1	---	X	---	X	---	---	---	---	---	---	---	---	---	X
(14) Code of Ethics												X		X
(15) Letter re unaudited interim financial information	X	X	X	X	X	X	X	X	X	X	---	---	X	---
(16) Letter re change in certifying accountant4	X	X	---	X	---	X	---	---	---	---	X	X	---	X
(17) Correspondence on departure of director	---	---	---	---	---	---	---	---	---	---	---	X	---	---
(18) Letter re change in accounting principles	---	---	---	---	---	---	---	---	---	---	---	---	X	X
(19) Report furnished to security holders	---	---	---	---	---	---	---	---	---	---	---	---	X	---
(20) Other documents or statements to security holders	---	---	---	---	---	---	---	---	---	---	---	X	---	---
(21) Subsidiaries of the registrant	X	---	---	X	---	X	X	---	---	X	X	---	---	X
(22) Published report regarding matters submitted to vote of security holders	---	---	---	---	---	---	---	---	---	---	---	---	X	X
(23) Consents of experts and counsel	X	X	X	X	X	X	X	X	X	X	---	X[2]	X[2]	X[2]
(24) Power of attorney	X	X	X	X	X	X	X	X	X	X	X	X	X	X
(25) Statement of eligibility of trustee	X	X	X	X	---	X	X	X	X	X	---	---	---	---
(26) Invitations for competitive bids	X	X	X	X	---	---	X	X	X	X	---	---	---	---
(27) through (30) [Reserved]														
(31) Rule 13a-14(a)/15d-14(a) Certifications	---	---	---	---	---	---	---	---	---	---	---	---	X	X
(32) Section 1350 Certifications	---	---	---	---	---	---	---	---	---	---	---	---	X	X
(33) through (98) [Reserved]	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
(99) Additional exhibits	X	X	X	X	X	X	X	X	X	X	X	X	X	X

[1] Where incorporated by reference into the text of the prospectus and delivered to security holders along with the prospectus as permitted by the registration statement; or, in the case of the Form 10-K, where the annual report to security holders is incorporated by reference into the text of the Form 10-K.

[2] Where the opinion of the expert or counsel has been incorporated by reference into a previously filed Securities Act registration statement.

[3] An exhibit need not be provided about a company if: (1) With respect to such company an election has been made under Form S-4 or F-4 to provide information about such company at a level prescribed by Forms S-2, S-3, F-2 or F-3 and (2) the form, the level of which has been elected under Forms S-4 or F-4, would not require such company to provide such exhibit if it were registering a primary offering.

[4] If required pursuant to Item 304 of Regulation S-K.

[5] A Form 8-K exhibit is required only if relevant to the subject matter reported on the Form 8-K report. For example, if the Form 8-K pertains to the departure of a director, only the exhibit described in paragraph (b)(17) of this section need be filed. A required exhibit may be incorporated by reference from a previous filing.

BILLING CODE 8010–01–C

(b) * * *

(3)(i) *Articles of incorporation.* The articles of incorporation of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever the registrant files an amendment to its articles of incorporation, it must file a complete copy of the articles as amended. However, if such amendment is being reported on Form 8–K (§ 249.308 of this chapter), the registrant is required to file only the text of the amendment as a Form 8–K exhibit. In such case, a complete copy of the articles of incorporation as amended must be filed as an exhibit to the next Securities Act registration statement or periodic report filed by the registrant to which this exhibit requirement applies. Where it is impracticable for the registrant to file a charter amendment authorizing new securities with the appropriate state authority prior to the effective date of the registration statement registering such securities, the registrant may file as an exhibit to the registration statement the form of amendment to be filed with the state authority. In such a case, if material changes are made after the copy is filed, the registrant must also file the changed copy.

(ii) *Bylaws.* The bylaws of the registrant or instruments corresponding thereto as currently in effect and any amendments thereto. Whenever the registrant files an amendment to the bylaws, it must file a complete copy of the amended bylaws. However, if such amendment is being reported on Form 8–K (§ 249.308 of this chapter), the registrant is required to file only the text of the amendment as a Form 8–K exhibit. In such case, a complete copy of the bylaws as amended must be filed as an exhibit to the next Securities Act registration statement or periodic report filed by the registrant to which this exhibit requirement applies.

* * * * *

(7) *Correspondence from an independent accountant regarding non-reliance on a previously issued audit report or completed interim review.* Any written notice from the registrant's current or previously engaged independent accountant that the independent accountant is withdrawing a previously issued audit report or that a previously issued audit report or completed interim review, covering one or more years or interim periods for which the registrant is required to provide financial statements under Regulation S–X (part 210 of this chapter), should no longer be relied upon. In addition, any letter, pursuant to Item 4.02(c) of Form 8–K (§ 249.308 of this chapter), from the independent accountant to the Commission stating whether the independent accountant agrees with the statements made by the registrant describing the events giving rise to the notice.

* * * * *

(17) *Correspondence on departure of director.* Any written correspondence from a former director concerning the circumstances surrounding the former director's retirement, resignation, refusal to stand for re-election or removal, including any letter from the former director to the registrant stating whether the former director agrees with statements made by the registrant describing the former director's departure.

* * * * *

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

■ 5. The authority citation for part 230 continues to read in part as follows:

Authority: 15 U.S.C. 77b, 77c, 77d, 77f, 77g, 77h, 77j, 77r, 77s, 77z–3, 77sss, 78c, 78d, 78j, 78*l*, 78m, 78n, 78o, 78t, 78w, 78*ll*(d), 78mm, 79t, 80a–8, 80a–24, 80a–28, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * * *

■ 6. Amend § 230.144 by revising paragraph (c)(1) to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(c) * * *

(1) *Filing of reports.* The issuer has securities registered pursuant to section 12 of the Securities Exchange Act of 1934, has been subject to the reporting requirements of section 13 of that Act for a period of at least 90 days immediately preceding the sale of the securities and has filed all the reports required to be filed thereunder during the 12 months preceding such sale (or for such shorter period that the issuer was required to file such reports), other than Form 8–K reports (§ 249.308 of this chapter); or has securities registered pursuant to the Securities Act of 1933, has been subject to the reporting requirements of section 15(d) of the Securities Exchange Act of 1934 for a period of at least 90 days immediately preceding the sale of the securities and has filed all the reports required to be filed thereunder during the 12 months preceding such sale (or for such shorter period that the issuer was required to file such reports), other than Form 8–K reports (§ 249.308 of this chapter). The person for whose account the securities are to be sold shall be entitled to rely upon a statement in whichever is the most recent report, quarterly or annual, required to be filed and filed by the issuer that such issuer has filed all reports required to be filed by section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the issuer was required to file such reports), other than Form 8–K reports (§ 249.308 of this chapter), and has been subject to such filing requirements for the past 90 days, unless he knows or has reason to believe that the issuer has not complied with such requirements. Such person shall also be entitled to rely upon a written statement from the issuer that it has complied with such reporting requirements unless he knows or has reasons to believe that the issuer has not complied with such requirements.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

■ 7. The authority citation for part 239 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 79e, 79f, 79g, 79j, 79*l*, 79m, 79n, 79q, 79t, 80a–8, 80a–24, 80a–26, 80a–29, 80a–30, and 80a–37, unless otherwise noted.

* * * * *

■ 8. Amend § 239.12 by revising paragraph (c)(2) to read as follows:

§ 239.12 Form S–2, for registration under the Securities Act of 1933 of securities of certain issuers.

* * * * *

(c) * * *

(2) Has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement, other than a report that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 or 4.02(a) of Form 8–K (§ 249.308 of this chapter). If the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) § 240.12b–25(b) of this chapter with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that section; and

* * * * *

■ 9. Amend Form S–2 (referenced in § 239.12) by revising General Instruction I.(C) to read as follows:

Note.—The text of Form S–2 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–2—Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

I. * * *

C. The registrant:

(1) Has been subject to the requirements of Section 12 or 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to Section 12, 14 or 15(d) for a period of at least thirty-six calendar months immediately preceding the filing of the registration statement on this Form; and

(2) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement, other than a report that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 or 4.02(a) of Form 8–K (§ 249.308 of this chapter). If the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that rule.

* * * * *

■ 10. Amend § 239.13 by removing the authority citation following the section and revising paragraph (a)(3)(ii) to read as follows:

§ 239.13 Form S–3, for registration under the Securities Act of 1933 of securities of certain issuers offered pursuant to certain types of transactions.

* * * * *

(a) * * *

(3) * * *

(ii) Has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement, other than a report that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 or 4.02(a) of Form 8–K (§ 249.308 of this chapter). If the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) § 240.12b–25(b) of this chapter with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that section; and

* * * * *

■ 11. Amend Form S–3 (referenced in § 239.13) by revising General Instruction I.A.3 to read as follows:

Note.— The text of Form S–3 does not, and this amendment will not, appear in the Code of Federal Regulations.

Form S–3—Registration Statement Under the Securities Act of 1933

* * * * *

General Instructions

I. * * *

A. * * *

3. The registrant:

(a) Has been subject to the requirements of Section 12 or 15(d) of the Exchange Act and has filed all the material required to be filed pursuant to Section 12, 14 or 15(d) for a period of at least twelve calendar months immediately preceding the filing of the registration statement on this Form; and

(b) has filed in a timely manner all reports required to be filed during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement, other than a report that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 or 4.02(a) of Form 8–K (§ 249.308 of this chapter). If the registrant has used (during the twelve calendar months and any portion of a month immediately preceding the filing of the registration statement) Rule 12b–25(b) (§ 240.12b–25(b) of this chapter) under the Exchange Act with respect to a report or a portion of a report, that report or portion thereof has actually been filed within the time period prescribed by that rule.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

■ 12. The authority citation for part 240 continues to read in part as follows:

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*, 78mm, 79q, 79t, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 13. Amend § 240.12b–23 by revising paragraphs (a)(3)(i) and (ii) and adding paragraph (a)(3)(iii) to read as follows:

§ 240.12b–23 Incorporation by reference.

* * * * *

(a) * * *

(3) * * *

(i) A proxy or information statement incorporated by reference in response to Part III of Form 10–K and Form 10–KSB (17 CFR 249.310 and 249.310b);

(ii) A form of prospectus filed pursuant to 17 CFR 230.424(b) incorporated by reference in response to Item 1 of Form 8–A (17 CFR 249.208a); and

(iii) Information filed on Form 8–K (17 CFR 249.308) need not be filed as an exhibit.

* * * * *

■ 14. Amend § 240.13a–10 by revising Note 1 at the end of the section to read as follows:

§ 240.13a–10 Transition reports.

* * * * *

Note 1: In addition to the report or reports required to be filed pursuant to this section, every issuer, except a foreign private issuer or an investment company required to file reports pursuant to § 270.30b1–1 of this chapter, that changes its fiscal closing date is required to file a Form 8–K (§ 249.308 of this chapter) report that includes the information required by Item 5.03 of Form 8–K within the period specified in General Instruction B.1. to that form.

* * * * *

■ 15. Amend § 240.13a–11 by adding paragraph (c) to read as follows:

§ 240.13a–11 Current reports on Form 8–K (§ 249.308 of this chapter).

* * * * *

(c) No failure to file a report on Form 8–K that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 or 4.02(a) of Form 8–K shall be deemed to be a violation of 15 U.S.C. 78j(b) and § 240.10b–5.

■ 16. Amend § 240.15d–10 by revising Note 1 at the end of the section to read as follows:

§ 240.15d–10 Transition reports.

* * * * *

Note 1: In addition to the report or reports required to be filed pursuant to this section, every issuer, except a foreign private issuer or an investment company required to file reports pursuant to § 270.30b1–1 of this chapter, that changes its fiscal closing date is required to file a Form 8–K (§ 249.308 of this chapter) report that includes the information required by Item 5.03 of Form 8–K within the period specified in General Instruction B.1. to that form.

* * * * *

■ 17. Amend § 240.15d–11 by adding paragraph (c) to read as follows:

§ 240.15d–11 Current reports on Form 8–K (§ 249.308 of this chapter).

* * * * *

(c) No failure to file a report on Form 8–K that is required solely pursuant to Item 1.01, 1.02, 2.03, 2.04, 2.05, 2.06 or 4.02(a) of Form 8–K shall be deemed to

be a violation of 15 U.S.C. 78j(b) and § 240.10b–5.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

■ 18. The authority citation for part 249 continues to read in part as follows:

Authority: 15 U.S.C. 78a *et seq.* and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

■ 19. Amend Form 8—K (referenced in § 249.308) by:

■ a. Adding the ''check the appropriate box'' paragraph directly above the General Instructions on the cover page;

■ b. Revising the heading for General Instruction A, designating the current text as paragraph 1 and adding paragraph 2;

■ c. Revising General Instruction B; and

■ d. Revising all of the items appearing under the caption ''Information to Be Included in the Report'' after the General Instructions.

The revisions and addition read as follows:

Note. —The text of Form 8–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 8–K—Current Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Check the appropriate box below if the Form 8–K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

[ ] Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)

[ ] Soliciting material pursuant to Rule 14a–12(b) under the Exchange Act (17 CFR 240.14a–12(b))

[ ] Pre-commencement communications pursuant to Rule 14d–2(b) under the Exchange Act (17 CFR 240.14d–2(b))

General Instructions

A. Rules as to Use of Form 8–K.

1. * * *

2. Form 8–K may be used by a registrant to satisfy its filing obligations pursuant to Rule 425 under the Securities Act, regarding written communications related to business combination transactions, or Rules 14a–12(b) or Rule 14d–2(b) under the Exchange Act, relating to soliciting materials and pre-commencement communications pursuant to tender offers, respectively, provided that the Form 8–K filing satisfies all the substantive requirements of those rules (other than the Rule 425(c) requirement to include certain specified information in any prospectus filed pursuant to such rule). Such filing is also deemed to be filed pursuant to any rule for which the box is checked. A registrant is not required to check the box in connection with Rule 14a–12(b) or Rule 14d–2(b) if the communication is filed pursuant to Rule 425. Communications filed pursuant to Rule 425 are deemed filed under the other applicable sections. See Note 2 to Rule 425, Rule 14a–12(b) and Instruction 2 to Rule 14d–2(b)(2).

B. Events To Be Reported and Time for Filing of Reports.

1. A report on this form is required to be filed or furnished, as applicable, upon the occurrence of any one or more of the events specified in the items in Sections 1–6 and 9 of this form. Unless otherwise specified, a report is to be filed or furnished within four business days after occurrence of the event. If the event occurs on a Saturday, Sunday or holiday on which the Commission is not open for business, then the four business day period shall begin to run on, and include, the first business day thereafter. A registrant either furnishing a report on this form under Item 7.01 (Regulation FD Disclosure) or electing to file a report on this form under Item 8.01 (Other Events) solely to satisfy its obligations under Regulation FD (17 CFR 243.100 and 243.101) must furnish such report or make such filing, as applicable, in accordance with the requirements of Rule 100(a) of Regulation FD (17 CFR 243.100(a)), including the deadline for furnishing or filing such report.

2. The information in a report furnished pursuant to Item 2.02 (Results of Operations and Financial Condition) or Item 7.01 (Regulation FD Disclosure) shall not be deemed to be ''filed'' for purposes of Section 18 of the Exchange Act or otherwise subject to the liabilities of that section, unless the registrant specifically states that the information is to be considered ''filed'' under the Exchange Act or incorporates it by reference into a filing under the Securities Act or the Exchange Act. If a report on Form 8–K contains disclosures under Item 2.02 or Item 7.01, whether or not the report contains disclosures regarding other items, all exhibits to such report relating to Item 2.02 or Item 7.01 will be deemed furnished, and not filed, unless the registrant specifies, under Item 9.01 (Financial Statements and Exhibits), which exhibits, or portions of exhibits, are intended to be deemed filed rather than furnished pursuant to this instruction.

3. If the registrant previously has reported substantially the same information as required by this form, the registrant need not make an additional report of the information on this form. To the extent that an item calls for disclosure of developments concerning a *previously reported* event or transaction, any information required in the new report or amendment about the previously reported event or transaction may be provided by incorporation by reference to the previously filed report. The term *previously reported* is defined in Rule 12b–2 (17 CFR 240.12b–2).

4. Copies of agreements, amendments or other documents or instruments required to be filed pursuant to Form 8–K are not required to be filed or furnished as exhibits to the Form 8–K unless specifically required to be filed or furnished by the applicable Item. This instruction does not affect the requirement to otherwise file such agreements, amendments or other documents or instruments, including as exhibits to registration statements and periodic reports pursuant to the requirements of Item 601 of Regulation S–K or Item 601 of Regulation S–B, as applicable.

5. When considering current reporting on this form, particularly of other events of material importance pursuant to Item 7.01 (Regulation FD Disclosure) and Item 8.01 (Other Events), registrants should have due regard for the accuracy, completeness and currency of the information in registration statements filed under the Securities Act which incorporate by reference information in reports filed pursuant to the Exchange Act, including reports on this form.

6. A registrant's report under Item 7.01 (Regulation FD Disclosure) or Item 8.01 (Other Events) will not be deemed an admission as to the materiality of any information in the report that is required to be disclosed solely by Regulation FD.

* * * * *

Information To Be Included in the Report

Section 1—Registrant's Business and Operations

Item 1.01 Entry into a Material Definitive Agreement.

(a) If the registrant has entered into a material definitive agreement not made in the ordinary course of business of the registrant, or into any amendment of such agreement that is material to the registrant, disclose the following information:

(1) The date on which the agreement was entered into or amended, the identity of the parties to the agreement

or amendment and a brief description of any material relationship between the registrant or its affiliates and any of the parties, other than in respect of the material definitive agreement or amendment; and

(2) A brief description of the terms and conditions of the agreement or amendment that are material to the registrant.

(b) For purposes of this Item 1.01, a *material definitive agreement* means an agreement that provides for obligations that are material to and enforceable against the registrant, or rights that are material to the registrant and enforceable by the registrant against one or more other parties to the agreement, in each case whether or not subject to conditions.

Instructions.

1. Any material definitive agreement of the registrant not made in the ordinary course of the registrant's business must be disclosed under this Item 1.01. An agreement is deemed to be not made in the ordinary course of a registrant's business even if the agreement is such as ordinarily accompanies the kind of business conducted by the registrant if it involves the subject matter identified in Item 601(b)(10)(ii)(A)–(D) of Regulation S–K (17 CFR 229.601(b)(10)(ii)(A)–(D)). An agreement involving the subject matter identified in Item 601(b)(10)(iii)(A) or (B) also must be disclosed unless Item 601(b)(10)(iii)(C) would not require the registrant to file a material agreement involving the same subject matter as an exhibit.

2. A registrant must provide disclosure under this Item 1.01 if the registrant succeeds as a party to the agreement or amendment to the agreement by assumption or assignment (other than in connection with a merger or acquisition or similar transaction).

Item 1.02 Termination of a Material Definitive Agreement

(a) If a material definitive agreement which was not made in the ordinary course of business of the registrant and to which the registrant is a party is terminated otherwise than by expiration of the agreement on its stated termination date, or as a result of all parties completing their obligations under such agreement, and such termination of the agreement is material to the registrant, disclose the following information:

(1) The date of the termination of the material definitive agreement, the identity of the parties to the agreement and a brief description of any material relationship between the registrant or its affiliates and any of the parties other than in respect of the material definitive agreement;

(2) a brief description of the terms and conditions of the agreement that are material to the registrant;

(3) A brief description of the material circumstances surrounding the termination; and

(4) Any material early termination penalties incurred by the registrant.

(b) For purposes of this Item 1.02, the term *material definitive agreement* shall have the same meaning as set forth in Item 1.01(b).

Instructions.

1. No disclosure is required solely by reason of this Item 1.02 during negotiations or discussions regarding termination of a material definitive agreement unless and until the agreement has been terminated.

2. No disclosure is required solely by reason of this Item 1.02 if the registrant believes in good faith that the material definitive agreement has not been terminated, unless the registrant has received a notice of termination pursuant to the terms of agreement.

Item 1.03 Bankruptcy or Receivership

(a) If a receiver, fiscal agent or similar officer has been appointed for a registrant or its parent, in a proceeding under the Bankruptcy Act or in any other proceeding under state or federal law in which a court or governmental authority has assumed jurisdiction over substantially all of the assets or business of the registrant or its parent, or if such jurisdiction has been assumed by leaving the existing directors and officers in possession but subject to the supervision and orders of a court or governmental authority, disclose the following information:

(1) The name or other identification of the proceeding;

(2) The identity of the court or governmental authority;

(3) The date that jurisdiction was assumed; and

(4) The identity of the receiver, fiscal agent or similar officer and the date of his or her appointment.

(b) If an order confirming a plan of reorganization, arrangement or liquidation has been entered by a court or governmental authority having supervision or jurisdiction over substantially all of the assets or business of the registrant or its parent, disclose the following;

(1) The identity of the court or governmental authority;

(2) The date that the order confirming the plan was entered by the court or governmental authority;

(3) A summary of the material features of the plan and, pursuant to Item 9.01 (Financial Statements and Exhibits), a copy of the plan as confirmed;

(4) The number of shares or other units of the registrant or its parent issued and outstanding, the number reserved for future issuance in respect of claims and interests filed and allowed under the plan, and the aggregate total of such numbers; and

(5) Information as to the assets and liabilities of the registrant or its parent as of the date that the order confirming the plan was entered, or a date as close thereto as practicable.

Instruction.

The information called for in paragraph (b)(5) of this Item 1.03 may be presented in the form in which it was furnished to the court or governmental authority.

Section 2—Financial Information

Item 2.01 Completion of Acquisition or Disposition of Assets

If the registrant or any of its majority-owned subsidiaries has completed the acquisition or disposition of a significant amount of assets, otherwise than in the ordinary course of business, disclose the following information:

(a) The date of completion of the transaction;

(b) a brief description of the assets involved;

(c) the identity of the person(s) from whom the assets were acquired or to whom they were sold and the nature of any material relationship, other than in respect of the transaction, between such person(s) and the registrant or any of its affiliates, or any director or officer of the registrant, or any associate of any such director or officer;

(d) the nature and amount of consideration given or received for the assets and, if any material relationship is disclosed pursuant to paragraph (c) of this Item 2.01, the formula or principle followed in determining the amount of such consideration; and

(e) if the transaction being reported is an acquisition and if any material relationship is disclosed pursuant to paragraph (c) of this Item 2.01, the source(s) of the funds used unless all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, in which case the identity of such bank may be omitted provided the registrant:

(1) Has made a request for confidentiality pursuant to Section 13(d)(1)(B) of the Act; and

(2) states in the report that the identity of the bank has been so omitted and filed separately with the Commission.

Instructions.

1. No information need be given as to:

(i) Any transaction between any person and any wholly-owned subsidiary of such person;

(ii) any transaction between two or more wholly-owned subsidiaries of any person; or

(iii) the redemption or other acquisition of securities from the public, or the sale or other disposition of securities to the public, by the issuer of such securities or by a wholly-owned subsidiary of that issuer.

2. The term acquisition includes every purchase, acquisition by lease, exchange, merger, consolidation, succession or other acquisition, except that the term does not include the construction or development of property by or for the registrant or its subsidiaries or the acquisition of materials for such purpose. The term disposition includes every sale, disposition by lease, exchange, merger, consolidation, mortgage, assignment or hypothecation of assets, whether for the benefit of creditors or otherwise, abandonment, destruction, or other disposition.

3. The information called for by this Item 2.01 is to be given as to each transaction or series of related transactions of the size indicated. The acquisition or disposition of securities is deemed the indirect acquisition or disposition of the assets represented by such securities if it results in the acquisition or disposition of control of such assets.

4. An acquisition or disposition shall be deemed to involve a significant amount of assets:

(i) if the registrant's and its other subsidiaries' equity in the net book value of such assets or the amount paid or received for the assets upon such acquisition or disposition exceeded 10% of the total assets of the registrant and its consolidated subsidiaries; or

(ii) if it involved a business (see 17 CFR 210.11–01(d)) that is significant (see 17 CFR 210.11–01(b)).

Acquisitions of individually insignificant businesses are not required to be reported pursuant to this Item 2.01 unless they are related businesses (see 17 CFR 210.3–05(a)(3)) and are significant in the aggregate.

5. Attention is directed to the requirements in Item 9.01 (Financial Statements and Exhibits) with respect to the filing of:

(i) financial statements of businesses acquired;

(ii) pro forma financial information; and

(iii) copies of the plans of acquisition or disposition as exhibits to the report.

Item 2.02 Results of Operations and Financial Condition.

(a) If a registrant, or any person acting on its behalf, makes any public announcement or release (including any update of an earlier announcement or release) disclosing material non-public information regarding the registrant's results of operations or financial condition for a completed quarterly or annual fiscal period, the registrant shall disclose the date of the announcement or release, briefly identify the announcement or release and include the text of that announcement or release as an exhibit.

(b) A Form 8–K is not required to be furnished to the Commission under this Item 2.02 in the case of disclosure of material non-public information that is disclosed orally, telephonically, by webcast, by broadcast, or by similar means if:

(1) The information is provided as part of a presentation that is complementary to, and initially occurs within 48 hours after, a related, written announcement or release that has been furnished on Form 8–K pursuant to this Item 2.02 prior to the presentation;

(2) the presentation is broadly accessible to the public by dial-in conference call, by webcast, by broadcast or by similar means;

(3) the financial and other statistical information contained in the presentation is provided on the registrant's website, together with any information that would be required under 17 CFR 244.100; and

(4) The presentation was announced by a widely disseminated press release, that included instructions as to when and how to access the presentation and the location on the registrant's Web site where the information would be available.

Instructions.

1. The requirements of this Item 2.02 are triggered by the disclosure of material non-public information regarding a completed fiscal year or quarter. Release of additional or updated material non-public information regarding a completed fiscal year or quarter would trigger an additional Item 2.02 requirement.

2. The requirements of paragraph (e)(1)(i) of Item 10 of Regulation S–K (17 CFR 229.10(e)(1)(i)) (or paragraph (h)(1)(i) of Item 10 of Regulation S–B (17 CFR 228.10(h)(1)(i)) in the case of a small business issuer) shall apply to disclosures under this Item 2.02.

3. Issuers that make earnings announcements or other disclosures of material non-public information regarding a completed fiscal year or quarter in an interim or annual report to shareholders are permitted to specify which portion of the report contains the information required to be furnished under this Item 2.02.

4. This Item 2.02 does not apply in the case of a disclosure that is made in a quarterly report filed with the Commission on Form 10–Q (17 CFR 249.308a) (or Form 10–QSB (17 CFR 249.308b)) or an annual report filed with the Commission on Form 10–K (17 CFR 249.310) (or Form 10–KSB (17 CFR 249.310b)).

Item 2.03 Creation of a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement of a Registrant

(a) If the registrant becomes obligated on a direct financial obligation that is material to the registrant, disclose the following information:

(1) The date on which the registrant becomes obligated on the direct financial obligation and a brief description of the transaction or agreement creating the obligation;

(2) The amount of the obligation, including the terms of its payment and, if applicable, a brief description of the material terms under which it may be accelerated or increased and the nature of any recourse provisions that would enable the registrant to recover from third parties; and

(3) A brief description of the other terms and conditions of the transaction or agreement that are material to the registrant.

(b) If the registrant becomes directly or contingently liable for an obligation that is material to the registrant arising out of an off-balance sheet arrangement, disclose the following information:

(1) The date on which the registrant becomes directly or contingently liable on the obligation and a brief description of the transaction or agreement creating the arrangement and obligation;

(2) A brief description of the nature and amount of the obligation of the registrant under the arrangement, including the material terms whereby it may become a direct obligation, if applicable, or may be accelerated or increased and the nature of any recourse provisions that would enable the registrant to recover from third parties;

(3) The maximum potential amount of future payments (undiscounted) that the registrant may be required to make, if different; and

(4) A brief description of the other terms and conditions of the obligation or arrangement that are material to the registrant.

(c) For purposes of this Item 2.03, *direct financial obligation* means any of the following:

(1) A long-term debt obligation, as defined in Item 303(a)(5)(ii)(A) of Regulation S–K (17 CFR 229.303(a)(5)(ii)(A));

(2) A capital lease obligation, as defined in Item 303(a)(5)(ii)(B) of Regulation S–K (17 CFR 229.303(a)(5)(ii)(B));

(3) An operating lease obligation, as defined in Item 303(a)(5)(ii)(C) of Regulation S–K (17 CFR 229.303(a)(5)(ii)(C)); or

(4) A short-term debt obligation that arises other than in the ordinary course of business.

(d) For purposes of this Item 2.03, *off-balance sheet arrangement* has the meaning set forth in Item 303(a)(4)(ii) of Regulation S–K (17 CFR 229.303(a)(4)(ii)) or Item 303(c)(2) of Regulation S–B (17 CFR 228.303(c)(2)), as applicable.

(e) For purposes of this Item 2.03, *short-term debt obligation* means a payment obligation under a borrowing arrangement that is scheduled to mature within one year, or, for those registrants that use the operating cycle concept of working capital, within a registrant's operating cycle that is longer than one year, as discussed in Accounting Research Bulletin No. 43, Chapter 3A, *Working Capital*.

Instructions.

1. A registrant has no obligation to disclose information under this Item 2.03 until the registrant enters into an agreement enforceable against the registrant, whether or not subject to conditions, under which the direct financial obligation will arise or be created or issued. If there is no such agreement, the registrant must provide the disclosure within four business days after the occurrence of the closing or settlement of the transaction or arrangement under which the direct financial obligation arises or is created.

2. A registrant must provide the disclosure required by paragraph (b) of this Item 2.03 whether or not the registrant is also a party to the transaction or agreement creating the contingent obligation arising under the off-balance sheet arrangement. In the event that neither the registrant nor any affiliate of the registrant is also a party to the transaction or agreement creating the contingent obligation arising under the off-balance sheet arrangement in question, the four business day period for reporting the event under this Item 2.03 shall begin on the earlier of (i) the fourth business day after the contingent obligation is created or arises, and (ii) the day on which an executive officer, as defined in 17 CFR 240.3b–7, of the registrant becomes aware of the contingent obligation.

3. In the event that an agreement, transaction or arrangement requiring disclosure under this Item 2.03 comprises a facility, program or similar arrangement that creates or may give rise to direct financial obligations of the registrant in connection with multiple transactions, the registrant shall:

(i) Disclose the entering into of the facility, program or similar arrangement if the entering into of the facility is material to the registrant; and

(ii) As direct financial obligations arise or are created under the facility or program, disclose the required information under this Item 2.03 to the extent that the obligations are material to the registrant (including when a series of previously undisclosed individually immaterial obligations become material in the aggregate).

4. For purposes of Item 2.03(b)(3), the maximum amount of future payments shall not be reduced by the effect of any amounts that may possibly be recovered by the registrant under recourse or collateralization provisions in any guarantee agreement, transaction or arrangement.

5. If the obligation required to be disclosed under this Item 2.03 is a security, or a term of a security, that has been or will be sold pursuant to an effective registration statement of the registrant, the registrant is not required to file a Form 8–K pursuant to this Item 2.03, *provided* that the prospectus relating to that sale contains the information required by this Item 2.03 and is filed within the required time period under Securities Act Rule 424 (§ 230.424 of this chapter).

Item 2.04 Triggering Events That Accelerate or Increase a Direct Financial Obligation or an Obligation Under an Off-Balance Sheet Arrangement

(a) If a triggering event causing the increase or acceleration of a direct financial obligation of the registrant occurs and the consequences of the event, taking into account those described in paragraph (a)(4) of this Item 2.04, are material to the registrant, disclose the following information:

(1) The date of the triggering event and a brief description of the agreement or transaction under which the direct financial obligation was created and is increased or accelerated;

(2) A brief description of the triggering event;

(3) The amount of the direct financial obligation, as increased if applicable, and the terms of payment or acceleration that apply; and

(4) Any other material obligations of the registrant that may arise, increase, be accelerated or become direct financial obligations as a result of the triggering event or the increase or acceleration of the direct financial obligation.

(b) If a triggering event occurs causing an obligation of the registrant under an off-balance sheet arrangement to increase or be accelerated, or causing a contingent obligation of the registrant under an off-balance sheet arrangement to become a direct financial obligation of the registrant, and the consequences of the event, taking into account those described in paragraph (b)(4) of this Item 2.04, are material to the registrant, disclose the following information:

(1) The date of the triggering event and a brief description of the off-balance sheet arrangement;

(2) As brief description of the triggering event;

(3) The nature and amount of the obligation, as increased if applicable, and the terms of payment or acceleration that apply; and

(4) Any other material obligations of the registrant that may arise, increase, be accelerated or become direct financial obligations as a result of the triggering event or the increase or acceleration of the obligation under the off-balance sheet arrangement or its becoming a direct financial obligation of the registrant.

(c) For purposes of this Item 2.04, the term *direct financial obligation* has the meaning provided in Item 2.03 of this form, but shall also include an obligation arising out of an off-balance sheet arrangement that is accrued under FASB Statement of Financial Accounting Standards No. 5 *Accounting for Contingencies* (SFAS No. 5) as a probable loss contingency.

(d) For purposes of this Item 2.04, the term *off-balance sheet arrangement* has the meaning provided in Item 2.03 of this form.

(e) For purposes of this Item 2.04, a *triggering event* is an event, including an event of default, event of acceleration or similar event, as a result of which a direct financial obligation of the registrant or an obligation of the registrant arising under an off-balance sheet arrangement is increased or becomes accelerated or as a result of which a contingent obligation of the registrant arising out of an off-balance sheet arrangement becomes a direct financial obligation of the registrant.

Instructions.

1. Disclosure is required if a triggering event occurs in respect of an obligation of the registrant under an off-balance sheet arrangement and the

consequences are material to the registrant, whether or not the registrant is also a party to the transaction or agreement under which the triggering event occurs.

2. No disclosure is required under this Item 2.04 unless and until a triggering event has occurred in accordance with the terms of the relevant agreement, transaction or arrangement, including, if required, the sending to the registrant of notice of the occurrence of a triggering event pursuant to the terms of the agreement, transaction or arrangement and the satisfaction of all conditions to such occurrence, except the passage of time.

3. No disclosure is required solely by reason of this Item 2.04 if the registrant believes in good faith that no triggering event has occurred, unless the registrant has received a notice described in Instruction 2 to this Item 2.04.

4. Where a registrant is subject to an obligation arising out of an off-balance sheet arrangement, whether or not disclosed pursuant to Item 2.03 of this form, if a triggering event occurs as a result of which under that obligation an accrual for a probable loss is required under SFAS No. 5, the obligation arising out of the off-balance sheet arrangement becomes a direct financial obligation as defined in this Item 2.04. In that situation, if the consequences as determined under Item 2.04(b) are material to the registrant, disclosure is required under this Item 2.04.

Item 2.05 Costs Associated With Exit or Disposal Activities

If the registrant's board of directors, a committee of the board of directors or the officer or officers of the registrant authorized to take such action if board action is not required, commits the registrant to an exit or disposal plan, or otherwise disposes of a long-lived asset or terminates employees under a plan of termination described in paragraph 8 of FASB Statement of Financial Accounting Standards No. 146 *Accounting for Costs Associated with Exit or Disposal Activities* (SFAS No. 146), under which material charges will be incurred under generally accepted accounting principles applicable to the registrant, disclose the following information:

(a) The date of the commitment to the course of action and a description of the course of action, including the facts and circumstances leading to the expected action and the expected completion date;

(b) For each major type of cost associated with the course of action (for example, one-time termination benefits, contract termination costs and other associated costs), an estimate of the total amount or range of amounts expected to be incurred in connection with the action;

(c) An estimate of the total amount or range of amounts expected to be incurred in connection with the action; and

(d) The registrant's estimate of the amount or range of amounts of the charge that will result in future cash expenditures, *provided, however,* that if the registrant determines that at the time of filing it is unable in good faith to make a determination of an estimate required by paragraphs (b), (c) or (d) of this Item 2.05, no disclosure of such estimate shall be required; *provided further, however,* that in any such event, the registrant shall file an amended report on Form 8–K under this Item 2.05 within four business days after it makes a determination of such an estimate or range of estimates.

Item 2.06 Material Impairments

If the registrant's board of directors, a committee of the board of directors or the officer or officers of the registrant authorized to take such action if board action is not required, concludes that a material charge for impairment to one or more of its assets, including, without limitation, impairments of securities or goodwill, is required under generally accepted accounting principles applicable to the registrant, disclose the following information:

(a) The date of the conclusion that a material charge is required and a description of the impaired asset or assets and the facts and circumstances leading to the conclusion that the charge for impairment is required;

(b) The registrant's estimate of the amount or range of amounts of the impairment charge; and

(c) The registrant's estimate of the amount or range of amounts of the impairment charge that will result in future cash expenditures, *provided, however,* that if the registrant determines that at the time of filing it is unable in good faith to make a determination of an estimate required by paragraphs (b) or (c) of this Item 2.06, no disclosure of such estimate shall be required; *provided further, however,* that in any such event, the registrant shall file an amended report on Form 8–K under this Item 2.06 within four business days after it makes a determination of such an estimate or range of estimates.

Instruction.

No filing is required under this Item 2.06 if the conclusion is made in connection with the preparation, review or audit of financial statements required to be included in the next periodic report due to be filed under the Exchange Act, the periodic report is filed on a timely basis and such conclusion is disclosed in the report.

Section 3—Securities and Trading Markets

Item 3.01 Notice of Delisting or Failure To Satisfy a Continued Listing Rule or Standard; Transfer of Listing

(a) If the registrant has received notice from the national securities exchange or national securities association (or a facility thereof) that maintains the principal listing for any class of the registrant's common equity (as defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2)) that:

- The registrant or such class of the registrant's securities does not satisfy a rule or standard for continued listing on the exchange or association;
- The exchange has submitted an application under Exchange Act Rule 12d2–2 (17 CFR 240.12d2–2) to the Commission to delist such class of the registrant's securities; or
- The association has taken all necessary steps under its rules to delist the security from its automated inter-dealer quotation system, the registrant must disclose:

(i) The date that the registrant received the notice;

(ii) The rule or standard for continued listing on the national securities exchange or national securities association that the registrant fails, or has failed to, satisfy; and

(iii) Any action or response that, at the time of filing, the registrant has determined to take in response to the notice.

(b) If the registrant has notified the national securities exchange or national securities association (or a facility thereof) that maintains the principal listing for any class of the registrant's common equity (as defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2) that the registrant is aware of any material noncompliance with a rule or standard for continued listing on the exchange or association, the registrant must disclose:

(i) The date that the registrant provided such notice to the exchange or association;

(ii) The rule or standard for continued listing on the exchange or association that the registrant fails, or has failed, to satisfy; and

(iii) any action or response that, at the time of filing, the registrant has determined to take regarding its noncompliance.

(c) If the national securities exchange or national securities association (or a

facility thereof) that maintains the principal listing for any class of the registrant's common equity (as defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2)), in lieu of suspending trading in or delisting such class of the registrant's securities, issues a public reprimand letter or similar communication indicating that the registrant has violated a rule or standard for continued listing on the exchange or association, the registrant must state the date, and summarize the contents of the letter or communication.

(d) If the registrant's board of directors, a committee of the board of directors or the officer or officers of the registrant authorized to take such action if board action is not required, has taken definitive action to cause the listing of a class of its common equity to be withdrawn from the national securities exchange, or terminated from the automated inter-dealer quotation system of a registered national securities association, where such exchange or association maintains the principal listing for such class of securities, including by reason of a transfer of the listing or quotation to another securities exchange or quotation system, describe the action taken and state the date of the action.

Instructions.

1. The registrant is not required to disclose any information required by paragraph (a) of this Item 3.01 where the delisting is a result of one of the following:

- The entire class of the security has been called for redemption, maturity or retirement; appropriate notice thereof has been given; if required by the terms of the securities, funds sufficient for the payment of all such securities have been deposited with an agency authorized to make such payments; and such funds have been made available to security holders;
- The entire class of the security has been redeemed or paid at maturity or retirement;
- The instruments representing the entire class of securities have come to evidence, by operation of law or otherwise, other securities in substitution therefor and represent no other right, except, if true, the right to receive an immediate cash payment (the right of dissenters to receive the appraised or fair value of their holdings shall not prevent the application of this provision); or
- All rights pertaining to the entire class of the security have been extinguished; *provided, however,* that where such an event occurs as the result of an order of a court or other governmental authority, the order shall be final, all applicable appeal periods shall have expired and no appeals shall be pending.

2. A registrant must provide the disclosure required by paragraph (a) or (b) of this Item 3.01, as applicable, regarding any failure to satisfy a rule or standard for continued listing on the national securities exchange or national securities association (or a facility thereof) that maintains the principal listing for any class of the registrant's common equity (as defined in Exchange Act Rule 12b–2 (17 CFR 240.12b–2)) even if the registrant has the benefit of a grace period or similar extension period during which it may cure the deficiency that triggers the disclosure requirement.

3. Notices or other communications subsequent to an initial notice sent to, or by, a registrant under Item 3.01(a), (b) or (c) that continue to indicate that the registrant does not comply with the same rule or standard for continued listing that was the subject of the initial notice are not required to be filed, but may be filed voluntarily.

4. Registrants whose securities are quoted exclusively (*i.e.*, the securities are not otherwise listed on an exchange or association) on automated inter-dealer quotation systems are not subject to this Item 3.01 and such registrants are thus not required to file a Form 8–K pursuant to this Item 3.01 if the securities are no longer quoted on such quotation system. If a security is listed on an exchange or association and is also quoted on an automated inter-dealer quotation system, the registrant is subject to the disclosure obligations of Item 3.01 if any of the events specified in Item 3.01 occur.

Item 3.02 Unregistered Sales of Equity Securities

(a) If the registrant sells equity securities in a transaction that is not registered under the Securities Act, furnish the information set forth in paragraphs (a) and (c) through (e) of Item 701 of Regulation S–K or Regulation S–B, as applicable (17 CFR 229.701(a) and (c) through (e) and 228.701(a) and (c) through (e), respectively). For purposes of determining the required filing date for the Form 8–K under this Item 3.02(a), the registrant has no obligation to disclose information under this Item 3.02 until the registrant enters into an agreement enforceable against the registrant, whether or not subject to conditions, under which the equity securities are to be sold. If there is no such agreement, the registrant must provide the disclosure within four business days after the occurrence of the closing or settlement of the transaction or arrangement under which the equity securities are to be sold.

(b) No report need be filed under this Item 3.02 if the equity securities sold, in the aggregate since its last report filed under this Item 3.02 or its last periodic report, whichever is more recent, constitute less than 1% of the number of shares outstanding of the class of equity securities sold. In the case of a small business issuer, no report need be filed if the equity securities sold, in the aggregate since its last report filed under this Item 3.02 or its last periodic report, whichever is more recent, constitute less than 5% of the number of shares outstanding of the class of equity securities sold.

Instructions.

1. For purposes of this Item 3.02, ''the number of shares outstanding'' refers to the actual number of shares of equity securities of the class outstanding and does not include outstanding securities convertible into or exchangeable for such equity securities.

2. Small business issuer is defined under Item 10(a)(1) of Regulation S–B (17 CFR 228.10(a)(1)).

Item 3.03 Material Modification to Rights of Security Holders

(a) If the constituent instruments defining the rights of the holders of any class of registered securities of the registrant have been materially modified, disclose the date of the modification, the title of the class of securities involved and briefly describe the general effect of such modification upon the rights of holders of such securities.

(b) If the rights evidenced by any class of registered securities have been materially limited or qualified by the issuance or modification of any other class of securities by the registrant, briefly disclose the date of the issuance or modification, the general effect of the issuance or modification of such other class of securities upon the rights of the holders of the registered securities.

Instruction.

Working capital restrictions and other limitations upon the payment of dividends must be reported pursuant to this Item 3.03.

Section 4—Matters Related to Accountants and Financial Statements

Item 4.01 Changes in Registrant's Certifying Accountant

(a) If an independent accountant who was previously engaged as the principal accountant to audit the registrant's financial statements, or an independent accountant upon whom the principal

accountant expressed reliance in its report regarding a significant subsidiary, resigns (or indicates that it declines to stand for re-appointment after completion of the current audit) or is dismissed, disclose the information required by Item 304(a)(1) of Regulation S–K or Item 304(a)(1) of Regulation S–B, as applicable, including compliance with Item 304(a)(3) of Regulation S–K or Item 304(a)(3) of Regulation S–B (17 CFR 229.304(a)(1) and (a)(3) or 228.304(a)(1) and (a)(3), respectively).

(b) If a new independent accountant has been engaged as either the principal accountant to audit the registrant's financial statements or as an independent accountant on whom the principal accountant is expected to express reliance in its report regarding a significant subsidiary, the registrant must disclose the information required by Item 304(a)(2) of Regulation S–K or Item 304(a)(2) of Regulation S–B, as applicable (17 CFR 229.304(a)(2) or 228.304(a)(2), respectively).

Instruction.

The resignation or dismissal of an independent accountant, or its refusal to stand for re-appointment, is a reportable event separate from the engagement of a new independent accountant. On some occasions, two reports on Form 8–K are required for a single change in accountants, the first on the resignation (or refusal to stand for re-appointment) or dismissal of the former accountant and the second when the new accountant is engaged. Information required in the second Form 8–K in such situations need not be provided to the extent that it has been reported previously in the first Form 8–K.

Item 4.02 Non-Reliance on Previously Issued Financial Statements or a Related Audit Report or Completed Interim Review

(a) If the registrant's board of directors, a committee of the board of directors or the officer or officers of the registrant authorized to take such action if board action is not required, concludes that any previously issued financial statements, covering one or more years or interim periods for which the registrant is required to provide financial statements under Regulation S–X (17 CFR part 210) or Regulation S–B (17 CFR part 228), should no longer be relied upon because of an error in such financial statements as addressed in Accounting Principles Board Opinion No. 20, as may be modified, supplemented or succeeded, disclose the following information:

(1) The date of the conclusion regarding the non-reliance and an identification of the financial statements and years or periods covered that should no longer be relied upon;

(2) a brief description of the facts underlying the conclusion to the extent known to the registrant at the time of filing; and

(3) a statement of whether the audit committee, or the board of directors in the absence of an audit committee, or authorized officer or officers, discussed with the registrant's independent accountant the matters disclosed in the filing pursuant to this Item 4.02(a).

(b) If the registrant is advised by, or receives notice from, its independent accountant that disclosure should be made or action should be taken to prevent future reliance on a previously issued audit report or completed interim review related to previously issued financial statements, disclose the following information:

(1) The date on which the registrant was so advised or notified;

(2) Identification of the financial statements that should no longer be relied upon;

(3) A brief description of the information provided by the accountant; and

(4) A statement of whether the audit committee, or the board of directors in the absence of an audit committee, or authorized officer or officers, discussed with the independent accountant the matters disclosed in the filing pursuant to this Item 4.02(b).

(c) If the registrant receives advisement or notice from its independent accountant requiring disclosure under paragraph (b) of this Item 4.02, the registrant must:

(1) Provide the independent accountant with a copy of the disclosures it is making in response to this Item 4.02 that the independent accountant shall receive no later than the day that the disclosures are filed with the Commission;

(2) Request the independent accountant to furnish to the registrant as promptly as possible a letter addressed to the Commission stating whether the independent accountant agrees with the statements made by the registrant in response to this Item 4.02 and, if not, stating the respects in which it does not agree; and

(3) Amend the registrant's previously filed Form 8–K by filing the independent accountant's letter as an exhibit to the filed Form 8–K no later than two business days after the registrant's receipt of the letter.

Section 5—Corporate Governance and Management

Item 5.01 Changes in Control of Registrant

(a) If, to the knowledge of the registrant's board of directors, a committee of the board of directors or authorized officer or officers of the registrant, a change in control of the registrant has occurred, furnish the following information:

(1) The identity of the person(s) who acquired such control;

(2) the date and a description of the transaction(s) which resulted in the change in control;

(3) The basis of the control, including the percentage of voting securities of the registrant now beneficially owned directly or indirectly by the person(s) who acquired control;

(4) The amount of the consideration used by such person(s);

(5) The source(s) of funds used by the person(s), unless all or any part of the consideration used is a loan made in the ordinary course of business by a bank as defined by Section 3(a)(6) of the Act, in which case the identity of such bank may be omitted provided the person who acquired control:

(1) Has made a request for confidentiality pursuant to Section 13(d)(1)(B) of the Act; and

(2) States in the report that the identity of the bank has been so omitted and filed separately with the Commission.

(6) The identity of the person(s) from whom control was assumed; and

(7) Any arrangements or understandings among members of both the former and new control groups and their associates with respect to election of directors or other matters.

(b) Furnish the information required by Item 403(c) of Regulation S–K (17 CFR 229.403(c)) or Item 403(c) of Regulation S–B (17 CFR 228.403(c)), as applicable.

Item 5.02 Departure of Directors or Principal Officers; Election of Directors; Appointment of Principal Officers

(a)(1) If a director has resigned or refuses to stand for re-election to the board of directors since the date of the last annual meeting of shareholders because of a disagreement with the registrant, known to an executive officer of the registrant, as defined in 17 CFR 240.3b–7, on any matter relating to the registrant's operations, policies or practices, or if a director has been removed for cause from the board of directors, disclose the following information:

(i) The date of such resignation, refusal to stand for re-election or removal;

(ii) Any positions held by the director on any committee of the board of directors at the time of the director's resignation, refusal to stand for re-election or removal; and

(iii) A brief description of the circumstances representing the disagreement that the registrant believes caused, in whole or in part, the director's resignation, refusal to stand for re-election or removal.

(2) If the director has furnished the registrant with any written correspondence concerning the circumstances surrounding his or her resignation, refusal or removal, the registrant shall file a copy of the document as an exhibit to the report on Form 8–K.

(3) The registrant also must:

(i) Provide the director with a copy of the disclosures it is making in response to this Item 5.02 no later than the day the registrant file the disclosures with the Commission;

(ii) Provide the director with the opportunity to furnish the registrant as promptly as possible with a letter addressed to the registrant stating whether he or she agrees with the statements made by the registrant in response to this Item 5.02 and, if not, stating the respects in which he or she does not agree; and

(iii) File any letter received by the registrant from the director with the Commission as an exhibit by an amendment to the previously filed Form 8-K within two business days after receipt by the registrant.

(b) If the registrant's principal executive officer, president, principal financial officer, principal accounting officer, principal operating officer or any person performing similar functions retires, resigns or is terminated from that position, or if a director retires, resigns, is removed, or refuses to stand for re-election (except in circumstances described in paragraph (a) of this Item 5.02), disclose the fact that the event has occurred and the date of the event.

(c) If the registrant appoints a new principal executive officer, president, principal financial officer, principal accounting officer, principal operating officer or person performing similar functions, disclose the following information with respect to the newly appointed officer:

(1) The name and position of the newly appointed officer and the date of the appointment;

(2) The information required by Items 401(b), (d), (e) and Item 404(a) of Regulation S–K (17 CFR 229.401(b), (d), (e) and 229.404(a)), or, in the case of a small business issuer, Items 401(a)(4), (a)(5), (c), and Items 404(a) and (b) of Regulation S–B (17 CFR 228.401(a)(4), (a)(5), (c), and 228.404(a) and (b), respectively); and

(3) A brief description of the material terms of any employment agreement between the registrant and that officer.

Instruction to paragraph (c).

If the registrant intends to make a public announcement of the appointment other than by means of a report on Form 8–K, the registrant may delay filing the Form 8–K containing the disclosures required by this Item 5.02(c) until the day on which the registrant otherwise makes public announcement of the appointment of such officer.

(d) If the registrant elects a new director, except by a vote of security holders at an annual meeting or special meeting convened for such purpose, disclose the following information:

(1) The name of the newly elected director and the date of election;

(2) A brief description of any arrangement or understanding between the new director and any other persons, naming such persons, pursuant to which such director was selected as a director;

(3) The committees of the board of directors to which the new director has been, or at the time of this disclosure is expected to be, named; and

(4) The information required by Item 404(a) of Regulation S–K or Item 404(a) of Regulation S–B, as applicable (17 CFR 229.404(a) or 228.404(a), respectively).

Instructions to Item 5.02.

1. The disclosure requirements of this Item 5.02 do not apply to a registrant that is a wholly-owned subsidiary of an issuer with a class of securities registered under Section 12 of the Exchange Act (15 U.S.C. 78*l*), or that is required to file reports under Section 15(d) of the Exchange Act (15 U.S.C. 78o(d)).

2. To the extent that any information called for in Item 5.02(c)(3) or Item 5.02(d)(3) or Item 5.02(d)(4) is not determined or is unavailable at the time of the required filing, the registrant shall include a statement to this effect in the filing and then must file an amendment to its Form 8–K filing under this Item 5.02 containing such information within four business days after the information is determined or becomes available.

Item 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

(a) If a registrant with a class of equity securities registered under Section 12 of the Exchange Act (15 U.S.C. 78*l*) amends its articles of incorporation or bylaws and a proposal for the amendment was not disclosed in a proxy statement or information statement filed by the registrant, disclose the following information:

(1) The effective date of the amendment; and

(2) A description of the provision adopted or changed by amendment and, if applicable, the previous provision.

(b) If the registrant determines to change the fiscal year from that used in its most recent filing with the Commission other than by means of:

(1) A submission to a vote of security holders through the solicitation of proxies or otherwise; or

(2) An amendment to its articles of incorporation or bylaws, disclose the date of such determination, the date of the new fiscal year end and the form (for example, Form 10–K, Form 10–KSB, Form 10–Q or Form 10–QSB) on which the report covering the transition period will be filed.

Instruction to Item 5.03.

Refer to Item 601(b)(3) of Regulation S–K or Regulation S–B (17 CFR 229.601(b)(3) and 228.601(b)(3)), as applicable, regarding the filing of exhibits to this Item 5.03.

Item 5.04 Temporary Suspension of Trading Under Registrant's Employee Benefit Plans

(a) No later than the fourth business day after which the registrant receives the notice required by section 101(i)(2)(E) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1021(i)(2)(E)), or, if such notice is not received by the registrant, on the same date by which the registrant transmits a timely notice to an affected officer or director within the time period prescribed by Rule 104(b)(2)(i)(B) or 104(b)(2)(ii) of Regulation BTR (17 CFR 245.104(b)(2)(i)(B) or 17 CFR 245.104(b)(2)(ii)), provide the information specified in Rule 104(b) (17 CFR 245.104(b)) and the date the registrant received the notice required by section 101(i)(2)(E) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1021(i)(2)(E)), if applicable.

(b) On the same date by which the registrant transmits a timely updated notice to an affected officer or director, as required by the time period under Rule 104(b)(2)(iii) of Regulation BTR (17 CFR 245.104(b)(2)(iii)), provide the information specified in Rule 104(b)(3)(iii) (17 CFR 245.104(b)(2)(iii)).

Item 5.05 Amendments to the Registrant's Code of Ethics, or Waiver of a Provision of the Code of Ethics.

(a) Briefly describe the date and nature of any amendment to a provision of the registrant's code of ethics that applies to the registrant's principal executive officer, principal financial officer, principal accounting officer or controller or persons performing similar functions and that relates to any element of the code of ethics definition enumerated in Item 406(b) of Regulations S–K and S–B (17 CFR 229.406(b) and 228.406(b), respectively).

(b) If the registrant has granted a waiver, including an implicit waiver, from a provision of the code of ethics to an officer or person described in paragraph (a) of this Item 5.05, and the waiver relates to one or more of the elements of the code of ethics definition referred to in paragraph (a) of this Item 5.05, briefly describe the nature of the waiver, the name of the person to whom the waiver was granted, and the date of the waiver.

(c) The registrant does not need to provide any information pursuant to this Item 5.05 if it discloses the required information on its Internet website within five business days following the date of the amendment or waiver and the registrant has disclosed in its most recently filed annual report its Internet address and intention to provide disclosure in this manner. If the registrant elects to disclose the information required by this Item 5.05 through its website, such information must remain available on the website for at least a 12-month period. Following the 12-month period, the registrant must retain the information for a period of not less than five years. Upon request, the registrant must furnish to the Commission or its staff a copy of any or all information retained pursuant to this requirement.

Instructions.

1. The registrant does not need to disclose technical, administrative or other non-substantive amendments to its code of ethics.

2. For purposes of this Item 5.05:

(i) The term *waiver* means the approval by the registrant of a material departure from a provision of the code of ethics; and

(ii) The term *implicit waiver* means the registrant's failure to take action within a reasonable period of time regarding a material departure from a provision of the code of ethics that has been made known to an executive officer, as defined in Rule 3b–7 (17 CFR 240.3b–7) of the registrant.

Section 6—[Reserved]

Section 7—Regulation FD

Item 7.01 Regulation FD Disclosure

Unless filed under Item 8.01, disclose under this item only information that the registrant elects to disclose through Form 8–K pursuant to Regulation FD (17 CFR 243.100 through 243.103).

Section 8—Other Events

Item 8.01 Other Events

The registrant may, at its option, disclose under this Item 8.01 any events, with respect to which information is not otherwise called for by this form, that the registrant deems of importance to security holders. The registrant may, at its option, file a report under this Item 8.01 disclosing the nonpublic information required to be disclosed by Regulation FD (17 CFR 243.100 through 243.103).

Section 9—Financial Statements and Exhibits

Item 9.01 Financial Statements and Exhibits.

List below the financial statements, pro forma financial information and exhibits, if any, filed as a part of this report.

(a) *Financial statements of businesses acquired.*

(1) For any business acquisition required to be described in answer to Item 2.01 of this form, financial statements of the business acquired shall be filed for the periods specified in Rule 3–05(b) of Regulation S–X (17 CFR 210.3–05(b)).

(2) The financial statements shall be prepared pursuant to Regulation S–X except that supporting schedules need not be filed. A manually signed accountant's report should be provided pursuant to Rule 2–02 of Regulation S–X (17 CFR 210.2–02).

(3) With regard to the acquisition of one or more real estate properties, the financial statements and any additional information specified by Rule 3–14 of Regulation S–X (17 CFR 210.3–14) shall be filed.

(4) Financial statements required by this item may be filed with the initial report, or by amendment not later than 71 calendar days after the date that the initial report on Form 8–K must be filed. If the financial statements are not included in the initial report, the registrant should so indicate in the Form 8–K report and state when the required financial statements will be filed. The registrant may, at its option, include unaudited financial statements in the initial report on Form 8–K.

(b) *Pro forma financial information.*

(1) For any transaction required to be described in answer to Item 2.01 of this form, furnish any pro forma financial information that would be required pursuant to Article 11 of Regulation S–X (17 CFR 210).

(2) The provisions of paragraph (a)(4) of this Item 9.01 shall also apply to pro forma financial information relative to the acquired business.

(c) *Exhibits.* The exhibits shall be deemed to be filed or furnished, depending on the relevant item requiring such exhibit, in accordance with the provisions of Item 601 of Regulation S–K (17 CFR 229.601), or Item 601 of Regulation S–B (17 CFR 228.601) and Instruction B.2 to this form.

Instruction.

During the period after a registrant has reported a business combination pursuant to Item 2.01 of this form, until the date on which the financial statements specified by this Item 9.01 must be filed, the registrant will be deemed current for purposes of its reporting obligations under Section 13(a) or 15(d) of the Exchange Act (15 U.S.C. 78m or 78o(d)). With respect to filings under the Securities Act, however, registration statements will not be declared effective and post-effective amendments to registrations statements will not be declared effective unless financial statements meeting the requirements of Rule 3–05 of Regulation S–X (17 CFR 210.3–05) are provided. In addition, offerings should not be made pursuant to effective registration statements, or pursuant to Rules 505 and 506 of Regulation D (17 CFR 230.505 and 230.506) where any purchasers are not accredited investors under Rule 501(a) of that Regulation, until the audited financial statements required by Rule 3–05 of Regulation S–X (17 CFR 210.3–05) are filed; *provided, however,* that the following offerings or sales of securities may proceed notwithstanding that financial statements of the acquired business have not been filed:

(a) Offerings or sales of securities upon the conversion of outstanding convertible securities or upon the exercise of outstanding warrants or rights;

(b) Dividend or interest reinvestment plans;

(c) Employee benefit plans;

(d) Transactions involving secondary offerings; or

(e) Sales of securities pursuant to Rule 144 (17 CFR 230.144).

* * * * *

■ 20. Amend Form 10–Q (referenced in § 249.308a) by:

■ a. Revising the heading for Item 2 in Part II—Other Information;
■ b. Removing Items 2(a), 2(b) and 6(b);
■ c. Redesignating paragraphs (c), (d) and (e) in Item 2 as paragraphs (a), (b) and (c);
■ d. Revising newly redesignated paragraph (a) in Item 2;
■ e. Revising the Instructions to Item 3;
■ f. Revising Item 5;
■ g. Removing the words ''and Reports on Form 8–K (§ 249.308 of this chapter)'' from the heading of Item 6; and
■ h. Removing the paragraph (a) designation in Item 6.

The revisions read as follows:

Note The text of Form 10–Q does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–Q

* * * * *

Part II—Other Information

* * * * *

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

(a) Furnish the information required by Item 701 of Regulation S–K (17 CFR 229.701) as to all equity securities of the registrant sold by the registrant during the period covered by the report that were not registered under the Securities Act. If the Item 701 information previously has been included in a Current Report on Form 8–K (17 CFR 249.308), however, it need not be furnished.

* * * * *

Item 3. Defaults Upon Senior Securities

* * * * *

Instructions to Item 3

1. Item 3 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by or for the account of the registrant or its totally held subsidiaries.

2. The information required by Item 3 need not be made if previously disclosed on a report on Form 8–K (17 CFR 249.308).

* * * * *

Item 5. Other Information

The registrant must disclose under this item any information required to be disclosed in a report on Form 8–K during the period covered by this Form 10–Q, but not reported, whether or not otherwise required by this Form 10–Q. If disclosure of such information is made under this item, it need not be repeated in a report on Form 8–K which would otherwise be required to be filed with respect to such information or in a subsequent report on Form 10–Q.

* * * * *

■ 21. Amend Form 10–QSB (referenced in § 249.308b) by:
■ a. Revising the heading for Item 2 in Part II—Other Information;
■ b. Removing Items 2(a), 2(b) and 6(b);
■ c. Redesignating paragraphs (c), (d) and (e) in Item 2 as paragraphs (a), (b) and (c);
■ d. Revising newly redesignated paragraph (a) in Item 2;
■ e. Revising the Instructions to Item 3;
■ f. Revising Item 5;
■ g. Removing the words ''and Reports on Form 8–K'' from the heading of Item 6; and
■ h. Removing the paragraph (a) designation in Item 6.

The revisions read as follows:

Note The text of Form 10–QSB does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–QSB

* * * * *

Part II—Other Information

* * * * *

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds

(a) Furnish the information required by Item 701 of Regulation S–B (17 CFR 228.701) as to all equity securities of the small business issuer sold by the small business issuer during the period covered by the report that were not registered under the Securities Act. If the Item 701 information previously has been included in a Current Report on Form 8–K (17 CFR 249.308), however, it need not be furnished.

* * * * *

Item 3. Defaults Upon Senior Securities

* * * * *

Instructions to Item 3

1. Item 3 need not be answered as to any default or arrearage with respect to any class of securities all of which is held by or for the account of the small business issuer or its totally held subsidiaries.

2. The information required by Item 3 need not be made if previously disclosed on a report on Form 8–K (17 CFR 249.308).

* * * * *

Item 5. Other Information

The small business issuer must disclose under this item any information required to be disclosed in a report on Form 8–K during the period covered by this Form 10–QSB, but not reported, whether or not otherwise required by this Form 10–QSB. If disclosure of such information is made under this item, it need not be repeated in a report on Form 8–K which would otherwise be required to be filed with respect to such information or in a subsequent report on Form 10–QSB.

* * * * *

■ 22. Amend Form 10–K (referenced in § 249.310) by:
■ a. Revising Items 5(a) and 9;
■ b. Adding Item 9B;
■ c. Revising the heading of Item 15 to read ''Exhibits and Financial Statement Schedules.'';
■ d. Removing paragraph (b) of Item 15; and
■ e. Redesignating paragraphs (c) and (d) in Item 15 as paragraphs (b) and (c).

The revisions read as follows:

Note The text of Form 10–K does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–K—Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Item 5. Market for Registrant's Common Equity and Related Stockholder Matters

(a) Furnish the information required by Item 201 of Regulation S-K (17 CFR 229.201) and Item 701 of Regulation S–K (17 CFR 229.701) as to all equity securities of the registrant sold by the registrant during the period covered by the report that were not registered under the Securities Act other than unregistered sales made in reliance on Regulation S (17 CFR 230.901 through 230.905). If the Item 701 information previously has been included in a Quarterly Report on Form 10–Q or 10–QSB (17 CFR 249.308a or 249.308b), or in a Current Report on Form 8–K (17 CFR 249.308), it need not be furnished.

* * * * *

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure

Furnish the information required by Item 304(b) of Regulation S–K (§ 229.304(b) of this chapter).

* * * * *

Item 9B. Other Information

The registrant must disclose under this item any information required to be disclosed in a report on Form 8–K during the fourth quarter of the year covered by this Form 10–K, but not reported, whether or not otherwise required by this Form 10–K. If

disclosure of such information is made under this item, it need not be repeated in a report on Form 8–K which would otherwise be required to be filed with respect to such information or in a subsequent report on Form 10–K.

* * * * *

■ 23. Amend Form 10–KSB (referenced in § 249.310a) by:
■ a. Revising Items 5(a) and 8 in Part II;
■ b. Adding Item 8B in Part II;
■ c. Removing the words ''and Reports on Form 8–K'' from the heading to Item 13;
■ d. Removing paragraph (b) of Item 13 in Part III;
■ e. Removing the paragraph (a) designation in Item 13;
■ f. Revising Item 3 in Part II of ''Information Required in Annual Report of Transitional Small Business Issuers''; and
■ g. Removing Item 6 in Part II of ''Information Required in Annual Report of Transitional Small Business Issuers''.

The revisions read as follows:

Note The text of Form 10–KSB does not, and this amendment will not, appear in the Code of Federal Regulations.

Form 10–KSB

(Check one)

[ ] Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934

* * * * *

Part II

Item 5. Market for Common Equity and Related Stockholder Matters

(a) Furnish the information required by Item 201 of Regulation S–B and Item 701 of Regulation S–B as to all equity securities of the small business issuer sold by the small business issuer during the period covered by the report that were not registered under the Securities Act. If the Item 701 information previously has been included in a Quarterly Report on Form 10–Q or 10–QSB, or on a Current Report on Form 8–K, however, it need not be furnished.

* * * * *

Item 8. Changes In and Disagreements With Accountants on Accounting and Financial Disclosure

Furnish the information required by Item 304(b) of Regulation S–B.

* * * * *

Item 8B. Other Information

The small business issuer must disclose under this item any information required to be disclosed in a report on Form 8–K during the fourth quarter of the year covered by this Form 10–KSB, but not reported, whether or not otherwise required by this Form 10–KSB. If disclosure of such information is made under this item, it need not be repeated in a report on Form 8–K which would otherwise be required to be filed with respect to such information or in a subsequent report on Form 10–KSB.

* * * * *

Information Required in Annual Report of Transitional Small Business Issuers

* * * * *

Part II

Item 3. Changes In and Disagreements With Accountants

Furnish the information required by Item 304(b) of Regulation S–B, if applicable.

* * * * *

Dated: March 16, 2004.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 04–6332 Filed 3–24–04; 8:45 am]

BILLING CODE 8010–01–P

Federal Register

Thursday,
March 25, 2004

Part VII

Department of Agriculture

Agricultural Marketing Service

7 CFR Parts 916 and 917

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches; Final and Interim Rules

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV03–916–2 FIR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (USDA) is adopting, as a final rule, with minor changes, the provisions of an interim final rule and an amended interim final rule revising the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, and container and pack requirements for fresh shipments of these fruits, beginning with 2003 season shipments. This rule also continues in effect a modification of the requirements for placement of Federal-State Inspection Service lot stamps for the 2003 season, a revised net weight for a style of containers, an exemption for those containers from the well-filled requirement, clarifications to the provisions on the use of variety names, and the revised weight-count standards for Peento type peaches. It also changes the names of six peach varieties for clarification purposes. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committee (committees).

EFFECTIVE DATE: March 26, 2004.

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

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This final rule adopts, with minor changes, the provisions of an interim final rule published in the **Federal Register** on August 13, 2003 (68 FR 48251) that amended an interim final rule that was published in the **Federal Register** on April 9, 2003 (68 FR 17257). Together, these rules made modifications to the handling requirements for fresh nectarines and peaches under the orders' rules and regulations.

Under the orders, lot stamping, grade, size, maturity, and container and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on December 3, 2002, and unanimously recommended that these handling requirements be revised for the 2003 season, which began in April. The changes contained in the interim final rule: (1) Continue the lot stamping requirements which have been in effect since the 2000 season; (2) authorize shipments of ''CA Utility'' quality fruit to continue during the 2003 season; (3) revise weight-count standards for the Peento type peaches; (4) establish a net weight for all five-down containers and exempt those containers from the well-filled requirement; and (5) revise varietal maturity, quality, and size requirements to reflect changes in growing and marketing practices.

The committees met again on May 1, 2003, and recommended further modification to the orders' rules and regulations. The changes contained in the amended interim final rule: (1) Provide an additional net weight for five down Euro containers, (2) exempt Peento type peaches from all weight-count standards applicable to round varieties, and (3) clarify the provisions on the use of variety names.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The committees held such meetings on December 3, 2002, and May 1, 2003. USDA reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' December meetings because the nectarine and peach trees were dormant. The committees recommended crop estimates at their May 1, 2003, meetings of 22,004,000 containers or container equivalents of nectarines and 21,336,000 containers or container equivalents of peaches, which are slightly lower than the 2002 actual production.

Lot Stamping Requirements

Sections 916.55 and 917.45 of the orders require inspection and certification of nectarines and peaches, respectively, handled by handlers.

Sections 916.115 and 917.150 of the nectarine and peach orders' rules and regulations, respectively, require that all exposed or outside containers of nectarines and peaches, and at least 75 percent of the total containers on a pallet, be stamped with the Federal-State Inspection Service (inspection service) lot stamp number after inspection and before shipment to show that the fruit has been inspected. These requirements apply except for containers that are loaded directly onto railway cars, exempted, or mailed directly to consumers in consumer packages.

Lot stamp numbers are assigned to each handler by the inspection service, and are used to identify the handler and the date on which the container was packed. The lot stamp number is also used by the inspection service to identify and locate the inspector's corresponding working papers or field notes. Working papers are the documents each inspector completes while performing an inspection on a lot of nectarines or peaches. Information contained in the working papers supports the grade levels certified to by the inspector at the time of the inspection.

The lot stamp number has value for the industries, as well. The committees utilize the lot stamp number and date codes to trace fruit in the container back to the orchard from which it was harvested. This information is essential in providing quick information for a crisis management program instituted by the industries. Without the lot stamp information on each container, the ''trace back'' effort, as it is called, would be jeopardized.

Over the last few years, several new containers have been introduced for use by nectarine and peach handlers. These containers are returnable plastic containers (RPCs). Use of RPCs may represent substantial savings to retailers for storage and disposal, as well as for handlers who do not have to pay for traditional, single-use, containers. Fruit is packed in the containers by the handler, delivered to the retailer, emptied, and returned to a central clearinghouse for cleaning and redistribution to the handler. However, because these containers are designed for reuse, RPCs do not support markings that are permanently affixed to the container. All markings must be printed on cards that slip into tabs on the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient reuse of RPCs.

The cards are a continuing concern for the inspection service and the industries because of their unique portability. There is some concern that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers, thus permitting a handler to avoid inspection on a lot or lots of nectarines or peaches. This would also jeopardize the use of the lot stamp numbers for the industry's ''trace back'' program.

To address this concern since the 2000 season, the committees have annually recommended that pallets of inspected fruit in RPCs be identified with a USDA-approved pallet tag containing the lot stamp number, in addition to the lot stamp number printed on the card on the container. In this way, noted the committees, an audit trail would be created, confirming that the lot stamp number on each container on the pallet corresponds to the lot stamp number on the pallet tag.

The committees and the inspection service presented their concerns to the manufacturers of these types of containers prior to the 2000 season. At that time, one manufacturer indicated a willingness to address the problem by offering an area on the principal display panel where the container markings would adhere to the container. Another possible improvement discussed was for an adhesive for the current style of containers which would securely hold the cards with the lot stamp numbers, yet would be easy for the clearinghouse to remove when the containers are washed. However, the changes offered by the manufacturers were not available for use in the previous three seasons, and there is no assurance that they will be available for the 2003 season.

During a meeting of the Stone Fruit Grade and Size Subcommittee on November 6, 2002, it was determined that given the different styles and configurations of RPCs available, having a standardized display panel or a satisfactory adhesive for placement of the cards may not be realistic and the industry needed to continue the lot stamping requirements in place since the 2000 season.

For those reasons, the subcommittee unanimously recommended to the committees that the regulation in effect since the 2000 season requiring lot stamp numbers on USDA-approved pallet tags, as well as on individual containers on a pallet, be again required for the 2003 season. The committees, in turn, recommended unanimously that such requirement be extended for the 2003 season, as well.

Thus, the amendments to §§ 916.115 and 917.150 are continued in effect to require the lot stamp number to be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet, during the 2003 season.

Grade and Quality Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except for a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Prior to the 1996 season, §§ 917.459 required peaches to meet the requirements of a U.S. No. 1 grade, except for a more liberal allowance for open sutures that were not ''serious damage.''

This rule continues in effect the revision of §§ 916.350, 916.356, 917.442, and 917.459 to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2003 season. (''CA Utility'' fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements.) Shipments of nectarines and peaches meeting ''CA Utility'' quality requirements have been permitted each season since 1996.

Studies conducted by the NAC and PCC in 1996 indicated that some consumers, retailers, and foreign importers found the lower-quality fruit acceptable in some markets. When shipments of ''CA Utility'' nectarines were first permitted in 1996, they represented 1.1 percent of all nectarine shipments, or approximately 210,000 containers. Shipments of ''CA Utility'' nectarines reached a high of 5.3 percent (1,239,000 containers) during the 2002 season, but usually represent approximately 4 percent of total nectarine shipments. Shipments of ''CA Utility'' peaches totaled 1.9 percent of all peach shipments, or approximately 366,000 containers, during the 1996 season. Shipments of ''CA Utility'' peaches reached a high of 5.6 percent of all peach shipments (1,231,000 containers) during the 2002 season, but usually represent approximately 4 percent of total peach shipments.

Handlers have also commented that the availability of the ''CA Utility'' quality option lends flexibility to their packing operations. They have noted that they now have the opportunity to remove marginal nectarines and peaches from their U.S. No. 1 containers and place this fruit in containers of ''CA Utility.'' This flexibility, the handlers

note, results in better quality U.S. No. 1 packs without sacrificing fruit.

The Stone Fruit Grade and Size Subcommittee met on November 6, 2002, and did not make a recommendation to the NAC and PCC to continue shipments of ''CA Utility'' quality nectarines and peaches. Some subcommittee members raised concerns about ''CA Utility'' quality fruit, including concerns that growers' returns on ''CA Utility'' quality fruit are lower. The issue of the authorized tolerance of 40 percent U.S. No. 1 fruit in each container of ''CA Utility'' quality was raised, and there was some discussion that the tolerance should be reduced so that less U.S. No. 1 fruit would be in a box of ''CA Utility'' quality fruit. However, ultimately no decisions were made by the subcommittee as the result of these discussions.

Subsequently, however, the NAC and PCC voted unanimously at their December 3, 2002, meetings to authorize continued shipments of ''CA Utility'' quality fruit during the 2003 season.

Accordingly, based upon the recommendations, the revision of paragraph (d) of §§ 916.350 and 917.442, and paragraph (a)(1) of §§ 916.356 and 917.459 is continued in effect to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2003 season, on the same basis as shipments since the 2000 season.

Weight-Count Standards for Peento Type Peaches

Under the requirements of § 917.41 of the order, containers of peaches are required to meet weight-count standards for a maximum number of peaches in a 16-pound sample when such peaches, which may be packed in tray-packed containers, are converted to volume-filled containers. Under § 917.442 of the order's rules and regulations, weight-count standards are established for all varieties of peaches as Tables 1, 2, and 3 of paragraph (a)(5)(iv).

According to the PCC, Peento type peaches were initially packed in trays because they were marketed as a premium variety, whose value justified the added packing costs. However, as the volume has increased, the value of Peento type peaches has diminished in the marketplace, and some handlers converted their tray-packed containers of Peento type peaches to volume-filled containers.

Prior to the 2002 season, weight-count standards established for peaches and nectarines were developed solely for round fruit. Peento type peaches are shaped like donuts, and weight-count standards for round fruit were inappropriate. In an effort to standardize the conversion from tray-packed containers to volume-filled containers for Peento type peaches, the committee staff conducted weigh-count surveys to determine the most optimum weight-counts for the varieties at varying fruit sizes.

As a result of those surveys, a new weight-count table applicable to only the Peento type peaches was added for the 2002 season and amended for the 2003 season. The new weight-count tables accommodate very large Peento type peaches that were not previously converted from tray-packs to volume-filled containers, but were being packed in volume-filled containers and required weight-count standards specifically for those sizes. These weight-count standards continue in effect.

However, Peento peaches, which are subject to weight-count standards in Table 3 of paragraph (a)(5)(iv) in § 917.442, were not exempted from weight-count standards in the non-listed variety size requirements specified in paragraphs (b)(3) and (c)(3) of § 917.459, according to the commenter. This was an inadvertent omission in the previous interim final rule and required a conforming change in the amended interim final rule.

This final rule continues in effect the corrections to paragraphs (b)(3) and (c)(3) of § 917.459, which exempts Peento type peaches from the weight-count standards applicable to round varieties by adding the words ''except for Peento type peaches'' at the end of paragraphs (b)(3) and (c)(3) of § 917.459.

Container and Pack Requirements

Sections 916.52 and 917.41 of the orders authorize establishment of container, pack, and marking requirements for shipments of nectarines and peaches, respectively. Under §§ 916.350 and 917.442 of the orders' rules and regulations, the specifications of container markings, net weights, well-filled requirements, weight-count standards for various sizes of nectarines and peaches, and lists of standard containers are provided.

The committees unanimously recommended that a uniform net weight be established for all ''five down'' boxes (commonly referred to as ''Euro'' boxes), and that all such containers be exempted from the well-filled requirement. The net weight requirement in effect at that time of 31 pounds for ''five down'' boxes and the exemption from the well-filled requirement applies only to RPCs. However, as a handler noted at one meeting, the industry uses boxes of the same ''footprint'' (length and width dimensions) as the RPCs that are made of more traditional materials, such as corrugated cardboard. ''Five down'' boxes are containers that lay in a pattern of five containers per layer on each pallet. In other words, each layer of boxes on a pallet contains only five Euro boxes. Other container sizes and footprints may result in nine boxes per layer, etc. Since applying the well-filled requirements to any five down Euro box might result in bruising or other damage to fruit packed in it, the Stone Fruit Grade and Size Subcommittee voted unanimously to extend the requirements applicable to RPCs with regard to net weight and well-filled requirements to all five down Euro containers. This would ensure that all five down Euro containers have a uniform net weight and ensure that the fruit in those containers is handled in such a way to minimize damage. These requirements continue in effect.

At the December 3, 2002, meeting, the NAC and PCC also unanimously recommended that all five down Euro boxes have an established net weight of 31 pounds, which is to be printed on the end of the container, and that those containers, like the RPCS, be exempt from the well-filled requirement.

However, discussions regarding minimum net weights for all five down Euro boxes continued at the April 8, 2003, Grade and Size Subcommittee meeting and at the May 1, 2003, committee meetings.

As a result of those meetings, the committees revised their December 3, 2003, recommendation to include the authority for a 29-pound box in addition to the 31-pound box, thus necessitating the need for the amended interim final rule. That rule was published on August 13, 2003 (68 FR 48251). The committees recommended the additional net weight when a handler requested such consideration. Containers used in the nectarine and peach industry have largely resulted from retailer demands. Many retailers want all of their suppliers to provide them with commodities in containers of the same footprint (length and width dimensions), thereby creating consistency and ease of transportation, storage, etc., for the retailer. Euro containers meet those demands, but require the industry to make changes in pack styles and package weights to conform to the evolving demands of the retail sector.

This recommendation resulted from a request by a handler who wanted to respond to a demand from one of his larger retail customers. The customer wanted volume-filled containers of nectarines and peaches of the same

weight as tray-packed containers, which currently weigh 29 pounds.

At the meeting, the handler advised the committees that the current minimum net weight of 31 pounds for volume-filled Euro containers is not flexible enough to afford him the opportunity to meet the demands of his buyer.

Nectarines: For the reasons stated above, the revision of paragraph (a)(8) of § 916.350 continues in effect to include a 29-pound net weight for all volume-filled five down Euro containers of nectarines, in addition to the 31-pound net weight authorized. The 29-pound container will be permitted during the 2003 season only. At the end of the 2003 season, the committee will recommend either a 29-pound, 31-pound container, or other appropriate weight. The container markings shall be placed on one outside end of the container in plain sight and in plain letters.

Peaches: For the reasons stated above, the revision to paragraph (a)(9) of § 917.442 continues in effect to include a 29-pound net weight for all volume-filled five down Euro containers of peaches, in addition to the 31-pound net weight authorized. The 29-pound container will be permitted during the 2003 season only. At the end of the 2003 season, the committee will recommend either a 29-pound, 31-pound container, or other appropriate weight. The markings shall be placed on one outside end of the container in plain sight and in plain letters.

Variety Nomenclature

In §§ 916.350 and 917.442 of the orders' rules and regulations, specifications of container markings, net weights, well-filled requirements, weight-count standards for various sizes of fruit, and lists of standard containers are provided.

In §§ 916.356 and 917.459 of the orders' rules and regulations, specifications of grade, maturity, and size regulations for nectarines and peaches, respectively, are assigned by variety. These variety-specific requirements are applied based upon the name of the variety, the size each variety is known to attain, the appropriate maturity guide (*e.g.*, color chip) for the variety, and the historic harvest period specific to each named variety.

In §§ 916.60 and 917.50, handlers are required to report on shipments of nectarines and peaches. Sections 916.160 and 917.178 of the orders' rules and regulations specify the types of reports that handlers must file with the committees. Among the requirements, handlers must report the total shipments of nectarines and peaches by variety by November 15 of each year. Thus, ensuring that the appropriate name of each variety is used for inspections and reports is critical to the operation of the nectarine and peach marketing orders.

Some handlers are using trademark names in place of the patented or introductory name on containers of fruit and in committee reports. Thus, the Shipping Point Inspection Service (SPI) may not be able to provide appropriate inspection for a variety with an unfamiliar name and the committees may not be able to collect data appropriately. Accordingly, the amendment of paragraphs (a)(2) of §§ 916.350 and 917.442 are continued in effect by adding that a marketing name, trademark, or brand name may be associated with the patented or introductory name, but cannot be substituted for a variety name.

In recognition of this language, this final rule corrects the names of six peach varieties so those varieties are identified by their patented or introductory names. The patented or introductory names are listed first followed by the marketing name, trademark, or brand name in parenthesis. Thus, Table 1 of paragraph (a)(1)(iv) of § 917.459 is revised to change the name of the Burpeachthree peach variety to Burpeachthree (September Flame); the introductory text of paragraph (a)(5) is amended to change the name of the Burpeachone peach variety to Burpeachone (Spring Flame 21); and the introductory text of paragraph (a)(6) of § 917.456 is revised to change the names of the Burpeachtwo, Burpeachthree, Burpeachfive, and Burpeachsix peach varieties to Burpeachtwo (Henry II), Burpeachthree (September Flame), Burpeachfour (August Flame), Burpeachfive (July Flame), and Burpeachsix (June Flame), respectively. The names in parentheses are included with the patented or introductory names because these names sometimes are more familiar to handlers.

Maturity and Size Requirements

In §§ 916.52 and 917.41, authority is provided to establish maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the standards. For most varieties, ''well-matured'' determinations for nectarines and peaches are made using maturity guides (*e.g.*, color chips). These maturity guides are reviewed each year by SPI to determine whether they need to be changed, based upon the most-recent information available on the individual characteristics of each nectarine and peach variety.

These maturity guides established under the handling regulations of the orders have been codified in the Code of Federal Regulations as Table 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 2003 handling regulations are the same as those that appeared in the 2002 handling regulations with a few exceptions. Those exceptions are explained in this rule.

Nectarines: Requirements for ''well-matured'' nectarines are specified in § 916.356 of the order's rules and regulations. This rule continues in effect the revision of Table 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for four varieties of nectarines. Specifically, SPI recommended adding maturity guides for the Mango variety to be regulated at the B maturity guide, for the Honey Royale and the Sunny Red varieties at the J maturity guide, and the Prince Jim variety to be regulated at the L maturity guide.

The NAC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine varieties in production.

Peaches: Requirements for ''well-matured'' peaches are specified in § 917.459 of the order's rules and regulations. This rule continues in effect the revision of Table 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for six peach varieties. Specifically, SPI recommended adding maturity guides for the September Flame variety to be regulated at the I maturity guide; Autumn Red, Magenta Queen, Pretty Lady, and the Prima Gattie 10 varieties to be regulated at the J maturity guide; and the Golden Princess variety to be regulated at the L maturity guide.

In addition, SPI requested that the language in paragraph (a)(1)(vi) of § 917.459 be revised with regard to the Joanna Sweet variety. The Joanna Sweet variety was previously required to have a one hundred percent surface color requirement for meeting the assigned color chip. SPI requested that the language be changed to reflect that any of the fruit surface that is not red shall meet the color guide established for the variety, including any color found in the stem cavity. This recommendation is based upon SPI's experience with the maturity characteristics of this variety.

Thus, the revision of paragraph (a)(1)(iv) of § 917.459 continues in effect to reflect that recommendation. The PCC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for peach varieties in production.

Size Requirements: Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides greater consumer satisfaction and promotes repeat purchases; and, therefore, increases returns to producers and handlers. In addition, increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, also a benefit to producers and handlers.

Varieties recommended for specific size regulations have been reviewed and such recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes attained by the regulated varieties and those varieties with the potential to become regulated, and determine whether revisions and additions to the size requirements are appropriate.

Nectarines: Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule continues in effect the revision of § 916.356 establishing variety-specific minimum size requirements for four varieties of nectarines that were produced in commercially-significant quantities of more than 10,000 containers for the first time during the 2002 season. This rule also continues in effect the removal of the variety-specific minimum size requirements for 11 varieties of nectarines whose shipments fell below 5,000 containers during the 2002 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Red Roy variety of nectarines, recommended for regulation at a minimum size 88. Studies of the size ranges attained by the Red Roy variety revealed that 100 percent of the containers met the minimum size of 88 during the 2002 season. Sizes ranged from size 40 to size 88, with 1.5 percent of the fruit in the 40 sizes, 22.2 percent of the packages in the 50 sizes, 55.8 percent in the 60 sizes, 14.6 percent in the 70 sizes, 5.4 in the 80 sizes, with .5 percent in the size 88.

A review of other varieties with the same harvesting period indicated that the Red Roy variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Red Roy variety in the variety-specific minimum size regulation at a minimum size 88 is appropriate. This recommendation resulted from size studies conducted over a two-year period.

Historical data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when the staff receives such comments, either in writing or verbally. For reasons similar to those discussed in the preceding paragraph, the revision of the introductory text of paragraph (a)(4) of § 916.356 continues in effect to include the Red Roy variety; and the revision of the introductory text of paragraph (a)(6) of § 916.356 continues in effect to include the Candy Gold, Candy Sweet, and Honey Royale nectarine varieties.

This rule also continues in effect the revision of the introductory text of paragraphs (a)(3), (a)(4), and (a)(6) of § 916.356 to remove 11 varieties from the variety-specific minimum size requirements specified in these paragraphs because less than 5,000 containers of each of these varieties were produced during the 2002 season. Specifically, the revision of the introductory text of paragraph (a)(3) of § 916.356 continues in effect to remove the Johnny's Delight and May Jim nectarine varieties; the revision of the introductory text of paragraph (a)(4) of § 916.356 continues in effect to remove the Scarlet Jewels and Star Brite nectarine variety; and the revision of the introductory text of paragraph (a)(6) of § 916.356 continues in effect to remove the Arctic Gold, Kay Diamond, Prima Diamond XVI, Spring Diamond, Spring Red, Summer Beaut, and Sunecteight (Super Star) nectarine varieties. Nectarine varieties removed from the nectarine variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

Peaches: Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule continues in effect the revision of § 917.459 to establish variety-specific minimum size requirements for 12 peach varieties that were produced in commercially-significant quantities of more than 10,000 containers for the first time during the 2002 season. This rule also continues in effect the removal of variety-specific minimum size requirements for 10 varieties of peaches whose shipments fell below 5,000 containers during the 2002 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Springtreat (60EF32) variety of peaches, which was recommended for regulation at a minimum size 80. Studies of the size ranges attained by the Springtreat (60EF32) variety revealed that 100 percent of the containers met the minimum size of 80 during the 2002 season. The sizes ranged from size 50 to size 80, with 8.2 percent of the containers meeting the size 50, 41.2 percent meeting the size 60, 37.6 percent meeting the size 70, and 12.9 percent meeting the size 80.

A review of other varieties with the same harvesting period indicated that the Springtreat (60EF32) variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to pack the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the Springtreat (60EF32) variety in the variety-specific minimum size regulation at a minimum size 80 is appropriate. This recommendation, as with all other size recommendations for peaches, resulted from size studies conducted over a three-year period.

Historical data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both PCC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the revision of the introductory text of paragraph (a)(5) of § 917.459 continues in effect to include the Happy Dream, Magenta

Queen, Springtreat (60EF32), and Spring Flame 21 peach varieties; and the revision of the introductory text of paragraph (a)(6) of § 917.459 continues in effect to include the August Flame, Henry II, June Flame, Pink Giant, Prima Peach XV, Red Giant, Snow Beauty, and Snow Princess peach varieties.

This rule also continues in effect the revision of the introductory text of paragraph (a)(3) of § 917.459 to remove the Topcrest peach variety; continues in effect the revision of the introductory text of paragraph (a)(5) of § 917.459 to remove the White Dream peach variety; and continues in effect the revision of the introductory paragraph (a)(6) of § 917.459 to remove the Cal Red, Champagne, Flaming Dragon, Garnet Jewel, Lacey, Madonna Sun, Morning Lord, and Red Sun peach varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 containers of each of these varieties was produced during the 2002 season.

Peach varieties removed from the peach variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The NAC and PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine and peach varieties, and the consumer acceptance levels for various fruit sizes. This rule continues these requirements in effect and is designed to establish minimum size requirements for fresh nectarines and peaches consistent with expected crop and market conditions.

This rule reflects the committees' and USDA's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. USDA believes that this rule will have a beneficial impact on producers, handlers, and consumers of fresh California nectarines and peaches.

This rule continues in effect the establishment of handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries to provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruits in the interests of producers, handlers, and consumers.

Final Regulatory Flexibility Analysis

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

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

There are approximately 300 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. For the 2002 season, the committees' staff estimated that the average handler price received was $9.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 556,000 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2002 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the handlers within the industry.

The committees' staff has also estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. For the 2002 season, the committees' estimated the average producer price received was $4.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 187,500 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2002 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry. With an average producer price of $4.00 per container or container equivalent, and a combined packout of nectarines and peaches of 45,354,000 containers, the value of the 2002 packout level is estimated to be $181,416,000. Dividing this total estimated grower revenue figure by the estimated number of producers (1,800) yields an estimate of average revenue per producer of about $101,000 from the sales of peaches and nectarines.

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, container, container marking, and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis.

The NAC and PCC met on December 3, 2002, and unanimously recommended that these handling requirements be revised for the 2003 season. These recommendations had been presented to the committees by various subcommittees, each charged with review and discussion of the changes. The changes contained in the interim final rule: (1) Continue the lot stamping requirements for reusable plastic containers that have been in effect since the 2000 season; (2) authorize shipments of ''CA Utility'' quality fruit to continue during the 2003 season; (3) revise weight-count standards for the Peento type peaches; (4) establish a net weight for all five-down containers and exempt those containers from the well-filled requirement; and (5) revise varietal maturity, quality, and size requirements to reflect changes in growing and marketing practices.

The committees met again on May 1, 2003, and recommended amendments to the interim final rule. The changes contained in the amended interim final rule: (1) Provide an additional net weight for five down Euro containers, (2) exempt Peento type peaches from all weight-count standards applicable to round varieties, and (3) clarify the provisions on the use of variety names.

Lot Stamping Requirements—Discussions and Alternatives

This final rule continues in effect the lot stamping requirements for returnable plastic containers under the marketing orders' rules and regulations that have been in effect for such containers since the 2000 season for nectarine and peach shipments. The modified requirements

of §§ 916.115 and 917.150 mandated that the lot stamp numbers be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet. Continuation in effect of such requirements for the 2003 season would help the inspection service safeguard the identity of inspected and certified containers of nectarines and peaches, and would help the industry by keeping in place the information necessary to facilitate their ''trace-back'' program.

The Stone Fruit Grade and Size Subcommittee met on November 6, 2002, and considered possible alternatives to this action. Other alternatives were rejected because it was determined that given the different styles and configurations of RPCs available, having a satisfactory adhesive for placement of the cards may not be realistic, at least for the time being, given the reluctance of box manufacturers to respond to the industry's requests.

For those reasons, the subcommittee and the committees unanimously recommended extending the requirement for the lot stamp number to be printed on the cards on each container and for each pallet to be marked with a USDA-approved pallet tag, also containing the lot stamp number. Such safeguards are intended to ensure that all the containers on each pallet have been inspected and certified in the event a card on an individual container or containers is removed, misplaced, or lost.

Grade and Quality Requirements—Discussions and Alternatives

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of ''CA Utility'' quality nectarines and peaches as an experiment during the 1996 season only. Such shipments have subsequently been permitted each season. Since 1996, shipments of ''CA Utility'' have ranged from 1 to 5 percent of total nectarine and peach shipments. This rule authorizes continued shipments of ''CA Utility'' quality nectarines and peaches during the 2003 season.

The Grade and Size Subcommittee met on November 6, 2002, and briefly discussed ''CA Utility'' quality nectarines and peaches. The subcommittee deliberated the relative value of continued shipment of ''CA Utility'' quality nectarines and peaches. The subcommittee ultimately did not make a recommendation to the NAC and PCC regarding continued shipments of ''CA Utility'' quality nectarines and peaches. The subcommittee did, however, request that the results of a grower survey on attitudes toward ''CA Utility'' quality fruit conducted in December of 2001 by the committees be provided to the committees at the December 3, 2002, meeting.

However, at their meetings on December 3, 2002, the NAC and PCC unanimously recommended continued shipments of ''CA Utility'' quality nectarines and peaches, noting that the alternative to discontinue such shipments was not in the interest of the industry and would have been inconsistent with past practices of permitting such shipments.

Weight-Count Standards for Peento Type Peaches—Discussions and Alternatives

Section 917.442 also establishes minimum weight-count standards for containers of peaches. Under these requirements, containers of peaches are required to meet weight-count standards for a maximum number of peaches in a 16-pound sample when such peaches are packed in a tray-packed container. Those same maximum numbers of peaches are also applicable to volume-filled containers, based upon the tray-packed standard. The weight-count standard was developed so handlers may convert tray-packed peaches to volume-filled containers and be assured that fruit of a specific size in the volume-filled container will be the same as that in the tray-packed container.

When Peento type peach varieties were first introduced and marketed, they were generally tray-packed because they were a novel and premium product. As production has increased, the value of the varieties has diminished in the marketplace, and some handlers have converted their tray-packed containers of Peento type peaches to volume-filled containers. Weight-count standards provide a basis for volume filling containers of other varieties of peaches. Peento type peaches are regulated under a new table of weight-count standards applicable to only these uniquely-shaped peaches, and this regulation continues in effect.

This rule continues in effect the exemption from the weight-count standards for round peaches in the non-listed (blanket) variety sizes in paragraph (b)(3) and (c)(3) of §§ 917.459. Thus, under the rules and regulations in the orders, varieties of Peento type peaches that are not regulated by name would be regulated by date of harvest in the blanket regulations. To correct that omission, the words ''except Peento type peaches'' were added to the end of each of those paragraphs.

The alternative to this conforming change would be to have Peento type peaches in non-listed variety sizes subject to the same weight-count standards assigned to round varieties, treating these Peento type peaches differently than other varieties of Peento type peaches. Clearly, that is not an acceptable alternative, given that these donut-shaped peaches cannot meet the requirements established for round peaches, and require their own weight-count standards.

Also under section 917.442, containers of peaches must meet weight-count standards for a maximum number of peaches in a 16-pound sample when such peaches are packed in a tray-packed container. Those same maximum numbers of peaches are also applicable to volume-filled containers, based upon the tray-packed standard. The weight-count standard was developed so handlers may convert tray-packed peaches to volume-filled containers and be assured that fruit of a specific size in the volume-filled container will be the same as that in the tray-packed container.

When the Stone Fruit Grade and Size Subcommittee met on November 6, 2002, they discussed the recent changes in the packing and marketing of Peento type peaches. When these varieties were first introduced and marketed, they were generally tray-packed because they were a novel and premium product. As production has increased, the value of the varieties has diminished in the marketplace, and some handlers have converted their tray-packed containers of Peento type peaches to volume-filled containers. Weight-count standards provide a basis for volume filling containers of peaches. Peento type peaches are regulated under a new table of weight-count standards applicable to only these uniquely-shaped peaches, and these standards continue in effect.

During continued weight studies conducted in 2002, the staff learned that all available sizes of Peento type peaches were being packed in volume-filled containers, including sizes for which there were not yet minimum weight-count standards. For that reason, modifications to Table 3 in paragraph (a)(5)(vi) of § 917.442 are continued in effect to include additional sizes 30 and 32, which are larger-sized Peento peaches.

The alternative to this would result in larger-sized Peento type peaches being exempted from weight-count standards applicable to these fruit specifically. They may, however, have been subject to weight-counts for their size (30 and

32) of round varieties of peaches. Clearly, that alternative is not acceptable, given the unique shape of Peento type peaches.

Container and Pack Requirements—Discussions and Alternatives

The Stone Fruit Grade and Size Subcommittee also discussed the 31-pound net weight requirement for all five down Euro containers at its meeting on November 6, 2002. At that time, it was noted by one handler that the current net weight of 31 pounds and exemption from the well-filled requirement are applicable to only the RPCs. The handler noted, however, that the industry also currently uses five down Euro boxes that are not RPCs. He further suggested that all five down Euro boxes should be required to meet the net weight of 31 pounds and be exempted from the requirement to be well-filled. The subcommittee agreed and unanimously recommended the change to the committees. The alternative would have meant that only the RPC five down Euro containers would have been subject to the minimum regulated with a net weight of 31 pounds, and exempted from the requirement to be well-filled. In consideration of uniformity for all five down Euro containers, this alternative was rejected.

The Stone Fruit Grade and Size Subcommittee discussed the 31-pound net weight requirement for volume-filled five down Euro containers again at another meeting on April 8, 2003. At that time, one handler advised that the current net weight of 31 pounds is not flexible enough to afford him the opportunity to meet the demands of his buyers. The handler noted that one large customer has begun demanding volume-filled boxes of nectarines and peaches in a 29-pound box rather than a 31-pound box, which makes the volume-filled container weight consistent with the tray-packed container weight. The handler added that he was unable to provide what his customer wanted, given that the current requirements limit him to a box with a 31-pound minimum weight. In the absence of change, the handler would be forced to ship 31 pounds to the customer, and risk receiving payment for only the 29 pounds the customer wanted. The subcommittee agreed that the 31-pound box did not provide enough flexibility for all handlers and unanimously recommended that the minimum 31-pound requirement for volume-filled containers be revised. The alternative would have meant that this handler at least would have been unable to meet the demands of a buyer without pricing considerations. In an effort to enhance each handler's ability to provide what the market demands, such an alternative was rejected.

The NAC and PCC discussed the subcommittee's recommendation at their meeting on May 1, 2003. They debated the value of simply making 29 pounds the sole minimum net weight for volume-filled Euro containers, but opted to maintain the 31-pound container and add the 29-pound container for the 2003 season, contingent upon review at the end of the season by the Grade and Size Subcommittee. At that time, the subcommittee is expected to recommend only one net weight for five down, volume-filled Euro containers of nectarines and peaches for the 2004 season.

The NAC voted 7 in favor and one opposed to this recommendation, while the PCC voted unanimously in favor of the recommendation. The NAC member opposed to the recommendation noted that additional box styles are costly to the industry and should be avoided, if possible. However, the large majority of committee members disagreed with that alternative, opting instead to take steps to be responsive to buyers.

Sections 916.350 and 917.442 establish container, pack, and marking requirements for shipments of nectarines and peaches, respectively. This rule continues in effect the changes to the pack and container marking requirements of the orders' rules and regulations to authorize both a 29-pound and a 31-pound net weight for all types of five down Euro boxes, and exempt such boxes from the well-filled requirement.

Variety Nomenclature—Discussions and Alternatives

The Grade and Size Subcommittee discussed the issue of variety nomenclature at its meeting on April 8, 2003. Several members expressed concern that use of different marketing names by different handlers for the same variety was causing mismarking situations, which affect inspections, size and maturity assignments, and data collection. The current regulations require that containers bear the name of the variety. This was clarified in the amended interim final rule of August 13, 2003, by adding that trademarks, marketing names, and brand names may be associated with the variety name, but cannot be substituted for the variety name. We are finalizing this change. This change is expected to foster consistent variety identification within the industries, and uniform application of maturity and size requirements.

As noted in the discussion of comments concerning the naming of varieties and recognizing the importance of providing a uniform method of identifying varieties, USDA plans to work with the committees in developing procedures on the naming of varieties to assure consistency within the industries. If necessary, further rulemaking will be implemented by USDA on this issue.

Maturity and Size Requirements—Discussions and Alternatives

Sections 916.356 and 917.459 establish minimum maturity levels. This rule continues in effect the annual adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on maturity measurements generally using maturity guides (*e.g.*, color chips), as recommended by SPI. Such maturity guides are reviewed annually by SPI to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect refinements in measurements of the maturity characteristics of nectarines and peaches as experienced over previous seasons' inspections. Adjustments in the guides utilized ensure that fruit has met an acceptable level of maturity, ensuring consumer satisfaction while benefiting nectarine and peach producers and handlers.

Currently, in § 916.356 of the nectarine order's rule and regulations, and in § 917.459 of the peach order's rule and regulations, minimum sizes for various varieties of nectarines and peaches, respectively, are established. This rule continues in effect the adjustments to the minimum sizes authorized for various varieties of nectarines and peaches for the 2003 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time. This increased growing time improves maturity, increases fruit size, and results in the increased number of packed containers per acre. Those factors, coupled with heightened maturity levels, also provide greater consumer satisfaction, which foster repeat purchases. Those factors, in turn, benefit both producers and handlers alike.

Annual adjustments to minimum sizes of nectarines and peaches, such as these, are recommended by the NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such action would include not establishing minimum size regulations for these new varieties. Such an action, however, would be a significant departure from the committees' practices and represent a significant change in the regulations as they currently exist; could ultimately increase the amount of less acceptable fruit being marketed to consumers; and, thus, would be contrary to the long-term interests of producers, handlers, and consumers. For these reasons, this alternative was not recommended.

The committees make recommendations regarding all the revisions in handling and lot stamping requirements after considering all available information, including recommendations by various subcommittees, comments of persons at committee and subcommittee meetings, and comments received by committee staff. Such subcommittees include the Stone Fruit Grade and Size Subcommittee, the Inspection and Compliance Subcommittee, and the Executive Committee.

At the meetings, the impact of and alternatives to these recommendations are deliberated. These subcommittees, like the committees themselves, frequently consist of individual producers and handlers with many years' experience in the industry who are familiar with industry practices and trends. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited. In the case of the Stone Fruit Grade and Size Subcommittee, many growers and handlers who are affected by the issues discussed by the subcommittee are invited to attend the meetings and actively participate in the public deliberations. In addition, minutes of all subcommittee meetings are distributed to committee members and others who have requested them, thereby increasing the availability of information within the industry.

Each of the recommended handling requirement changes for the 2003 season is expected to generate financial benefits for produces and handlers through increased fruit sales, compared to the situation that would exist if the changes were not adopted. Both large and small entities are expected to benefit from the changes, and the costs of compliance are not expected to be substantially different between large and small entities.

This rule does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings are widely publicized throughout the nectarine and peach industry and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually during the last week of November or first week of December and the last week of April or first week of May. Like all committee meetings, the December 3, 2002, and May 1, 2003, meetings were public meetings, and all entities, large and small, were encouraged to express views on these issues. These regulations were also reviewed and thoroughly discussed at subcommittee meetings held on November 6, 2002, and April 8, 2003.

An interim final rule concerning this action was published in the **Federal Register** on April 9, 2003 (68 FR 17257), and an amended interim final rule was published on August 13, 2003 (68 FR 48251). The interim final rule provided for a 60-day comment period, which ended on June 9, 2003. One comment was received. That comment was addressed in the amended interim final rule. The amended interim final rule provided for a 30-day comment period, which ended September 12, 2003. One comment was received on the amended interim final rule. Copies of the interim final rule and amended interim final rule were provided to all committee members, and were available on the committees' Web site at *www.caltreefruit.com*. The U.S. Government Printing Office and USDA also made copies of both rules available on the Internet.

The commenter to the amended interim final rule recommended changes to the names of several peach varieties to bring them into conformity with the recommendations of the PCC. These changes have been made. However, to assure consistency in the naming of varieties, USDA plans to work with the committees in developing procedures in naming varieties. USDA recognizes that there is a need for consistency in naming the various peach and nectarine varieties to prevent misleading variety markings and to accomplish program objectives. If necessary, further rulemaking would be undertaken on this matter.

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

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, the comment received, and other information, it is found that finalizing the interim final and amended interim final rules, with minor changes, as published in the **Federal Register** (68 FR 17257, April 9, 2003, and 68 FR 48251, August 13, 2003, respectively), will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found that good cause exists for not postponing the effective date of this rule until after 30 days after publication in the **Federal Register** because the 2004 shipping season is expected to begin in early April and these rulemaking actions for 2003 should be finalized promptly so the regulation modifications for 2004 can be implemented. These rules continue to relax grade requirements for nectarines and peaches. Appropriate subcommittees met and made recommendations to the committees, the committees met and unanimously recommended changes at public meetings, and interested persons had opportunities to provide input at all these meetings. Interested persons had an opportunity to file written comments, which were considered prior to the finalization of the interim rules.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

PART 916—NECTARINES GROWN IN CALIFORNIA

PART 917—PEACHES GROWN IN CALIFORNIA

■ Accordingly, the interim final rules amending 7 CFR parts 916 and 917 which were published at 68 FR 17257 on

April 9, 2003, and at 68 FR 48251 on August 13, 2003, are adopted as final rules with the following changes to 7 CFR part 917:

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. Section 917.459 is amended by:

■ A. Amending paragraph (a)(1)(iv) by removing the entry ''September Flame'' and adding the entry ''Burpeachthree'' (September Flame™) to Table 1.

■ B. Removing the words ''Spring Flame 21'' and adding in alphabetical order the words ''Burpeach (Spring Flame™ 21)'' in paragraph (a)(5).

■ C. Revising the introductory text of paragraph (a)(6).

Revisions read as follows:

§ 917.459 California Peach Grade and Size Regulation.

* * * * *

TABLE 1

Column A variety	Column B maturity guide
* * * * *	
Burpeachthree (Spring Flame™)	I
* * * * *	

* * * * *

(a) * * *

(6) Any package or container of August Lady, Autumn Flame, Autumn Red, Autumn Rose, Autumn Snow, Burpeachtwo (Henry II™), Burpeachthree (September Flame™), Burpeachfour (August Flame™), Burpeachfive (July Flame™), Burpeachsix (June Flame™), Cassie, Coral Princess, Country Sweet, Diamond Princess, Earlirich, Early Elegant Lady, Elegant Lady, Fairtime, Fancy Lady, Fay Elberta, Flamecrest, Full Moon, Ivory Princess, Jillie White, Joanna Sweet, John Henry, June Pride, Kaweah, Kings Lady, Klondike, Late Ito Red, O'Henry, Pink Giant, Pretty Lady, Prima Gattie 8, Prima Peach 13, Prima Peach XV, Prima Peach 20, Prima Peach 23, Prima Peach XXV, Prima Peach XXVII, Princess Gayle, Queen Lady, Red Dancer, Red Giant, Rich Lady, Royal Lady, Ryan Sun, Saturn (Donut), Scarlet Snow, September Snow, September Sun, Sierra Gem, Sierra Lady, Snow Beauty, Snow Blaze, Snow Fall, Snow Gem, Snow Giant, Snow Jewel, Snow King, Snow Princess, Sprague Last Chance, Spring Gem, Sugar Giant, Sugar Lady, Summer Dragon, Summer Lady, Summer Sweet, Summer Zee, Supechfour (Amber Crest), Sweet Dream, Sweet Gem, Sweet Kay, Sweet September, Tra Zee, Vista, White Lady, Zee Lady, or 24–SB variety peaches unless:

* * * * *

Dated: March 19, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–6701 Filed 3–24–04; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV04–916–1 IFR]

Nectarines and Peaches Grown in California; Revision of Handling Requirements for Fresh Nectarines and Peaches

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule revises the handling requirements for California nectarines and peaches by modifying the grade, size, maturity, and container requirements for fresh shipments of these fruits, beginning with 2004 season shipments. This rule also continues a modification of the requirements for placement of Federal-State Inspection Service lot stamps for the 2004 season and beyond, establishes a minimum net weight for a style of containers, authorizes continued shipments of ''CA Utility'' quality nectarines and peaches, and revises the tolerance for blossom-end growth cracks for Peento type peaches. The marketing orders regulate the handling of nectarines and peaches grown in California and are administered locally by the Nectarine Administrative and Peach Commodity Committees (committees). This rule would enable handlers to continue shipping fresh nectarines and peaches meeting consumer needs in the interests of producers, handlers, and consumers of these fruits.

DATES: Effective March 26, 2004. Comments received by May 24, 2004, will be considered prior to issuance of any final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this rule. Comments must be sent to the Docket Clerk, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., STOP 0237, Washington, DC 20250–0237; fax: (202) 720–8938, or e-mail: *moab.docketclerk@usda.gov* or *www.regulations.gov.* All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection at the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.ams.usda.gov/fv/moab.html.*

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

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

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement Nos. 124 and 85, and Marketing Order Nos. 916 and 917 (7 CFR parts 916 and 917) regulating the handling of nectarines and peaches grown in California, respectively, hereinafter referred to as the ''orders.'' The orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with

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

Under the orders, lot stamping, grade, size, maturity, container, container marking, and pack requirements are established for fresh shipments of California nectarines and peaches. Such requirements are in effect on a continuing basis. The Nectarine Administrative Committee (NAC) and the Peach Commodity Committee (PCC), which are responsible for local administration of the orders, met on November 12, 2003, and unanimously recommended that these handling requirements be revised for the 2004 season, which begins about the first or second week of April. The changes: (1) Continue indefinitely the lot stamping requirements that have been in effect since the 2000 season; (2) authorize continued shipments of ''CA Utility'' quality fruit during the 2004 season; (3) revise tolerances for blossom-end growth cracks for Peento type peaches; (4) establish a minimum net weight for volume-filled, five down containers; (5) add an additional container to the list of standard containers and amend the dimensions of another container already regulated; and (6) revise varietal maturity, quality, and size requirements to reflect changes in growing and marketing practices.

The committees meet prior to and during each season to review the rules and regulations effective on a continuing basis for California nectarines and peaches under the orders. Committee meetings are open to the public and interested persons are encouraged to express their views at these meetings. The committees held such meetings on November 12, 2003. USDA reviews committee recommendations and information, as well as information from other sources, and determines whether modification, suspension, or termination of the rules and regulations would tend to effectuate the declared policy of the Act.

No official crop estimate was available at the time of the committees' meetings because the nectarine and peach trees were dormant. The committees will recommend a crop estimate at their meetings in early spring. However, preliminary estimates indicate that the 2004 crop will be similar in size and characteristics to the 2003 crop, which totaled 21,896,300 containers of nectarines and 22,306,300 containers of peaches.

Lot Stamping Requirements

Sections 916.55 and 917.45 of the orders require inspection and certification of nectarines and peaches, respectively, handled by handlers. Sections 916.115 and 917.150 of the nectarine and peach orders' rules and regulations, respectively, require that all exposed or outside containers of nectarines and peaches, and at least 75 percent of the total containers on a pallet, be stamped with the Federal-State Inspection Service (inspection service) lot stamp number after inspection and before shipment to show that the fruit has been inspected. These requirements apply except for containers that are loaded directly onto railway cars, exempted, or mailed directly to consumers in consumer packages.

Lot stamp numbers are assigned to each handler by the inspection service, and are used to identify the handler and the date on which the container was packed. The lot stamp number is also used by the inspection service to identify and locate the inspector's corresponding working papers or field notes. Working papers are the documents each inspector completes while performing an inspection on a lot of nectarines or peaches. Information contained in the working papers supports the grade levels certified to by the inspector at the time of the inspection.

The lot stamp number has value for the industries, as well. The committees utilize the lot stamp number and date codes to trace fruit in the container back to the orchard from which it was harvested. This information is essential in providing quick information for a crisis management program instituted by the industries. Without the lot stamp information on each container, the ''trace back'' effort, as it is called, would be jeopardized.

Several new containers have been adopted for use by nectarine and peach handlers in recent years. These containers are returnable plastic containers (RPCs). Use of RPCs may represent substantial savings to retailers for storage and disposal, as well as for handlers who do not have to pay for traditional, single-use, containers. Fruit is packed in the containers by the handler, delivered to the retailer, emptied, and returned to a central clearinghouse for cleaning and redistribution to the handler. However, because these containers are designed for reuse, RPCs do not support markings that are permanently affixed to the container. All markings must be printed on cards that slip into tabs on the front or sides of the containers. The cards are easily inserted and removed, and further contribute to the efficient reuse of RPCs.

The cards are a continuing concern for the inspection service and the industry because of their unique portability. There is some concern that the cards on pallets of inspected containers could easily be moved to pallets of uninspected containers, thus permitting a handler to avoid inspection on a lot or lots of nectarines or peaches. This would also jeopardize the use of the lot stamp numbers for the industry's ''trace back'' program.

To address this concern since the 2000 season, the committees have annually recommended that pallets of inspected fruit in RPCs be identified with a USDA-approved pallet tag containing the lot stamp number, in addition to the lot stamp number printed on the card on the container. In this way, noted the committees, an audit trail would be created, confirming that the lot stamp number on each container on the pallet corresponds to the lot stamp number on the pallet tag.

The committees and the inspection service presented their concerns to the manufacturers of these types of containers prior to the 2000 season. At that time, one manufacturer indicated a willingness to address the problem by offering an area on the principal display panel where the container markings would adhere to the container. Another possible improvement discussed was for an adhesive for the current style of containers which would securely hold the cards with the lot stamp numbers, yet would be easy for the clearinghouse to remove when the containers are washed. However, the changes offered by the manufacturers have not yet transpired.

In a meeting of the Tree Fruit Quality Subcommittee on October 23, 2003, the subcommittee recognized that as time has passed, the likelihood of getting a suitable adhesive for the cards or an area on the containers for container markings has decreased significantly. Therefore, the subcommittee determined that it was no longer appropriate to put this regulation into effect annually. When the time comes that an adhesive for the cards becomes available or another method for securing the lot stamp on each container is found, the subcommittee determined that they would make a

recommendation to eliminate this requirement.

For those reasons, the subcommittee unanimously recommended to the committees that the requirement for lot stamp numbers on USDA-approved pallet tags, when used on RPCs, as well as on individual containers on a pallet, be required for the 2004 season and beyond. The committees then recommended unanimously that such requirement be implemented for the 2004 season and beyond, as well.

Thus, §§ 916.115 and 917.150 will be amended to require the lot stamp number to be printed on a USDA-approved pallet tag, when used on RPCs in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet. This regulation will remain in effect until such time as it may be modified.

Container and Pack Requirements

Sections 916.52 and 917.41 of the orders authorize establishment of container, container marking, and pack requirements for shipments of nectarines and peaches, respectively. Under §§ 916.350 and 917.442 of the orders' rules and regulations, the specifications of container markings, net weights, well-filled requirements, weight-count standards for various sizes of nectarines and peaches, and lists of standard containers are provided.

The committees unanimously recommended that a uniform net weight be established for all ''five down'' boxes (commonly referred to as ''Euro'' boxes) that are volume-filled. Currently, the net weight requirement for volume-filled, ''five down'' boxes is 29 and 31 pounds.

''Five down'' boxes are containers that lay in a pattern of five containers per layer on each pallet. In other words, each layer of boxes on a pallet contains only five Euro boxes. Other container sizes and footprints may result in nine boxes per layer, etc.

During the 2003 season, the industry used both the 29-pound and 31-pound net weights in Euro containers, and committee staff tracked the total packages of nectarines and peaches of each weight. The purpose of the tracking was to see if one net weight was predominant.

At a meeting of the Tree Fruit Quality Subcommittee meeting on October 23, 2003, the results of the study were released. During the 2003 season, 94,300 twenty-nine-pound boxes of nectarines were packed compared to 8,520 thirty-one-pound boxes of nectarines. There were also 69,115 twenty-nine-pound boxes of peaches packed as compared to 17,103 thirty-one-pound boxes. Based upon the statistics, the subcommittee voted unanimously to recommend to the committees that the minimum net weight for all volume-filled, five down Euro containers should be established at 29 pounds.

At the November 12, 2003, meeting, the NAC and PCC also unanimously recommended that all volume-filled, five down Euro boxes have an established net weight of 29 pounds, which is to be printed on the end of the container.

Nectarines: For the reasons stated above, paragraphs (a)(1) and (a)(8) of § 916.350 are revised to refer to all volume-filled, five down Euro containers. Such changes will ensure that all volume-filled, five down Euro containers of nectarines are a net weight of 29 pounds. The container markings shall be placed on one outside end of the container in plain sight and in plain letters.

Peaches: For the reasons stated above, paragraphs (a)(1) and (a)(9) of § 917.442 are revised to refer to all volume-filled, five down Euro containers. Such changes will ensure that all volume-filled, five down Euro containers of peaches are a net weight of 29 pounds. The markings shall be placed on one outside end of the container in plain sight and in plain letters.

Standard Container Listings

This rule also makes changes to the pack and container marking requirements to establish one new standard container being used by the industry and to modify the dimensions of another already regulated. In the rules and regulations for nectarines at § 916.350, current paragraphs (a)(5) and (a)(6), and for peaches at § 917.442, current paragraphs (a)(6) and (a)(7), standard containers, such as the Nos. 22D, 22E, 22G, and 32, are required to be marked with the net weight. Under paragraph (b) in §§ 916.350 and 917.442, such standard containers are defined. Once the use of a container has become common in the industry, such containers are determined to be standard containers. Standard containers represent container types that are recognized by the industry and adopted by the retail trade. As such, it is a practice of the committees to recommend that such containers be added to the list of standard containers together with container marking requirements.

At the November 29, 2001, meeting, the NAC and PCC, acting upon a recommendation from the Returnable Plastic Container Task Force, unanimously recommended that the Euro five down RPC be added to the list of standard containers. The container was, then, added to the list of standard containers, as approved by USDA.

During the 2003 season, the California Department of Food and Agriculture (CDFA) modified the dimensions of the Euro five down container and assigned it No. 35. CDFA also assigned numbers to one new container, the No. 36. These two new numbers were then added to the California Agricultural Code. By standardizing containers, the State permits handlers to use a new container for more than ten percent of their annual shipments. Otherwise, the container would be considered an experimental container for which handlers would have to file an application and limit shipments in such containers to a maximum of ten percent of their total seasonal shipments. Once containers are standardized within the California Agricultural Code, they are historically added to the orders so that regulated handlers may use them for packaging nectarines and peaches.

Thus, paragraph (b) of §§ 916.350 and 917.442 will be revised to add the new No. 36, and the revised and renamed No. 35 to the list of standard containers.

Grade and Quality Requirements

Sections 916.52 and 917.41 of the orders authorize the establishment of grade and quality requirements for nectarines and peaches, respectively. Prior to the 1996 season, § 916.356 required nectarines to meet a modified U.S. No. 1 grade. Specifically, nectarines were required to meet U.S. No. 1 grade requirements, except for a slightly tighter requirement for scarring and a more liberal allowance for misshapen fruit. Prior to the 1996 season, § 917.459 required peaches to meet the requirements of a U.S. No. 1 grade, except for a more liberal allowance for open sutures that were not ''serious damage.''

This rule revises §§ 916.350, 916.356, 917.442, and 917.459 to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2004 season. (''CA Utility'' fruit is lower in quality than that meeting the modified U.S. No. 1 grade requirements.) Shipments of nectarines and peaches meeting ''CA Utility'' quality requirements have been permitted each season since 1996.

Studies conducted by the NAC and PCC in 1996 indicated that some consumers, retailers, and foreign importers found the lower-quality fruit acceptable in some markets. When shipments of ''CA Utility'' nectarines were first permitted in 1996, they represented 1.1 percent of all nectarine

shipments, or approximately 210,000 containers. Shipments of ''CA Utility'' nectarines reached a high of 6 percent (1,408,362 containers) during the 2003 season.

Shipments of ''CA Utility'' peaches totaled 1.9 percent of all peach shipments, or approximately 366,000 containers, during the 1996 season. Shipments of ''CA Utility'' peaches reached a high of 5.6 percent of all peach shipments (1,231,000 containers) during the 2002 season.

Handlers have also commented that the availability of the ''CA Utility'' quality option lends flexibility to their packing operations. They have noted that they now have the opportunity to remove marginal nectarines and peaches from their U.S. No. 1 containers and place this fruit in containers of ''CA Utility.'' This flexibility, the handlers note, results in better quality U.S. No. 1 packs without sacrificing fruit.

The Tree Fruit Quality Subcommittee met on October 23, 2003, and recommended unanimously to the NAC and PCC to continue shipments of ''CA Utility'' quality nectarines and peaches. Subsequently, the NAC and PCC voted unanimously at their November 12, 2003, meetings to authorize continued shipments of ''CA Utility'' quality fruit during the 2004 season.

Accordingly, based upon the recommendations, paragraph (d) of §§ 916.350 and 917.442, and paragraph (a)(1) of §§ 916.356 and 917.459 are revised to permit shipments of nectarines and peaches meeting ''CA Utility'' quality requirements during the 2004 season, on the same basis as shipments since the 2000 season.

Maturity Requirements

In §§ 916.52 and 917.41, authority is provided to establish maturity requirements for nectarines and peaches, respectively. The minimum maturity level currently specified for nectarines and peaches is ''mature'' as defined in the standards. For most varieties, ''well-matured'' determinations for nectarines and peaches are made using maturity guides (*e.g.*, color chips). These maturity guides are reviewed each year by the Shipping Point Inspection Service (SPI) to determine whether they need to be changed, based upon the most-recent information available on the individual characteristics of each nectarine and peach variety.

These maturity guides established under the handling regulations of the California tree fruit marketing orders have been codified in the Code of Federal Regulations as Table 1 in §§ 916.356 and 917.459, for nectarines and peaches, respectively.

The requirements in the 2004 handling regulations are the same as those that appeared in the 2003 handling regulations with a few exceptions. Those exceptions are explained in this rule.

Nectarines: Requirements for ''well-matured'' nectarines are specified in § 916.356 of the order's rules and regulations. This rule revises Table 1 of paragraph (a)(1)(iv) of § 916.356 to add maturity guides for seven varieties of nectarines. Specifically, SPI recommended adding maturity guides for the Honey Dew variety to be regulated at the B maturity guide, for the Emelia and Grand Sweet varieties at the J maturity guide, for the June Candy and Regal Red at the K maturity guide, and the Gee Sweet and Honey Fire varieties to be regulated at the L maturity guide.

In addition, eight nectarine varieties are no longer being shipped and should be deleted from the listing of maturity guide assignments. Thus, Table 1 of paragraph (a)(1)(iv) of § 916.356 will be revised to delete eight varieties. These are the Autumn Grand, Early May, Early May Grand, Independence, May Jim, May Lion, Red Grand, and Royal Delight.

The NAC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine varieties in production.

Peaches: Requirements for ''well-matured'' peaches are specified in § 917.459 of the order's rules and regulations. This rule revises Table 1 of paragraph (a)(1)(iv) of § 917.459 to add maturity guides for twelve peach varieties. Specifically, SPI recommended adding maturity guides for the May Sweet and Sweet September varieties to be regulated at the I maturity guide; the Burpeachone (Spring Flame™ 21), Burpeachtwo (Henry II™), Candy Red, Country Sweet, Pretty Lady, Prima Peach 23, Shelly, Sierra Gem, and Summer Kist varieties to be regulated at the J maturity guide; and the Kaweah variety to be regulated at the L maturity guide.

Thus, Table 1 of paragraph (a)(1)(iv) of § 917.459 will be revised to reflect these recommendations.

In addition, three peach varieties are no longer being shipped and should be deleted from the listing of maturity guide assignments. Thus, Table 1 of paragraph (a)(1)(iv) of § 917.459 will be revised to delete the Sierra Crest peach variety. The PCC also recommended that the Johnny's White and Snow Ball peach varieties be deleted. However, these two varieties were deleted from Table 1 several years ago.

SPI has also recommended changes to the ''California Well-Matured'' or ''CA WELL MAT'' maturity requirements for varieties of nectarines and peaches with insufficient ''ground color'' (ground color is the skin color beneath the characteristic red or pink exhibited on the fruit). Under the changes, the stem cavity will be utilized to make a determination regarding ''California Well-Matured'' or ''CA WELL MAT'' for varieties that have insufficient ground color. These varieties are usually highly colored red varieties on which the stem cavity is the only location where the ground color can be seen. SPI further recommends that the color in the stem cavity for most varieties should be at least at the H maturity guide and that confirmation of the maturity may further be established by using other ''California Well-Matured'' characteristics.

Further, SPI has recommended that two nectarine varieties be notated with an asterisk for additional inspection information. According to SPI, inspectors have determined that the Honey Dew and Mango varieties are appropriately ''California Well Matured ''or ''CA WELL MAT'' when the ground color is ''breaking yellowish-green.'' In other words, the ground color of the fruit is a green color showing signs of changing to a yellow or orange color for yellow-fleshed varieties, and a green color showing signs of changing to a cream color for white-fleshed varieties.

The notes at the end of Table 1 of paragraph (a)(1)(iv) of § 916.356 will be amended to reflect these recommendations regarding nectarines, and the notes at the end of Table 1 of paragraph (a)(1)(iv) of § 917.459 will be amended to include the recommendation that the stem cavity will be used to determine the appropriate ground color for certain peach varieties.

The NAC and PCC recommended these maturity guide requirements based on SPI's continuing review of individual maturity characteristics and identification of the appropriate maturity guide corresponding to the ''well-matured'' level of maturity for nectarine and peach varieties in production.

Size Requirements: Both orders provide (in §§ 916.52 and 917.41) authority to establish size requirements. Size regulations encourage producers to leave fruit on the tree longer, which improves both size and maturity of the fruit. Acceptable fruit size provides

greater consumer satisfaction and promotes repeat purchases, and, therefore, increases returns to producers and handlers. In addition, increased fruit size results in increased numbers of packed containers of nectarines and peaches per acre, also a benefit to producers and handlers.

Varieties recommended for specific size regulations have been reviewed and such recommendations are based on the specific characteristics of each variety. The NAC and PCC conduct studies each season on the range of sizes attained by the regulated varieties and those varieties with the potential to become regulated, and determine whether revisions to the size requirements are appropriate.

Nectarines: Section 916.356 of the order's rules and regulations specifies minimum size requirements for fresh nectarines in paragraphs (a)(2) through (a)(9). This rule revises § 916.356 to establish variety-specific minimum size requirements for nine varieties of nectarines that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2003 season. This rule also removes the variety-specific minimum size requirements for five varieties of nectarines whose shipments fell below 5,000 containers during the 2003 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the White September variety of nectarines, recommended for regulation at a minimum size 80. Studies of the size ranges attained by the White September variety revealed that 100 percent of the containers met the minimum size of 80 during the 2000, 2001, and 2002 seasons. Sizes ranged from size 40 to size 80, with 24.7 percent of the fruit in the 40 sizes, 33.1 percent of the packages in the 50 sizes, 38.9 percent in the 60 sizes, 3.3 percent in the 70 sizes, and 0 percent in the size 80, for the 2002 season. However, the fruit sized down to the 80 sizes during the two previous seasons, and setting the minimum size at size 70 would not be appropriate at this time.

A review of other varieties with the same harvesting period indicated that the White September variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to handle the variety confirm this information regarding minimum size and harvesting period, as well. Thus, the recommendation to place the White September in the variety-specific minimum size regulation at a minimum size 80 is appropriate. This recommendation results from size studies conducted over a three-year period.

Historical data such as this provides the NAC with the information necessary to recommend the appropriate sizes at which to regulate various nectarine varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both NAC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a)(4) of § 916.356 is revised to include the Spring Ray variety; the introductory text of paragraph (a)(5) of § 916.356 is revised to include Mango variety; and the introductory text of paragraph (a)(6) of § 916.356 is revised to include the Arctic Gold, August Fire, Emelia, Honey Fire, Red Pearl, Ruby Bright, and White September nectarine varieties.

This rule also revises the introductory text of paragraphs (a)(3), (a)(4), and (a)(6) of § 916.356 to remove five varieties from the variety-specific minimum size requirements specified in these paragraphs because less than 5,000 containers of each of these varieties were produced during the 2003 season. Specifically, the introductory text of paragraph (a)(3) of § 916.356 is revised to remove the Grand Sun nectarine variety; the introductory text of paragraph (a)(4) of § 916.356 is revised to remove the May Grand and Red Glo nectarine varieties; and the introductory text of paragraph (a)(6) of § 916.356 is revised to remove the Firebrite and Sun Diamond nectarine varieties.

Nectarine varieties removed from the nectarine variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (a)(7), (a)(8), and (a)(9) of § 916.356.

Peaches: Section 917.459 of the order's rules and regulations specifies minimum size requirements for fresh peaches in paragraphs (a)(2) through (a)(6), and paragraphs (b) and (c). This rule revises § 917.459 to establish variety-specific minimum size requirements for 17 peach varieties that were produced in commercially significant quantities of more than 10,000 containers for the first time during the 2003 season. This rule also removes the variety-specific minimum size requirements for 14 varieties of peaches whose shipments fell below 5,000 containers during the 2003 season.

For example, one of the varieties recommended for addition to the variety-specific minimum size requirements is the Jupiter variety of peaches, which was recommended for regulation at a minimum size 72. Studies of the size ranges attained by the Jupiter variety revealed that 100 percent of the containers met the minimum size of 72 during the 2000, 2001, and 2002 seasons. The sizes ranged from size 30 to size 70, with 39.1 percent of the containers meeting the size 30, 31.1 percent meeting the size 40, 29.3 percent meeting the size 60, and .05 percent meeting the size 70.

A review of other varieties with the same harvesting period indicated that the Jupiter variety was also comparable to those varieties in its size ranges for that time period. Discussions with handlers known to pack the variety confirm this information regarding minimum size and the harvesting period, as well. Thus, the recommendation to place the Jupiter variety in the variety-specific minimum size regulation at a minimum size 72 is appropriate. This recommendation, as with all other size recommendations for peaches, results from size studies conducted over a three-year period.

Historical data such as this provides the PCC with the information necessary to recommend the appropriate sizes at which to regulate various peach varieties. In addition, producers and handlers of the varieties affected are personally invited to comment when such size recommendations are deliberated. Producer and handler comments are also considered at both PCC and subcommittee meetings when the staff receives such comments, either in writing or verbally.

For reasons similar to those discussed in the preceding paragraph, the introductory text of paragraph (a)(5) of § 917.459 is revised to include the Burpeachfourteen (Spring Flame™ 20), Scarlet Queen, Sugar Time (214LC68), and the Supecheight peach varieties; and the introductory text of paragraph (a)(6) of § 917.459 is revised to include the Autumn Fire, Autumn Ruby, Burpeachseven (Summer Flame™ 29), Gypsy Red, Ice Princess, Jupiter, Late September Snow, Magenta Gold, Pink Moon, Ruby Gold, Sugar Crisp, Sugar Red, and Sweet Blaze peach varieties.

This rule also revises the introductory text of paragraph (a)(4) of § 917.459 to remove the Snow Dance peach variety; revises the introductory text of paragraph (a)(5) of § 917.459 to remove the Happy Dream, Kern Sun, Kingscrest, Pink Rose, Ray Crest, and Rich Mike

peach varieties; and revises the introductory paragraph (a)(6) of § 917.459 to remove the Cassie, Flamecrest, Kings Lady, Prima Peach XXV, Red Dancer, Sierra Lady, and Sweet Gem peach varieties from the variety-specific minimum size requirements specified in the section because less than 5,000 containers of each of these varieties was produced during the 2003 season.

The removal of the Snow Dance peach variety from the introductory text of paragraph (a)(4) of § 917.459 results in no peach varieties regulated at a minimum size 84. This paragraph is being reserved for future use. The committees may recommend new peach varieties for regulation at this size in the future.

Peach varieties removed from the peach variety-specific minimum size requirements become subject to the non-listed variety size requirements specified in paragraphs (b) and (c) of § 917.459.

The NAC and PCC recommended these changes in the minimum size requirements based on a continuing review of the sizing and maturity relationships for these nectarine and peach varieties, and the consumer acceptance levels for various fruit sizes. This rule is designed to establish minimum size requirements for fresh nectarines and peaches consistent with expected crop and market conditions.

Peento Type Peach Tolerances

The Tree Fruit Quality Subcommittee met on July 25, 2003, to discuss a modified blossom-end growth crack tolerance for Peento type peaches for the 2004 and subsequent seasons. Peento type peaches, also known as donut peaches due to their characteristic flattened shape, have been produced for a decade. Because of their genetic characteristics, these flattened peaches are prone to blossom-end growth cracks. These cracks heal while on the tree and do not affect the edibility of the fruit. Since the 2000 season, this peach has been provided an additional tolerance of 10 percent for well-healed, non-serious blossom-end growth cracks. A grower who produces a large quantity of Peento type peaches advised the subcommittee that adverse weather in the spring of 2003 caused a larger than normal percentage of his fruit to fail inspection even with the additional tolerance for well healed non serious blossom-end growth cracks.

The subcommittee deliberated whether to relax the tolerance for blossom-end growth cracks, carefully weighing the grower's desire to market as much of his crop as possible against the industry's desire of assuring that quality peaches end up in the market place. In the end, the subcommittee decided that this was a minor defect that did not affect edibility, contribute to internal breakdown, or dramatically detract from fruit appearance, and recommended to the PCC that the tolerance be modified. The modification allows for an unlimited amount of blossom-end cracking as long as the cracks are well healed and do not exceed the aggregate area of a circle 3/8 of an inch in diameter and/or do not exceed a depth that exposes the peach pit.

The PCC adopted the subcommittee's recommendation on blossom-end growth cracks and recommended the relaxations to USDA. The relaxed requirements are expected to allow more fruit to be marketed and to return more value to the producer.

This rule reflects the committees' and USDA's appraisal of the need to revise the handling requirements for California nectarines and peaches, as specified. USDA believes that this rule will have a beneficial impact on producers, handlers, and consumers of fresh California nectarines and peaches.

This rule establishes handling requirements for fresh California nectarines and peaches consistent with expected crop and market conditions, and will help ensure that all shipments of these fruits made each season will meet acceptable handling requirements established under each of these orders. This rule will also help the California nectarine and peach industries to provide fruit desired by consumers. This rule is designed to establish and maintain orderly marketing conditions for these fruit in the interests of producers, handlers, and consumers.

Initial Regulatory Flexibility Analysis

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

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

Industry Information

There are approximately 250 California nectarine and peach handlers subject to regulation under the orders covering nectarines and peaches grown in California, and about 1,800 producers of these fruits in California. Small agricultural service firms, which include handlers, are defined by the Small Business Administration (13 CFR 121.201) as those whose annual receipts are less than $5,000,000. Small agricultural producers are defined by the Small Business Administration as those having annual receipts of less than $750,000. A majority of these handlers and producers may be classified as small entities.

The committees' staff has estimated that there are less than 20 handlers in the industry who could be defined as other than small entities. For the 2003 season, the committees' staff estimated that the average handler price received was $7.00 per container or container equivalent of nectarines or peaches. A handler would have to ship at least 714,286 containers to have annual receipts of $5,000,000. Given data on shipments maintained by the committees' staff and the average handler price received during the 2003 season, the committees' staff estimates that small handlers represent approximately 94 percent of all the handlers within the industry.

The committees' staff has also estimated that less than 20 percent of the producers in the industry could be defined as other than small entities. For the 2003 season, the committees' estimated the average producer price received was $4.00 per container or container equivalent for nectarines and peaches. A producer would have to produce at least 187,500 containers of nectarines and peaches to have annual receipts of $750,000. Given data maintained by the committees' staff and the average producer price received during the 2003 season, the committees' staff estimates that small producers represent more than 80 percent of the producers within the industry. With an average producer price of $4.00 per container or container equivalent, and a combined packout of nectarines and peaches of 44,202,600 containers, the value of the 2003 packout level is estimated to be $176,810,400. Dividing this total estimated grower revenue figure by the estimated number of producers (1,800) yields an estimate of average revenue per producer of about $98,228 from the sales of peaches and nectarines.

Regulatory Revisions

Under §§ 916.52 and 917.41 of the orders, grade, size, maturity, container, container marking, and pack requirements are established for fresh shipments of California nectarines and peaches, respectively. Such requirements are in effect on a continuing basis. The NAC and PCC met on November 12, 2003, and unanimously recommended that these handling requirements be revised for the 2004 season. These recommendations had been presented to the committees by various subcommittees, each charged with review and discussion of the changes. The changes: (1) Continue the lot stamping requirements which have been in effect since the 2000 season; (2) authorize shipments of ''CA Utility'' quality fruit to continue during the 2004 season; (3) revise tolerances for blossom-end growth cracks for Peento type peaches; (4) establish a minimum net weight for volume-filled, five down containers; (5) add an additional container to the list of standard containers and amend the dimensions of another container already regulated; and (6) revise varietal maturity, quality, and size requirements to reflect changes in growing and marketing practices.

Lot Stamping Requirements—Discussions and Alternatives

This rule authorizes continuation of the lot stamping requirements for returnable plastic containers under the marketing orders' rules and regulations that have been in effect for such containers since the 2000 season for nectarine and peach shipments. The modified requirements of §§ 916.115 and 917.150 mandated that the lot stamp numbers be printed on a USDA-approved pallet tag, in addition to the requirement that the lot stamp number be applied to cards on all exposed or outside containers, and not less than 75 percent of the total containers on a pallet. Continuation of such requirements for the 2004 and beyond would help the inspection service safeguard the identity of inspected and certified containers of nectarines and peaches, and would help the industry by keeping in place the information necessary to facilitate their ''trace-back'' program.

The Tree Fruit Quality Subcommittee met on October 23, 2003, and considered possible alternatives to this action. Other alternatives were rejected because the members of the subcommittee determined that given the different styles and configurations of RPCs available, having a satisfactory adhesive for placement of the cards might not be realistic. Box manufacturers have been very slow to respond to the industry's requests. The subcommittee recognized that as time has passed, the likelihood of getting a suitable adhesive for the cards has decreased significantly. Therefore, the subcommittee determined that it was no longer appropriate to put this regulation into effect annually. When the time comes that an adhesive for the cards becomes available or another method for securing the lot stamp on each container is found, the subcommittee determined that they would make a recommendation to adjust this requirement.

For these reasons, the subcommittee and the committees unanimously recommended continuing from season to season the requirement for the lot stamp number to be printed on the cards on each container and for each pallet to be marked with a USDA-approved pallet tag, also containing the lot stamp number. Such safeguards are intended to ensure that all the containers on each pallet have been inspected and certified in the event a card on an individual container or containers is removed, misplaced, or lost.

Grade and Quality Requirements—Discussions and Alternatives

In 1996, §§ 916.350 and 917.442 were revised to permit shipments of ''CA Utility'' quality nectarines and peaches as an experiment during the 1996 season only. Such shipments have subsequently been permitted each season. Since 1996, shipments of ''CA Utility'' have ranged from 1 to 5 percent of total nectarine and peach shipments. This rule authorizes continued shipments of ''CA Utility'' quality nectarines and peaches during the 2004 season.

The Tree Fruit Quality Subcommittee met on October 23, 2003, and unanimously agreed that the ''CA Utility'' quality requirements that are currently in place should be continued. Also, not authorizing such shipments would be an abrupt departure from their current practices. The NAC and PCC also unanimously recommended such continuation at their meetings on November 12, 2003, and have done so continuously since such shipments were first authorized in 1996.

Container and Container Marking Requirements—Discussions and Alternatives

Sections 916.350 and 917.442 establish container, pack, and marking requirements for shipments of nectarines and peaches, respectively. This rule makes changes to the pack and container marking requirements of the orders' rules and regulations to establish a minimum net weight of 29 pounds for all types of five down Euro boxes.

This rule also makes changes to the pack and container marking requirements to establish one new standard container and to modify the dimensions of another container being used by the industry.

During the 2003 season, the California Department of Food and Agriculture assigned numbers to one new container, the No. 36, modified the dimensions of the Euro five down container, and assigned that container the No. 35. The new container and the modified dimensions of the Euro five down container were then added to the California Agricultural Code.

By standardizing containers, the State permits handlers to use a new container for more than ten percent of their annual shipments. Otherwise, the container would be considered an experimental container for which handlers would have to file an application and limit shipments in such containers to a maximum of ten percent of their total seasonal shipments. Once containers are standardized within the California Agricultural Code, they are historically added to the orders so that regulated handlers may use them for packaging nectarines and peaches.

At the meeting of the Tree Fruit Quality Subcommittee on October 23, 2003, the addition of these standardized boxes was discussed. The members noted that these two boxes are used increasingly and may continue to be, potentially replacing the older, more conventional boxes. According to one member of the subcommittee, no handler really wants to add extra boxes to the growing inventory of box sizes and styles; but in practical terms, the retail customers prefer the newer boxes, so they must be added to the list of available and standard containers. The alternative was unacceptable because handlers would not have them available when requested by their retail customer.

The Tree Fruit Quality Subcommittee also discussed the net weight requirement for all five down Euro containers at its meeting on October 23, 2003. At that time, the subcommittee discussed results from the 2003 season during which both a 29- and 31-pound container had been authorized. Experience of handlers during the season resulted in the subcommittee's recommendation that only the 29-pound container continue to be authorized. The subcommittee unanimously recommended the change to the committees. The alternative would have meant that RPC five down Euro

containers would have been subject to both the 29- and 31-pound net weight. In consideration of uniformity for five down Euro containers, this alternative was rejected.

Minimum Maturity and Size Levels—Discussions and Alternatives

Sections 916.356 and 917.459 establish minimum maturity levels. This rule makes annual adjustments to the maturity requirements for several varieties of nectarines and peaches. Maturity requirements are based on maturity measurements generally using maturity guides (*e.g.*, color chips), as recommended by Shipping Point Inspection. Such maturity guides are reviewed annually by SPI to determine the appropriate guide for each nectarine and peach variety. These annual adjustments reflect refinements in measurements of the maturity characteristics of nectarines and peaches as experienced over previous seasons' inspections. Adjustments in the guides utilized ensure that fruit has met an acceptable level of maturity, ensuring consumer satisfaction while benefiting nectarine and peach producers and handlers.

Currently, in § 916.356 of the nectarine order's rule and regulations, and in § 917.459 of the peach order's rule and regulations, minimum sizes for various varieties of nectarines and peaches, respectively, are established. This rule makes adjustments to the minimum sizes authorized for various varieties of nectarines and peaches for the 2004 season. Minimum size regulations are put in place to encourage producers to leave fruit on the trees for a longer period of time. This increased growing time not only improves maturity, but also increases fruit size. Increased fruit size increases the number of packed containers per acre, and coupled with heightened maturity levels, also provides greater consumer satisfaction, fostering repeat purchases. Such improved consumer satisfaction and repeat purchases benefit both producers and handlers alike.

Annual adjustments to minimum sizes of nectarines and peaches, such as these, are recommended by the NAC and PCC based upon historical data, producer and handler information regarding sizes attained by different varieties, and trends in consumer purchases.

An alternative to such action would include not establishing minimum size regulations for these new varieties. Such an action, however, would be a significant departure from the committees' practices and represent a significant change in the regulations as they currently exist, would ultimately increase the amount of less acceptable fruit being marketed to consumers and would be contrary to the long-term interests of producers, handlers, and consumers. For these reasons, this alternative was not recommended.

Peento Type Peach Tolerances—Discussions and Alternatives

The Tree Fruit Quality Subcommittee met on July 25, 2003, to discuss a modified growth-crack tolerance for Peento type peaches for the 2004 and later seasons with a concerned grower. The grower advised the subcommittee that weather problems created some anomalies for his 2003 crop of Peento type peaches. A larger than normal percentage of his fruit failed inspection during the 2003 season because of blossom-end growth cracks. This type of peach is prone to such cracks. However, the cracks do not affect the edibility of the fruit, contribute to internal breakdown, or detract from the appearance of the fruit unless the cracks are unusually large.

The subcommittee deliberated whether to relax the tolerance for blossom end growth cracks for the 2004 season, carefully weighing the grower's need to have a crop to market and the need to maintain a quality product in the market place. In the end, the subcommittee determined that peaches of the Peento type should be permitted blossom end cracking as long as the cracks are well healed, do not exceed the aggregate area of a circle 3/8 inch in diameter and/or do not exceed a depth that exposes the pit. This relaxation is in lieu of the current requirement that Peento type peaches should be permitted a 10 percent tolerance for well-healed, non-serious, blossom-end growth cracks.

The PCC agreed with the subcommittee and recommended that the current tolerance for blossom-end growth cracks on Peento type peaches be revised to meet the demands of the growers and buyers of these unique peaches.

An alternative to this action would have been to leave these requirements unchanged. However, this would have meant that the growers of these fruits would be restricted in marketing them, since these fruits exhibit an increased propensity for blossom-end growth cracks, which are only a cosmetic defect. The relaxation is expected to allow more of these peaches to be marketed and to improve producer returns.

The committees make recommendations regarding the revisions in handling and lot stamping requirements after considering all available information, including recommendations by various subcommittees, comments of persons at subcommittee meetings, and comments received by committee staff. Such subcommittees include the Tree Fruit Quality Subcommittee, the Marketing Order Amendment Task Force, and the Executive Committee.

At the meetings, the impact of and alternatives to these recommendations are deliberated. These subcommittees, like the committees themselves, frequently consist of individual producers and handlers with many years of experience in the industry who are familiar with industry practices and trends. Like all committee meetings, subcommittee meetings are open to the public and comments are widely solicited. In the case of the Tree Fruit Quality Subcommittee, many growers and handlers who are affected by the issues discussed by the subcommittee attend and actively participate in the public deliberations, or call and/or write in their concerns and comments to the staff for presentation at the meetings. In addition, minutes of all subcommittee meetings are distributed to committee members and others who have requested them, thereby increasing the availability of information within the industry.

Each of the recommended handling requirement changes for the 2004 season is expected to generate financial benefits for producers and handlers through increased fruit sales, compared to the situation that would exist if the changes were not adopted. Both large and small entities are expected to benefit from the changes, and the costs of compliance are not expected to be substantially different between large and small entities.

This rule does not impose any additional reporting and recordkeeping requirements on either small or large handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule. However, as previously stated, nectarines and peaches under the orders have to meet certain requirements set forth in the standards issued under the Agricultural Marketing Act of 1946 (7 CFR 1621 *et seq.*). Standards issued under the Agricultural Marketing Act of 1946 are otherwise voluntary.

In addition, the committees' meetings are widely publicized throughout the

nectarine and peach industry and all interested parties are encouraged to attend and participate in committee deliberations on all issues. These meetings are held annually in the fall and spring. Like all committee meetings, the November 12, 2003, meetings were public meetings, and all entities, large and small, were encouraged to express views on these issues. These regulations were also reviewed and thoroughly discussed at subcommittee meetings held on July 25, October 1, and October 23, 2003. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

This rule invites comments on changes to the handling requirements currently prescribed under the marketing orders for California fresh nectarines and peaches. Any comments received will be considered prior to finalization of this rule.

After consideration of all relevant matters presented, the information and recommendations submitted by the committees, and other information, it is found that this interim final rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

Pursuant to 5 U.S.C. 553, it is also found and determined, upon good cause, that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect, and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) California nectarine and peach producers and handlers should be apprised of this rule as soon as possible, since shipments of these fruits are expected to begin in early April; (2) this rule relaxes grade requirements for nectarines and peaches; (3) appropriate subcommittees met and made recommendations to the committees, the committees met and unanimously recommended these changes at public meetings, and interested persons had opportunities to provide input at all those meetings; and (4) the rule provides a 60-day comment period, and any written comments timely received will be considered prior to any finalization of this interim final rule.

List of Subjects

7 CFR Part 916

Marketing agreements, Nectarines, Reporting and recordkeeping requirements.

7 CFR Part 917

Marketing agreements, Peaches, Pears, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

■ 1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

Authority: 7 U.S.C. 601–674.

PART 916—NECTARINES GROWN IN CALIFORNIA

■ 2. Section 916.115 is revised to read as follows:

§ 916.115 Lot stamping.

Except when loaded directly into railway cars, exempted under § 916.110, or for nectarines mailed directly to consumers in consumer packages, all exposed or outside containers of nectarines, and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment, with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 916.55: *Provided,* That pallets of returnable plastic containers shall have the lot stamp numbers affixed to each pallet with a USDA-approved pallet tag, in addition to the lot stamp numbers and other required information on cards on the individual containers.

■ 3. Section 916.350 is amended by:

■ A. Revising paragraph (a)(8);

■ B. Revising paragraph (b); and

■ C. Revising paragraph (d) to read as follows:

§ 916.350 California nectarine container and pack regulation.

(a) * * *

(8) Each five down Euro container of loose-filled nectarines shall bear on one outside end in plain sight and in plain letters the words ''29 pounds net weight.''

* * * * *

(b) As used in this section, ''standard pack'' and ''fairly uniform in size'' shall have the same meaning as set forth in the U.S. Standards for Grade of Nectarines (Secs. 51.3145 to 51.3160) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. A No. 12B standard fruit box measures 2⅜ to 7⅛ × 11½ × 16⅛ inches, a No. 22D standard lug box measures 2⅞ to 7⅛ × 13½ × 16⅛ inches, a No. 22E standard lug box measures 8¾ × 13½ × 16⅛ inches, a No. 22G standard lug box measures 7⅜ to 7½ × 13¼ × 15⅞ inches, a No. 32 standard box measures 5¾ to 7¼ × 12 × 19¾ inches, a No. 35 standard box measures 3½ to 7$^{15}/_{16}$ × 15$^{9}/_{16}$ to 15$^{13}/_{16}$ × 23¼ to 23¾ inches, and a No. 36 standard box measures 5 to 6½ × 13¼ × 17¼ inches. All dimensions are given in depth (inside dimensions) by width and by length (outside dimensions). ''Individual consumer packages'' means packages holding 15 pounds or less net weight of peaches. ''Tree ripe'' means ''tree ripened'' and fruit shipped and marked as ''tree ripe,'' ''tree ripened,'' or any similar terms using the words ''tree'' and ''ripe'' must meet the minimum California Well Matured standards.

* * * * *

(d) During the period April 1 through October 31, 2004, each container or package when packed with nectarines meeting the ''CA Utility'' quality requirements, shall bear the words ''CA Utility,'' along with all other required container markings, in letters at least ⅜ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as ''CA Utility,'' along with all other required markings, in letters at least ⅜ inch in height.

* * * * *

■ 4. Section 916.356 is amended by:

■ A. Revising the introductory text of paragraph (a)(1);

■ B. Amending paragraph (a)(1)(iv) by revising Table 1 and the note to Table 1; and

■ C. Revising the introductory text of paragraphs (a)(3), (a)(4), (a)(5), and (a)(6) to read as follows:

§ 916.356 California nectarine grade and size regulation.

(a) * * *

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided,* That nectarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle ⅜ inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle ½ inch in diameter: *Provided further,* That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further,* That all varieties of

nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart: *Provided further,* That during the period April 1 through October 31, 2004, any handler may handle nectarines if such nectarines meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Alshir Red	J
April Glo	H
August Glo	L
August Lion	J
August Red	J
Aurelio Grand	F
Autumn Delight	L
Big Jim	J
Diamond Bright	J
Diamond Jewel	L
Diamond Ray	L
Earliglo	I
Early Diamond	J
Early Red Jim	J
Early Sungrand	H
Emelia	J
Fairlane	L
Fantasia	J
Firebrite	H
Fire Sweet	J
Flame Glo.	L
Flamekist	L
Flaming Red	K
Flavortop	J
Gee Sweet	L
Grand Diamond	L
Grand Sweet	J
Gran Sun	L
Honey Blaze	J
Honey Dew	B*
Honey Fire	L
Honey Kist	I
Honey Royale	J
July Red	L
June Brite	I
June Candy	K
Juneglo	H
Kay Diamond	L
King Jim	L
Kism Grand	J
Late Le Grand	L
Late Red Jim	J

TABLE 1—Continued

Column A variety	Column B maturity guide
Mango	B*
May Diamond	I
May Fire	H
Mayglo	H
May Grand	H
May Kist	H
Mid Glo	L
Moon Grand	L
Niagra Grand	H
P–R Red	L
Prince Jim	L
Prima Diamond XIII	L
Red Delight	I
Red Diamond	L
Red Fred	J
Red Free	L
Red Glen	J
Red Glo	I
Red Jewel	L
Red Jim	L
Red May	J
Regal Red	K
Rio Red	L
Rose Diamond	J
Royal Giant	I
Royal Glo	I
Ruby Diamond	L
Ruby Grand	J
Ruby Sun	J
Ruby Sweet	J
Scarlet Red	K
September Free	J
September Grand	L
September Red	L
Sheri Red	J
Sparkling June	L
Sparkling May	J
Sparkling Red	L
Spring Bright	L
Spring Diamond	L
Spring Ray	L
Spring Red	H
Spring Sweet	J
Star Brite	J
Summer Beaut	H
Summer Blush	J
Summer Bright	J
Summer Diamond	L
Summer Fire	L
Summer Grand	L
Summer Lion	L
Summer Red	L
Sunburst	J
Sun Diamond	I
Sunecteight (Super Star)	G
Sun Grand	G
Sunny Red	J
Tom Grand	L
Zee Glo	J
Zee Grand	I

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above. On varieties with less than 10 percent surface ground color required to determine California Well-Mature, the stem cavity color will be utilized to make the determination. As a guide, stem cavities for most varieties should be at least yellowish-green as defined by the H maturity guide. Confirmation may be further established by using other California well matured characteristics. Predominant ground color must be breaking yellowish green.

* * * * *

(3) Any package or container of Mayglo variety of nectarines on or after May 6 of each year, or Crimson Baby, Earliglo, Early Diamond, or May Kist variety nectarines unless:

* * * * *

(4) Any package or container of Arctic Rose, Arctic Star, Diamond Bright, Juneglo, June Pearl, Kay Glo, Kay Sweet, May Diamond, Prima Diamond IV, Prima Diamond VI, Prima Diamond XIII, Prince Jim, Prince Jim 1, Red Delight, Red Roy, Rose Diamond, Royal Glo, Sparkling May, Spring Ray, White Sun, or Zee Grand variety nectarines unless:

* * * * *

(5) Any package or container of Mango or Red May variety nectarines unless:

* * * * *

(6) Any package or container of Alta Red, Arctic Blaze, Arctic Gold, Arctic Ice, Arctic Jay, Arctic Mist, Arctic Pride, Arctic Queen, Arctic Snow (White Jewel), Arctic Sweet, August Fire, August Glo, August Lion, August Pearl, August Red, August Snow, Big Jim, Bright Pearl, Bright Sweet, Candy Gold, Candy Sweet, Diamond Ray, Early Red Jim, Emelia, Fire Pearl, Fire Sweet, Flame Glo, Flaming Red, Grand Diamond, Grand Pearl, Grand Sweet, Honey Blaze, Honey Fire, Honey Kist, Honey Royale, July Pearl, July Red, June Lion, Kay Pearl, King Jim, Late Red Jim, P–R Red, Prima Diamond IX, Prima Diamond XVIII, Prima Diamond XIX, Prima Diamond XXIV, Prima Diamond XXVIII, Red Diamond, Red Glen, Red Jim, Red Pearl, Regal Pearl, Regal Red, Royal Giant, Ruby Bright, Ruby Diamond, Ruby Pearl, Ruby Sweet, Scarlet Red, September Bright (26P–490), September Free, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Sweet, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Jewel, Summer Lion, Summer Red, Sunburst, Sunny Red, Sun Valley Sweet, Sweet White, Terra White, White September, or Zee Glo variety nectarines unless:

* * * * *

PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

■ 5. Section 917.150 is revised to read as follows:

§ 917.150 Lot stamping.

Except when loaded directly into railway cars, exempted under § 917.143, or for peaches mailed directly to consumers in consumer packages, all exposed or outside containers of peaches, and not less than 75 percent of the total containers on a pallet, shall be plainly stamped, prior to shipment, with a Federal-State Inspection Service lot stamp number, assigned by such Service, showing that such fruit has been USDA inspected in accordance with § 917.45: *Provided,* That pallets of returnable plastic containers shall have the lot stamp numbers affixed to each pallet with a USDA-approved pallet tag, in addition to the lot stamp numbers and other required information on cards on the individual containers.

■ 6. Section 917.442 is amended by:

■ A. Revising paragraph (a)(9);

■ B. Revising paragraph (b) and;

■ D. Revising paragraph (d) to read as follows:

§ 917.442 California peach container and pack regulation.

(a) * * *

(9) Each five down Euro container of loose-filled peaches shall bear on one outside end in plain sight and in plain letters the words ''29 pounds net weight.''

* * * * *

(b) As used in this section, ''standard pack'' and ''fairly uniform in size'' shall have the same meaning as set forth in the U.S. Standards for Grade of Peaches (Secs. 51.1210 to 51.1223) and all other terms shall have the same meaning as when used in the amended marketing agreement and order. A No. 12B standard fruit box measures 2⅜ to 7⅛ × 11½ × 16⅛ inches, a No. 22D standard lug box measures 2⅞ to 7⅛ × 13½ × 16⅛ inches, a No. 22E standard lug box measures 8¾ × 13 ½ × 16 inches, a No. 22G standard lug box measures 7⅜ to 7½ × 13¼ × 15⅞ inches, a No. 32 standard box measures 5¾ to 7¼ × 12 × 19¾ inches, a No. 35 standard box measures 3½ to 7$^{15}/_{16}$ × 15$^{9}/_{16}$ to 15 $^{13}/_{16}$ × 23¼ to 23¾ inches, and a No. 36 standard box measures 5 to 6½ × 13¼ × 17¼ inches. All dimensions are given in depth (inside dimensions) by width and by length (outside dimensions). ''Individual consumer packages'' means packages holding 15 pounds or less net weight of peaches. ''Tree ripe'' means ''tree ripened'' and fruit shipped and marked as ''tree ripe,'' ''tree ripened,'' or any similar terms using the words ''tree'' and ''ripe'' must meet the minimum California Well Matured standards.

* * * * *

(d) During the period April 1 through November 23, 2004, each container or package when packed with peaches meeting ''CA Utility'' quality requirements, shall bear the words ''CA Utility,'' along with all other required container markings, in letters at least ⅜ inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as ''CA Utility,'' along with all other required markings, in letters at least ⅜ inch in height.

* * * * *

■ 7. Section 917.459 is amended by:

■ A. Revising the introductory text of paragraph (a)(1);

■ B. Amending paragraph (a)(1)(iv) by revising Table 1 and the note to Table 1;

■ C. Revising the introductory text of paragraph (a)(4); and

■ D. Revising the introductory text of paragraphs (a)(5) and (a)(6) to read as follows:

§ 917.459 California peach grade and size regulation.

(a) * * *

(1) Any lot or package or container of any variety of peaches unless such peaches meet the requirements of U.S. No. 1 grade: *Provided,* That an additional 25 percent tolerance shall be permitted for fruit with open sutures which are damaged, but not seriously damaged: *Provided further,* That peaches of the Peento type shall be permitted blossom end cracking that is well healed and does not exceed the aggregate area of a circle ⅜ inch in diameter, and/or does not exceed a depth that exposes the pit: *Provided further,* That during the period April 1 through November 23, 2004, any handler may handle peaches if such peaches meet ''CA Utility'' quality requirements. The term ''CA Utility'' means that not more than 40 percent of the peaches in any container meet or exceed the requirement of the U.S. No. 1 grade, except that when more than 30 percent of the peaches in any container meet or exceed the requirements of the U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Peaches; and that such peaches are mature and are:

* * * * *

(iv) * * *

TABLE 1

Column A variety	Column B maturity guide
Angelus	I
August Lady	L
Autumn Flame	J
Autumn Gem	I
Autumn Lady	H
Autumn Red	J
Autumn Rose	H
Blum's Beauty	G
Brittney Lane	J
Burpeachone (Spring Flame™ 21)	J
Burpeachthree (September Flame™)	I
Burpeachtwo (Henry II™)	J
Cal Red	I
Candy Red	J
Carnival	I
Cassie	H
Coronet	E
Crimson Lady	J
Crown Princess	J
Country Sweet	J
David Sun	I
Diamond Princess	J
Earlirich	H
Earlitreat	H
Early Delight	H
Early Elegant Lady	L
Early May Crest	H
Early O'Henry	I
Early Top	G
Elberta	B
Elegant Lady	L
Fairtime	G
Fancy Lady	J
Fay Elberta	C
Fire Red	I
First Lady	D
Flamecrest	I
Flavorcrest	G
Flavor Queen	H
Flavor Red	G
Franciscan	G
Goldcrest	H
Golden Princess	L
Honey Red	G
Joanna Sweet	J
John Henry	J
July Elberta	C
June Lady	G
June Pride	J
Kaweah	L
Kern Sun	H
Kingscrest	H
Kings Lady	I
Kings Red	I
Lacey	I
Lady Sue	L
Late Ito Red	L
Madonna Sun	J
Magenta Queen	J
May Crest	G
May Sun	I
May Sweet	I
Merrill Gem	G
Merrill Gemfree	G
Morning Lord	J
O'Henry	I
Pacifica	G
Pretty Lady	J
Prima Gattie 8	L

TABLE 1—Continued

Column A variety	Column B maturity guide
Prima Gattie 10	J
Prima Peach 23	J
Queencrest	G
Ray Crest	G
Red Dancer (Red Boy)	I
Redhaven	G
Red Lady	G
Redtop	G
Regina	G
Rich Lady	J
Rich May	H
Rich Mike	H
Rio Oso Gem	I
Royal Lady	J
Royal May	G
Ruby May	H
Ryan Sun	I
September Sun	I
Shelly	J
Sierra Gem	J
Sierra Lady	I
Sparkle	I
Sprague Last Chance	L
Springcrest	G
Spring Delight	G
Spring Lady	H
Springtreat	I
Summer Kist	J
Summer Lady	L
Summerset	I
Summer Zee	L
Suncrest	G
Supechfour (Amber Crest)	G
Super Rich	H
Sweet Dream	J
Sweet Gem	J
Sweet Mick	J
Sweet Scarlet	J
Sweet September	I
Topcrest	H
Tra Zee	J
Vista	J
Willie Red	G

TABLE 1—Continued

Column A variety	Column B maturity guide
Zee Lady	L

Note: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above. On varieties with less than 10 percent surface ground color required to determine California Well Mature, the stem cavity color will be utilized to make the determination. As a guide, stem cavities for most varieties should be at least yellowish-green as defined by the H maturity guide. Confirmation may be further established by using other California well matured characteristics.

* * * * *

(4) Any package or container of [reserved] variety peaches unless:

* * * * *

(5) Any package or container of Babcock, Bev's Red, Brittney Lane, Burpeachone (Spring Flame™ 21), Burpeachfourteen (Spring Flame™ 20), Crimson Lady, Crown Princess, David Sun, Early May Crest, Flavorcrest, June Lady, Magenta Queen, May Crest, May Sun, May Sweet, Prima Peach IV, Queencrest, Redtop, Rich May, Scarlet Queen, Snow Brite, Snow Prince, Springcrest, Spring Lady, Spring Snow, Springtreat (60EF32), Sugar May, Sugar Time (214LC68), Sunlit Snow (172LE81), Supecheight, Sweet Scarlet, Zee Diamond, 012–094, or 172LE White Peach (Crimson Snow/Sunny Snow) variety peaches unless:

* * * * *

(6) Any package or container of August Lady, Autumn Fire, Autumn Flame, Autumn Red, Autumn Rose, Autumn Ruby, Autumn Snow, Burpeachtwo (Henry II™), Burpeachthree (September Flame™), Burpeachfour (August Fame™), Burpeachfive (July Flame™), Burpeachsix (June Flame™), Burpeachseven (Summer Flame™ 29), Coral Princess, Country Sweet, Diamond Princess, Earlirich, Early Elegant Lady, Elegant Lady, Fairtime, Fancy Lady, Fay Elberta, Full Moon, Gypsy Red, Ice Princess, Ivory Princess, Jillie White, Joanna Sweet, John Henry, June Pride, Jupiter, Kaweah, Klondike, Late Ito Red, Late September Snow, Magenta Gold, O'Henry, Pink Giant, Pink Moon, Pretty Lady, Prima Gattie 8, Prima Peach 13, Prima Peach XV, Prima Peach 20, Prima Peach 23, Prima Peach XXVII, Princess Gayle, Queen Lady, Red Giant, Rich Lady, Royal Lady, Ruby Gold, Ryan Sun, Saturn (Donut), Scarlet Snow, September Snow, September Sun, Sierra Gem, Snow Beauty, Snow Blaze, Snow Fall, Snow Gem, Snow Giant, Snow Jewel, Snow King, Snow Princess, Sprague Last Chance, Spring Gem, Sugar Crisp, Sugar Giant, Sugar Lady, Sugar Red, Summer Dragon, Summer Lady, Summer Sweet, Summer Zee, Supechfour (Amber Crest), Sweet Blaze, Sweet Dream, Sweet Kay, Sweet September, Tra Zee, Vista, White Lady, Zee Lady, or 24–SB variety peaches unless:

* * * * *

Dated: March 19, 2004.

A.J. Yates,

Administrator, Agricultural Marketing Service.

[FR Doc. 04–6702 Filed 3–24–04; 8:45 am]

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''PLUS'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal_register/public_laws/public_laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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