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# Contents

Federal Register

Vol. 69, No. 200

Monday, October 18, 2004

## Agency for Healthcare Research and Quality

### NOTICES

Agency information collection activities; proposals, submissions, and approvals, 61382–61383

## Agricultural Marketing Service

### PROPOSED RULES

Milk marketing orders:  
Central, 61323

## Agriculture Department

See Agricultural Marketing Service  
See Rural Utilities Service

## Army Department

See Engineers Corps

### NOTICES

Agency information collection activities; proposals, submissions, and approvals, 61356–61357  
Inventions, Government-owned; availability for licensing, 61357  
Meetings:  
U.S. Military Academy, Board of Visitors, 61357

## Centers for Disease Control and Prevention

### NOTICES

Agency information collection activities; proposals, submissions, and approvals, 61384–61386  
Meetings:  
Disease, Disability, and Injury Prevention and Control Special Emphasis Panels, 61386

## Centers for Medicare & Medicaid Services

### NOTICES

Privacy Act:  
Systems of records, 61388–61393  
*Applications, hearings, determinations, etc.:*  
California's Medicaid State Plan Amendment, 61386–61388

## Children and Families Administration

### NOTICES

Agency information collection activities; proposals, submissions, and approvals, 61393–61394

## Commerce Department

See International Trade Administration  
See National Oceanic and Atmospheric Administration

## Consumer Product Safety Commission

### NOTICES

Reports and guidance documents; availability, etc.:  
Voluntary standards activities and staff and contractor research reports; comment request, 61353–61355

## Copyright Office, Library of Congress

### PROPOSED RULES

Copyright Arbitration Royalty Panel rules and procedures:  
Cable, satellite and DART royalties; claims filing methods, 61325–61334

## Customs and Border Protection Bureau

### NOTICES

IRS interest rates used in calculating interest on overdue accounts and refunds, 61401–61402

## Defense Department

See Army Department  
See Engineers Corps  
See Navy Department

### NOTICES

Agency information collection activities; proposals, submissions, and approvals, 61355–61356  
Meetings:  
National Security Education Board Meeting, 61356  
President's Information Technology Advisory Committee, 61356

## Employment and Training Administration

### NOTICES

Adjustment assistance:  
Boeing Co., 61406–61407  
Cady Industries, Inc., 61407  
Degussa Corp., 61407  
Eddie Labels & Accessories Corp., 61407–61408  
Flexaust Appliance, Inc., 61408  
Seneca Foods Corp., 61408  
Technical Fabricators, Inc., 61408  
VF Jeanswear Limited Partnership, 61408–61409

## Energy Department

See Federal Energy Regulatory Commission

### NOTICES

Meetings:  
International Energy Agency Industry Advisory Board, 61358–61360

## Engineers Corps

### NOTICES

Meetings:  
Coastal Engineering Research Board, 61357–61358

## Environmental Protection Agency

### NOTICES

Meetings:  
Lead Service Line Replacement; expert panel workshop  
[**EDITORIAL NOTE:** In the table of contents for the **FEDERAL REGISTER** issue of October 4, 2004, the entry printed in the table of contents as Lead and Copper Rule; public education and risk communication; expert panel workshop, should have appeared as printed above.]  
Scientific Counselors Board, 61377–61379  
Water supply:  
Public water supply supervision program—Wisconsin, 61379

## Executive Office of the President

See National Drug Control Policy Office

**Federal Aviation Administration****RULES**

## Airports:

Airport noise compatibility planning; technical amendments

Correction, 61438

## Airworthiness directives:

Gulfstream, 61305–61309

**NOTICES**

Exemption petitions; summary and disposition, 61431–61433

**Federal Communications Commission****RULES**

## Common carrier services:

Wireless telecommunications services—  
Tribal lands, 61317–61321

**PROPOSED RULES**

## Common carrier services:

Universal services—  
Number portability, 61334–61339

**NOTICES**

## Declaratory ruling petitions:

American Teleservices Association, Inc., 61379–61380

CC Advertising, 61380–61381

Express Consolidation, Inc., 61381–61382

## Senior Executive Service:

Performance Review Board; membership, 61382

**Federal Deposit Insurance Corporation****RULES**

## Practice and procedure:

Civil monetary penalties; inflation adjustment, 61301–61305

**NOTICES**

Meetings; Sunshine Act, 61382

**Federal Energy Regulatory Commission****NOTICES**

Electric rate and corporate regulation filings, 61366–61369

Environmental statements; availability, etc.:

Four Dam Pool Power Agency, AK, 61369–61370

Environmental statements; notice of intent:

Columbia Gas Transmission Corp., 61370–61373

Hydroelectric applications, 61373–61375

## Meetings:

Connecticut Transmission Infrastructure, et al.; technical conference, 61375–61376

Cranberry Pipeline Corp.; technical conference, 61376

Hydro Licensing Status Workshop 2004, 61376–61377

*Applications, hearings, determinations, etc.:*

Algonquin Gas Transmission, LLC, 61360

American Wind Energy Association, 61360

CenterPoint Energy - Mississippi River Transmission Corp., 61360–61361

Duke Energy Corp., 61361

East Tennessee Natural Gas, LLC, 61362

Egan Hub Storage, LLC, 61362

El Paso Natural Gas Co., 61362–61363

Kern River Gas Transmission Co., 61364–61365

Maritimes & Northeast Pipeline, L.L.C., 61365

Petal Gas Storage, L.L.C., 61365–61366

WestGas InterState, Inc., 61366

Williston Basin Interstate Pipeline Co., 61366

**Health and Human Services Department**

See Agency for Healthcare Research and Quality

See Centers for Disease Control and Prevention

See Centers for Medicare & Medicaid Services

See Children and Families Administration

See Indian Health Service

See National Institutes of Health

**Homeland Security Department**

See Customs and Border Protection Bureau

**Indian Health Service****NOTICES**

Grant and cooperative agreement awards:

Indian Health Care Scholarship Program; recipient list, 61394–61400

**Interior Department**

See Minerals Management Service

**Internal Revenue Service****RULES**

Income taxes:

Statutory stock options

Correction, 61309–61311

**NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 61435–61436

**International Trade Administration****NOTICES**

Antidumping:

In-shell pistachios from—

Iran, 61341

Polyester staple fiber from—

Korea, 61341–61344

**International Trade Commission****NOTICES**

Import investigations:

Polychloroprene rubber from—

Japan, 61403

Meetings; Sunshine Act, 61403

**Justice Department****PROPOSED RULES**

Privacy Act; implementation, 61323–61325

**NOTICES**

Privacy Act:

Systems of records, 61403–61406

**Labor Department**

See Employment and Training Administration

**NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 61406

**Library of Congress**

See Copyright Office, Library of Congress

**Medicare Payment Advisory Commission****NOTICES**

Meetings, 61409

**Minerals Management Service****NOTICES**

Outer Continental Shelf; operations:

Alaska region—

Oil and gas lease sales, 61402–61403

Outer Continental Shelf operations:

Oil and gas lease sales—

Restricted joint bidders list, 61402

**National Credit Union Administration****NOTICES**

Meetings; Sunshine Act, 61409

**National Drug Control Policy Office****NOTICES**

Senior Executive Service:

Performance Review Board: membership, 61409

**National Highway Traffic Safety Administration****RULES**

Motor vehicle safety standards:

Golf carts and other small light-weight vehicles; classification as low-speed vehicles; termination, 61322

**NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 61433

**National Institutes of Health****NOTICES**

Meetings:

National Cancer Institute, 61400–61401

**National Oceanic and Atmospheric Administration****NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 61344–61347

Endangered and threatened species:

Hatchery listing policy; hearings, 61347–61348

Salmonids in California; listing determinations; hearings, 61348–61349

Meetings:

Gulf of Mexico Fishery Management Council, 61349–61350

New England Fishery Management Council, 61350

Western Pacific Fishery Management Council, 61351–61352

Senior Executive Service:

Performance Review Board; membership, 61352–61353

**National Science Foundation****NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 61409–61411

**Navy Department****RULES**

Navigation, COLREGS compliance exemptions:

USS CHUNG-HOON, 61314–61316

USS JAMES E. WILLIAMS, 61312–61313

USS OKLAHOMA CITY, 61313–61314

USS PAUL HAMILTON, 61316–61317

USS VIRGINIA, 61311–61312

**Nuclear Regulatory Commission****NOTICES**

Committees; establishment, renewal, termination, etc.:

Nuclear Waste Advisory Committee; future meeting procedures, 61416–61417

Environmental statements; availability, etc.:

Shaw Environmental, Inc., 61417–61418

Meetings:

Nuclear Waste Advisory Committee, 61418–61419

Reports and guidance documents; availability, etc.:

Nuclear Power Facilities; EPRI/NRC-RES Fire PRA Methodology, 61419–61420

*Applications, hearings, determinations, etc.:*

USEC, Inc., 61411–61416

**Office of National Drug Control Policy**

*See* National Drug Control Policy Office

**Postal Rate Commission****NOTICES**

Visits to facilities, 61420

**Rural Utilities Service****NOTICES**

Grants and cooperative agreements; availability, etc.:

Distance Learning and Telemedicine Program, 61340–61341

**Securities and Exchange Commission****NOTICES**

Agency information collection activities; proposals, submissions, and approvals, 61420–61421

Self-regulatory organizations; proposed rule changes:

American Stock Exchange LLC, 61421–61422

Municipal Securities Rulemaking Board, 61422–61424

Options Clearing Corp., 61424–61425

Pacific Exchange, Inc., 61425–61426

**Small Business Administration****NOTICES**

Disaster loan areas:

Florida, 61426

Kansas, 61427

Minnesota, 61427

New York, 61427

South Carolina, 61427–61428

Small business size standards:

Nonmanufacturer rule; waivers—

General aviation turboprop aircraft with six or more passenger seats, 61428–61429

Miscellaneous Electrical Equipment and Components, 61429

Small arms ammunition, 61428

**Surface Transportation Board****NOTICES**

Meetings; Sunshine Act, 61433–61434

Railroad operation, acquisition, construction, etc.:

Burlington Northern & Santa Fe Railway Co., 61434

Railroad services abandonment:

Stockton Terminal and Eastern Railroad, 61435

**Transportation Department**

*See* Federal Aviation Administration

*See* National Highway Traffic Safety Administration

*See* Surface Transportation Board

**NOTICES**

Reports and guidance documents; availability, etc.:

Lawful role of air charter brokers, 61429–61431

**Treasury Department**

*See* Internal Revenue Service

**NOTICES**

Bonds, Treasury:

11-3/4 percent bonds (2005-2010); call for redemption, 61435

**Veterans Affairs Department****NOTICES**

Meetings:

Special Medical Advisory Group, 61436

Veterans' Rehabilitation Advisory Committee, 61436–61437

Reports and guidance documents; availability, etc.:  
Minority Veterans Advisory Committee; annual report,  
61437

---

**Reader Aids**

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

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**CFR PARTS AFFECTED IN THIS ISSUE**

---

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

**7 CFR****Proposed Rules:**

1032.....61323

**12 CFR**

308.....61301

**14 CFR**

39.....61305

150.....61438

**26 CFR**

1.....61309

602.....61309

**28 CFR****Proposed Rules:**

16.....61323

**32 CFR**

706 (5 documents) .....61311,

61312, 61313, 61314, 61316

**37 CFR****Proposed Rules:**

252.....61325

257.....61325

259.....61325

**47 CFR**

1.....61317

**Proposed Rules:**

54.....61334

**49 CFR**

571.....61322

# Rules and Regulations

Federal Register

Vol. 69, No. 200

Monday, October 18, 2004

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

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## FEDERAL DEPOSIT INSURANCE CORPORATION

### 12 CFR Part 308

RIN 3064-AC76

#### Rules of Practice and Procedure

**AGENCY:** Federal Deposit Insurance Corporation.

**ACTION:** Final rule; correction.

**SUMMARY:** The Federal Civil Monetary Penalties Inflation Adjustment Act of 1990, as amended, requires all Federal agencies with statutory authority to impose civil money penalties (CMPs) to evaluate and adjust those CMPs every four years. The Federal Deposit Insurance Corporation (FDIC) last adjusted the maximum amounts of CMPs under its jurisdiction in 2000. The FDIC is issuing this final rule to implement the required adjustments to its CMPs. The FDIC is also correcting a technical error as to one CMP that occurred when the FDIC last adjusted CMPs in 2000.

**DATES:** This rule is effective on December 31, 2004.

**FOR FURTHER INFORMATION CONTACT:** Philip P. Houle, Counsel, (202) 898-3722, Enforcement Unit, Legal Division, 550 17th Street, NW., Washington, DC 20429.

#### SUPPLEMENTARY INFORMATION

##### I. Background

The Debt Collection Improvement Act of 1996 (DCIA) amended section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990 (Inflation Adjustment Act) (28 U.S.C. 2461 note), to require the head of each Federal agency to enact regulations within 180 days of the enactment of the DCIA and at least once every four years thereafter, to adjust each CMP provided by law within the jurisdiction of the agency (with the exception of certain

specifically listed statutes) by the inflation adjustment formula set forth in section 5(b) of the Inflation Adjustment Act.

To satisfy the requirements of the DCIA, the FDIC is amending 12 CFR 308 of its regulations pertaining to its Rules of Practice and Procedure which address CMPs. The amount of each CMP which the FDIC has jurisdiction to impose has been increased according to the prescribed formula. The penalties were last adjusted in 2000 (65 FR 64887). Any increase in penalty amounts under the DCIA shall apply only to violations which occur after the effective date of the increase.

The FDIC is also implementing a technical correction of the maximum amount of tier three CMPs that may be assessed for violation of 12 U.S.C. 1817(c) involving the submission of certified statements to the FDIC for determining institutions' semiannual deposit insurance assessments. Although the FDIC had stated in the preamble to the 2000 final rule that the CMP was to be adjusted from \$1,100,000 to \$1,175,000, the CMP was not actually adjusted due to a technical error in the publication of the final rule (65 FR 64887). Under their own rulemaking, other Federal banking agencies did successfully adjust this CMP from \$1,100,000 to \$1,175,000 in 2000.

If the \$1,100,000 CMP were now adjusted using the 17.2% CPI figure for the June 1996 to June 2003 period (as with those CMPs that were last adjusted to a higher amount in 1996), this CMP's maximum amount would be increased to \$1,300,000 rather than to the lower \$1,250,000 amount that is actually adopted in this final rule and correction. In the interests of fairness to respondents and consistency with other Federal banking agencies, the FDIC is making a technical correction that increases the \$1,100,000 CMP to \$1,175,000 for the June 1996 to June 1999 period and also adjusts the corrected CMP from \$1,175,000 to \$1,250,000 for the June 2000 to June 2003 period.

The correction and the adjustments are being made simultaneously and prospectively. This rulemaking shall become a final rule on publication in the **Federal Register** and shall be effective as of December 31, 2004.

#### Summary of Calculation

The Inflation Adjustment Act requires that each CMP amount be increased by the "cost of living" adjustment, which is defined as the percentage by which the Consumer Price Index (CPI-U)<sup>1</sup> for the month of June of the calendar year preceding the adjustment exceeds the CPI for the month of June of the calendar year in which the amount of the CMP was last set or adjusted pursuant to law. Any increase is to be rounded to the nearest multiple of: (A) \$10 in the case of penalties less than or equal to \$100; (B) \$100 in the case of penalties greater than \$100 but less than or equal to \$1,000; (C) \$1,000 in the case of penalties greater than \$1,000 but less than or equal to \$10,000; (D) \$5,000 in the case of penalties greater than \$10,000 but less than or equal to \$100,000; (E) \$10,000 in the case of penalties greater than \$100,000 but less than or equal to \$200,000; and (F) \$25,000 in the case of penalties greater than \$200,000.

Under the DCIA, the first adjustment may not exceed ten percent of the current penalty amount.<sup>2</sup>

#### Example

The following example explains the inflation adjustment calculation for CMP amounts that were last adjusted in 2000. Under 12 U.S.C. 1818(i), as adjusted at 12 CFR 308.132(c), the FDIC may impose a daily maximum Tier Three CMP not to exceed \$1,175,000 for violating certain laws.

First, the appropriate CPI-U is determined. The statute requires the FDIC to use the CPI-U for June of the calendar year preceding the year of adjustment. Since the FDIC is adjusting the CMP in 2004, the CPI-U for June 2003, which was 183.7, is used. The statute also requires the FDIC to use the CPI-U for June of the year that the CMP

<sup>1</sup> The CPI-U is compiled by the Bureau of Statistics of the Department of Labor. To calculate the adjustment, the FDIC used the Department of Labor, Bureau of Labor Statistics B All Urban Consumers tables to arrive at the CPI-U value.

<sup>2</sup> For penalties that were increased in 1996 but were not increased at the last quadrennial adjustment in 2000, the relevant computation is the CPI-U for June 1996 (156.7) and the CPI-U for June 2003, which produces a 17.2% adjustment. If a penalty has never previously been adjusted (as is the case with the single-violation penalty under 42 U.S.C. 4012a(f)), the maximum increase for a first-time adjustment is 10% under 28 U.S.C. 2461 note, rather than the 24.1% increase in the CPI-U for the intervening period.

was last set by law or adjusted for inflation. Because the FDIC last adjusted the CMP in 2000, the CPI-U for June 2000, which was 172.4, is used.

Next, the cost of living adjustment or inflation factor is then calculated by dividing the CPI-U for June 2003 (183.7) by the CPI-U for June 2000 (172.4). The result is 1.066 (i.e., a 6.6 percent increase).

Third, the raw inflation adjustment is calculated by multiplying the maximum CMP amount by the percentage increase. In this example, \$1,175,000 is multiplied by 6.6 percent, which equals \$77,550.

Fourth, the raw inflation adjusted amount is rounded according to the rounding rules in section 5(a) of the Inflation Adjustment Act. Under the rounding rules, if the penalty is greater than \$200,000, the increase is rounded to the nearest multiple of \$25,000. Therefore, the maximum penalty increase in this example is \$75,000 (i.e., \$77,500 rounded to the nearest multiple of \$25,000).

Fifth, the rounded increase is added to the current maximum CMP amount that is being adjusted. In this example, \$1,175,000 plus \$75,000 yields a new

maximum inflation adjusted CMP amount of \$1,250,000.

*Summary of Adjustments*

Under the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461 note), the FDIC must adjust for inflation the civil monetary penalties in statutes under which it has authority to assess penalties. The following chart displays the adjusted civil money penalty amounts for the enumerated statutes. The amounts in this chart apply to violations that occur after December 31, 2004:

U.S. Code Citation	Current maximum amount	New maximum amount
12 U.S.C. 1817(a)		
Tier One CMP .....	2,200	2,200
Tier Two CMP .....	22,000	27,000
Tier Three CMP .....	1,175,000	1,250,000
12 U.S.C. 1817(c)		
Tier One CMP .....	2,200	2,200
Tier Two CMP .....	22,000	27,000
Tier Three CMP .....	<sup>3</sup> 1,175,000	1,250,000
12 U.S.C. 1817(j)		
Tier One CMP .....	5,500	6,500
Tier Two CMP .....	27,500	32,500
Tier Three CMP .....	1,175,000	1,250,000
12 U.S.C. 1818(i)(2)		
Tier One CMP .....	5,500	6,500
Tier Two CMP .....	27,500	32,500
Tier Three CMP .....	1,175,000	1,250,000
12 U.S.C. 1820(e)(4)	5,500	6,500
12 U.S.C. 1828(a)(3)	110	110
12 U.S.C. 1828(h)	110	110
12 U.S.C. 1829b(j)	11,000	11,000
12 U.S.C. § 1832(c)	1,100	1,100
12 U.S.C. 1884	110	110
12 U.S.C. 1972(2)(F)		
Tier One CMP .....	5,500	6,500
Tier Two CMP .....	27,500	32,500
Tier Three CMP .....	1,175,000	1,250,000
12 U.S.C. 3108(b)		
Tier One CMP .....	5,500	6,500
Tier Two CMP .....	27,500	32,500
Tier Three CMP .....	1,175,000	1,250,000
12 U.S.C. 3349(b)		
Tier One CMP .....	5,500	6,500
Tier Two CMP .....	27,500	32,500
Tier Three CMP .....	1,175,000	1,250,000
12 U.S.C. 3909(d)	1,100	1,100
12 U.S.C. 4717(b)		
Tier One CMP .....	5,500	6,500
Tier Two CMP .....	27,500	32,500
Tier Three CMP .....	1,175,000	1,250,000
15 U.S.C. 78u-2		
Tier One CMP (individuals) .....	5,500	6,500
Tier One CMP (others) .....	60,000	65,000
Tier Two CMP (individuals) .....	60,000	65,000
Tier Two CMP (others) .....	300,000	325,000
Tier Three CMP (individuals) .....	120,000	130,000
Tier Three penalty (others) .....	575,000	625,000
31 U.S.C. 3802	5,500	6,500
42 U.S.C. 4012a(f)		
Maximum CMP per violation .....	350	385
Maximum CMPs per year .....	115,000	125,000

<sup>3</sup> As noted, the FDIC is simultaneously and prospectively: (A) Correcting the technical error that occurred in 2000 when this CMP was not actually adjusted, by now increasing the CMP from a maximum of \$1,100,000 to \$1,175,000 for the June 1996 to June 1999 period and (B) adjusting the CMP the maximum from \$1,175,000 to \$1,250,000 for the June 2000 to June 2003 period.

## II. Section-by-Section Analysis

### Section 308.116(b)

Section 308.116(b) pertains to the amount of any CMP that may be assessed for violations of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)). This section has been amended by increasing the: (A) Tier One CMP amount from \$5,500 for each day the violation continues to \$6,500 for each day that the violation continues; (B) Tier Two CMP amount from \$27,500 for each day that the violation continues to \$32,500 for each day that the violation continues; and (C) Tier Three CMP amount from \$1,175,000 to \$1,250,000 for each day that the violation continues or, in the case of a depository institution, increasing the CMP from an amount not to exceed the lesser of \$1,250,000 or one percent of the total assets of the institution for each day that the violation continues. Section 308.116(b)(4) has also been amended by revising the date after which the adjusted CMPs will apply to violations covered by § 308.116 by deleting "November 12, 1996" and replacing it with "December 31, 2004."

### Section 308.132

Section 308.132 pertains to the manner in which the FDIC assesses CMPs. Paragraph (c)(2) of that section pertains to the CMPs imposed pursuant to section 7(a) of the Federal Deposit Insurance Act (FDIA) (12 U.S.C. 1817(a)) for the late filing of a bank's Reports of Condition and Income (Call Reports) or for the submission of false or misleading Call Reports or information. With respect to late filings, paragraph (c)(2)(ii) of § 308.132 has been amended to reflect the increase in the Tier Two CMP amount from a maximum of \$22,000 per day to \$27,000 per day for each day the failure to file continues. No change has been made to the Tier One CMP. Paragraph (c)(2)(ii) of § 308.132 has also been amended by revising the date after which the adjusted CMPs will apply to violations covered by that paragraph by deleting "November 12, 1996" and replacing it with "December 31, 2004."

Paragraph (c)(2)(iii) of § 308.132 pertains to CMPs for the submission of false or misleading Call Reports or information. Paragraph (c)(2)(iii)(B) of that section has been amended to reflect the increase in Tier Two CMP amounts from a maximum of \$22,000 per day for each day that the information is not corrected to a maximum of \$27,000 per day for each day that the information is not corrected. Paragraph (c)(2)(iii)(C) of that section reflects the increase in Tier Three CMPs from an amount not to

exceed the lesser of \$1,175,000 or one percent of the total assets of the institution for each day the information is not corrected to an amount not to exceed the lesser of \$1,250,000 or one percent of the total assets of such institution for each day the information is not corrected. No change has been made to the Tier One CMP amount. Paragraphs (c)(2)(iii)(B) and (C) have also been amended by revising the date after which the adjusted CMPs will apply to violations covered by paragraph (c)(2)(iii) by deleting "November 12, 1996" in both paragraphs and replacing it in both paragraphs with "December 31, 2004."

Paragraph (c)(3)(i) of § 308.132 sets forth the increases for CMPs assessed pursuant to section 8(i)(2) of the FDIA (12 U.S.C. 1818(i)(2)). A Tier One CMP will increase from a maximum of \$5,500 per day to a maximum of \$6,500 per day for each day that the violation continues. A Tier Two CMP will increase from a maximum of \$27,500 per day to a maximum of \$32,500 per day for each day that the violation, practice, or breach of fiduciary duty continues. A Tier Three CMP will increase from an amount not to exceed, in the case of any person other than an insured depository institution, \$1,175,000 to a maximum of \$1,250,000 or, in the case of any insured depository institution, the amount will increase from a maximum of \$1,175,000 to \$1,250,000 or an amount not to exceed the lesser of \$1,250,000 or one percent of the total assets of such institution for each day during which the violation, practice, or breach continues.

Paragraph (c)(3)(i)(A) of § 308.132 lists a number of statutes which grant jurisdiction to the FDIC to assess CMPs under section 8(i)(2) of the FDIA for violation thereof, including the Home Mortgage Disclosure Act (12 U.S.C. 2804 *et seq.* and 12 CFR 203.6), the Expedited Funds Availability Act (12 U.S.C. 4001 *et seq.*), the Truth in Savings Act (12 U.S.C. 4301 *et seq.*), the Real Estate Settlement Procedures Act (12 U.S.C. 2601 *et seq.* and 12 CFR 3500), the Truth in Lending Act (15 U.S.C. 1601 *et seq.*), the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*), the Equal Credit Opportunity Act (15 U.S.C. 1691 *et seq.*), the Fair Debt Collection Practices Act (15 U.S.C. 1692 *et seq.*), the Electronic Funds Transfer Act (15 U.S.C. 1693 *et seq.*), and the Fair Housing Act (42 U.S.C. 3601 *et seq.*). Increases in the amount of any CMP which the FDIC may assess for violation of those statutes are the same as the increases for CMPs under section 8(i)(2) of the FDIA (12 U.S.C. 1818(i)(2)) cited above. As in section 8(i)(2) of the FDIA,

Tier One, Tier Two, and Tier Three CMP amounts will increase accordingly.

Paragraph (c)(3)(ii) of § 308.132 reflects the increases in CMP amounts that may be assessed pursuant to section 7(c) of the FDIA (12 U.S.C. 1817(c)) for late filing or the submission of false or misleading certified statements. A Tier Two CMP pursuant to section 7(c)(4)(B) of the FDIA (12 U.S.C. 1817(c)(4)(B)) will increase from an amount not to exceed \$22,000 per day to an amount not to exceed \$27,000 for each day during which the failure to file continues or the false or misleading information is not corrected. As noted above, a Tier Three CMP which may be assessed pursuant to section 7(c)(4)(C) of the FDIA (12 U.S.C. 1817(c)(4)(B)) will be corrected for the June 1996 to June 1999 period from an amount not to exceed the lesser of \$1,100,000 or one percent of the total assets of the institution for each day during which the failure to file continues or the false or misleading information is not corrected to exceed the lesser of \$1,175,000 or one percent of the total assets of the institution for each day during which the failure to file continues or the false or misleading information is not corrected. Also, a Tier Three CMP which may be assessed pursuant to section 7(c)(4)(C) of the FDIA (12 U.S.C. 1817(c)(4)(B)) will be adjusted for the June 2000 to June 2003 period by increasing it from an amount not to exceed the lesser of \$1,175,000 or one percent of the total assets of the institution for each day during which the failure to file continues or the false or misleading information is not corrected to an amount not to exceed the lesser of \$1,250,000 or one percent of the total assets of the institution for each day during which the failure to file continues or the false or misleading information is not corrected. No change has been made to the Tier One CMP amount.

Paragraph (c)(3)(iii) of § 308.132 sets forth the increases in the CMP amounts that may be assessed pursuant to section 10(e)(4) of the FDIA (12 U.S.C. 1820(e)(4)) for refusal to allow an examination or to provide required information during an examination. The maximum CMP amount will increase from \$5,500 to \$6,500.

Paragraph (c)(3)(ix) of § 308.132 sets forth the increases in the CMP amounts that may be assessed pursuant to the Bank Holding Company Act of 1970 for prohibited tying arrangements. A Tier One CMP which may be assessed pursuant to 12 U.S.C. 1972(2)(F)(i) will increase from a maximum of \$5,500 to a maximum of \$6,500. A Tier Two CMP which may be assessed under 12 U.S.C.

1972(2)(F)(ii) will increase from a maximum of \$27,500 to a maximum of \$32,500. A Tier Three CMP which may be assessed pursuant to 12 U.S.C. 1972(2)(F)(iii) will increase from an amount not to exceed, in the case of any person other than an insured depository institution \$1,175,000 for each day during which the violation, practice, or breach continues to an amount not to exceed \$1,250,000 for each day during which the violation, practice, or breach continues. In the case of any insured depository institution, a Tier Three CMP will increase from an amount not to exceed the lesser of \$1,175,000 or one percent of the total assets of such institution for each day during which the violation, practice, or breach continues to an amount not to exceed the lesser of \$1,250,000 or one percent of the total assets of such institution for each day during which the violation, practice, or breach continues.

Paragraph (c)(3)(x) of § 308.132 pertains to the assessment of CMPs under the International Banking Act of 1978 (IBA) (12 U.S.C. 3108(b)), for failure to comply with the requirements of the IBA, pursuant to section 8(i)(2) of the FDIA (12 U.S.C. 1818(i)(2)). The amount of these CMPs will increase in the amounts set forth in paragraph (c)(3)(i) of § 308.132 which contains the increases for section 8(i)(2) of the FDIA.

Paragraph (c)(3)(xi) of § 308.132 sets forth the increase in CMP amounts that may be assessed pursuant to section 8(i)(2) of the FDIA (12 U.S.C. 1818(i)(2)), as made applicable by 12 U.S.C. 3349(b), where a financial institution seeks, obtains, or gives any other thing of value in exchange for the performance of an appraisal by a person that the institution knows is not a state certified or licensed appraiser in connection with a federally-related transaction. Such CMP amounts will increase in the amounts set forth in paragraph (c)(3)(i) of § 308.132 which contains the increases for section 8(i)(2) of the FDIA.

Paragraph (c)(3)(xiii) of § 308.132 states that pursuant to the Community Development Banking and Financial Institution Act (CDBA) (12 U.S.C. 4717(b)) a CMP may be assessed for violation of the CDBA pursuant to section 8(i)(2) of the FDIA (12 U.S.C. 1818(i)(2)). Such CMP amounts will increase in the amounts set forth in paragraph (c)(3)(i) of § 308.132 which contains the increases for section 8(i)(2) of the FDIA.

Paragraph (c)(3)(xiv) of § 308.132 states that pursuant to section 21B of the Securities Exchange Act of 1934 (Exchange Act) (15 U.S.C. 78u-2), CMPs may be assessed for violations of certain

provisions of the Exchange Act, where such penalties are in the public interest. The Tier One CMP amounts which may be assessed pursuant to 15 U.S.C. 78u-2(b)(1) will increase from an amount not to exceed \$5,500 for a natural person or \$60,000 for any other person for violations set forth in 15 U.S.C. 78u-2(a), to \$6,500 for a natural person or \$65,000 for any other person. The Tier Two CMP which may be assessed pursuant to 15 U.S.C. 78u-2(b)(2) for each violation set forth in 15 U.S.C. 78u-2(a) will increase from an amount not to exceed \$60,000 for a natural person to \$300,000 for any other person to an amount not to exceed \$65,000 for a natural person or \$325,000 for any other person if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement. The Tier Three CMP which may be assessed pursuant to 15 U.S.C. 78u-2(b)(3) for each violation set forth in 15 U.S.C. 78u-2(a), in an amount not to exceed \$120,000 for a natural person or \$575,000 for any other person, if the act or omission involved fraud, deceit, manipulation, or deliberate or reckless disregard of a regulatory requirement, and such act or omission directly or indirectly resulted in substantial losses, or created a significant risk of substantial losses to other persons or resulted in substantial pecuniary gain to the person who committed the act or omission, will be increased to an amount not to exceed \$130,000 for a natural person or \$625,000 for any other person.

Paragraph (c)(3)(xv) of § 308.132 states that a CMP may be assessed for violation of the Program Fraud Civil Remedies Act (31 U.S.C. 3802) for violations involving false claims and statements. The maximum CMP amount will increase from \$5,500 to \$6,500. Paragraph (c)(3)(xvi) of § 308.132 states that CMPs may be assessed pursuant to the Flood Disaster Protection Act (FDPA) (42 U.S.C. 4012a(f)) against any regulated lending institution that engages in a pattern or practice of violations of the FDPA. The amount of the maximum penalty for each violation will increase from an amount not to exceed \$350 to an amount not to exceed \$385. The maximum amount of CMPs which may be assessed annually against a regulated lending institution will increase from an amount not to exceed a total of \$115,000 to an amount not to exceed a total of \$125,000.

Paragraph (c)(3) of § 308.132 has also been amended by revising the date after which the adjusted CMPs will apply to violations covered by that paragraph by deleting "November 12, 1996" and replacing it with "December 31, 2004."

### III. Exemption From Public Notice and Comment

The law requires the FDIC to amend its rules, provides the specific adjustments to be made and leaves the FDIC no discretion in calculating the amount of those adjustments, the changes are ministerial, technical, and noncontroversial. The FDIC has thus determined for good cause that public notice and comment is unnecessary and impracticable under the Administrative Procedure Act (5 U.S.C. 553(b)(3)(B)), and that the rule should be published in the **Federal Register** as a final rule.

### IV. Effective Date

For the same reasons that the FDIC for good cause has determined that public notice and comment is unnecessary and impractical, the FDIC also finds that it has good cause to adopt an effective date that would be less than 30 days after the date of publication in the **Federal Register** pursuant to the APA (5 U.S.C. 553(d)). In the interest of fairness, however, the increase in the maximum amount of civil money penalties in this regulation applies only to violations that occur after December 31, 2004, rather than to violations that occurred after the date of publication of this rule in the **Federal Register**. Moreover, section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (12 U.S.C. 4802) states that a final rule imposing new requirements must take effect on the first day of a calendar quarter following its publication. That section provides, however, that an agency may determine that the rule should take effect earlier upon a finding of good cause.

The FDIC also finds that the increase in the maximum amounts of CMPs under the FDIC's jurisdiction should be effective as of December 31, 2004 since the rule is ministerial, technical, and noncontroversial. Under the statute, agencies must make the required CMP inflation adjustments: (A) According to the formula in the statute and (B) within four years of the last inflation adjustment. Federal agencies have no discretion as to the amount or timing of the adjustment.

### V. Regulatory Flexibility Act

An initial regulatory flexibility analysis under the Regulatory Flexibility Act (RFA) (5 U.S.C. 603) is required only when an agency must publish a general notice of proposed rulemaking. As already noted, the FDIC has determined that publication of a notice of proposed rulemaking is not necessary for this final rule. Accordingly, the RFA does not require

an initial regulatory flexibility analysis. Nevertheless, the FDIC has considered the likely impact of the rule on small entities and believes that the rule will not have a significant impact on a substantial number of small entities.

#### VI. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Public Law 104-121, 110 Stat. 857) provides generally for agencies to report rules to Congress and for Congress to review such rules. The reporting requirement is triggered in instances where the FDIC issues a final rule as defined by the APA (5 U.S.C. 551 *et seq.*). Because the FDIC is issuing a final rule as defined by the APA, the FDIC will file the reports required by the SBREFA.

The Office of Management and Budget has determined that this final revision to 12 CFR 308 does not constitute a "major" rule as defined by the statute.

#### VII. The Treasury and General Government Appropriations Act, 1999 Assessment of Federal Regulations and Policies on Families

The FDIC has determined that this final rule will not affect family well-being within the meaning of section 654 of the Treasury and General Government Appropriations Act, 1999 (Public Law No. 105-277, 112 Stat. 2681 (1998)).

#### VIII. Paperwork Reduction Act

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) is contained in this rule. Consequently, no information has been submitted to the Office of Management and Budget for review.

#### IX. Authority for the Regulation

This regulation is authorized by the FDIC's general rulemaking authority and pursuant to its fundamental responsibilities to ensure the safety and soundness of insured depository institutions. Specifically, 12 U.S.C. 1819(a)(Tenth) provides the FDIC with general authority to issue such rules and regulations as it deems necessary to carry out the statutory mandates of the FDIA and other laws that the FDIC is charged with administering or enforcing.

#### List of Subjects in 12 CFR Part 308

Administrative practice and procedure, Banks, Banking, Claims, Crime, Equal access to justice, Ex parte communications, Hearing procedure,

Lawyers, Penalties, State nonmember banks.

■ For the reasons set out in the preamble, the FDIC amends 12 CFR 308 as follows:

#### PART 308—RULES OF PRACTICE AND PROCEDURE

■ 1. The authority for part 308 continues to read as follows:

**Authority:** 5 U.S.C. 504, 554-557; 12 U.S.C. 93(b), 164, 505, 1815(e), 1817, 1818, 1820, 1828, 1829, 1831i, 1831m(g)(4), 1831o, 1831p-1, 1832(c), 1884(b), 1972, 3102, 3108(a), 3349, 3909, 4717; 15 U.S.C. 78(h) and (i), 78o-4(c), 78o-5, 78q-1, 78s, 78u, 78u-2, 78u-3, 78w, 6801(b), 6805(b)(1); 28 U.S.C. 2461 note; 31 U.S.C. 330, 5321; 42 U.S.C. 4012a; Sec. 3100(s), Pub. L. 104-134, 110 Stat. 1321-358.

#### § 308.116 [Amended]

■ 2. Section 308.116 is amended by:

■ a. Paragraph (b)(4) is amended by removing "November 12, 1996" and adding "December 31, 2004" in its place.

■ b. Paragraph (b)(4)(i) is amended by removing \$5,500 and adding \$6,500 in its place.

■ c. Paragraph (b)(4)(ii) is amended by removing \$27,500 and adding \$32,500 in its place.

■ d. Paragraph (b)(4)(iii)(A) is amended by removing \$1,175,000 and adding \$1,250,000 in its place.

■ e. Paragraph (b)(4)(iii)(B) is amended by removing \$1,175,000 and adding \$1,250,000 in its place.

#### § 308.132 [Amended]

■ 3. Section 308.132 is amended by:

■ a. Paragraph (c)(2)(ii) is amended by removing "November 12, 1996" and adding "December 31, 2004" in its place.

■ b. Paragraph (c)(2)(ii) is amended by removing \$22,000 and adding \$27,500 in its place.

■ c. Paragraph (c)(2)(iii)(B) is amended by removing \$22,000 and adding \$27,500 in its place.

■ d. Paragraph (c)(2)(iii)(B) is amended by removing "November 12, 1996" and adding "December 31, 2004" in its place.

■ e. Paragraph (c)(2)(iii)(C) is amended by removing \$1,175,000 and adding \$1,250,000 in its place.

■ f. Paragraph (c)(2)(iii)(C) is amended by removing "November 12, 1996" and adding "December 31, 2004" in its place.

■ g. Paragraph (c)(3) is amended by removing "November 12, 1996" and adding "December 31, 2004" in its place.

■ h. Paragraph (c)(3)(i) is amended by removing \$5,500 and adding \$6,500 in its place, by removing \$27,500 and adding \$32,500 in its place, and by removing \$1,175,000 and adding \$1,250,000 in its place.

■ i. Paragraph (c)(3)(ii) is amended by removing \$22,000 and adding \$27,000 in

its place and by removing \$1,100,000 and adding \$1,250,000 in its place.<sup>4</sup>

■ j. Paragraph (c)(3)(iii) is amended by removing \$5,500 and adding \$6,500 in its place.

■ k. Paragraph (c)(3)(ix) is amended by removing \$5,500 and adding \$6,500 in its place, by removing \$27,500 and adding \$32,500 in its place, and by removing \$1,175,000 and adding \$1,250,000 in its place.

■ l. In paragraph (c)(3)(xiv) by removing \$5,500 and adding \$6,500 in its place, by removing \$60,000 and adding \$65,000 in its place, by removing \$300,000 and adding \$325,000 in its place, by removing \$120,000 and adding \$130,000 in its place, and by removing \$575,000 and adding \$625,000 in its place.

■ m. Paragraph (c)(3)(xv) is amended by removing \$5,500 and adding \$6,500 in its place.

■ n. Paragraph (c)(3)(xvi) is amended by removing \$350 and adding \$385 in its place and by removing \$115,000 and adding \$125,000 in its place.

Dated this 12th day of October, 2004.

By order of the Board of Directors.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. 04-23242 Filed 10-15-04; 8:45 am]

BILLING CODE 6714-01-P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. FAA-2004-19337; Directorate Identifier 2004-NM-155-AD; Amendment 39-13824; AD 2004-21-03]

RIN 2120-AA64

#### Airworthiness Directives; Gulfstream Model G-1159, G-1159A, G-1159B, and G-IV Series Airplanes

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

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

**SUMMARY:** The FAA is adopting a new airworthiness directive (AD) for all Gulfstream Model G-1159, G-1159A, G-1159B, and G-IV series airplanes. This AD requires a one-time inspection of the left and right aileron and elevator

<sup>4</sup> This provision simultaneously and prospectively implements both the: (A) Technical correction for the June 1996 to June 1999 period by increasing the tier three CMP for violation of 12 U.S.C. 1817(c) from \$1,100,000 to \$1,175,000 and (B) adjusts the corrected \$1,175,000 CMP by increasing the CMP to \$1,250,000 for the June 2000 to June 2003 period.

actuators to determine the part and serial numbers of each actuator, repetitive inspections of suspect actuators to detect broken damper shafts, and replacement of any actuator having a broken damper shaft. This AD also requires that operators report any broken damper shaft they find to the FAA. This AD also provides an optional terminating action for the repetitive inspection requirements of this AD. This AD is prompted by reports of broken or cracked damper shafts within the aileron and elevator actuator assemblies. We are issuing this AD to detect and correct broken damper shafts, which could result in locking of an aileron or elevator actuator (hard-over condition), subsequent loss of aileron or elevator control, and consequent reduced controllability of the airplane.

**DATES:** Effective November 2, 2004.

The incorporation by reference of certain publications listed in the AD is approved by the Director of the Federal Register as of November 2, 2004.

We must receive comments on this AD by December 17, 2004.

**ADDRESSES:** Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to <http://dms.dot.gov> and follow the instructions for sending your comments electronically.

- Government-wide rulemaking Web site: Go to <http://www.regulations.gov> and follow the instructions for sending your comments electronically.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street SW., Nassif Building, room PL-401, Washington, DC 20590.

- Fax: (202) 493-2251.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this AD, contact Gulfstream Aerospace Corporation, PO Box 2206, Mail Station D-10, Savannah, Georgia 31402-9980. You can examine this information at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030,

or go to: [http://www.archives.gov/federal\\_register/code\\_of\\_federal\\_regulations/ibr\\_locations.html](http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html).

You can examine the contents of this AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, on the plaza level of the Nassif Building, Washington, DC.

**Docket Management System (DMS)**

The FAA has implemented new procedures for maintaining AD dockets electronically. As of May 17, 2004, new AD actions are posted on DMS and assigned a docket number. We track each action and assign a corresponding directorate identifier. The DMS AD docket number is in the form "Docket No. FAA-2004-99999." The Transport Airplane Directorate identifier is in the form "Directorate Identifier 2004-NM-999-AD." Each DMS AD docket also lists the directorate identifier ("Old Docket Number") as a cross-reference for searching purposes.

**Examining the Dockets**

You can examine the AD docket on the Internet at <http://dms.dot.gov>, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647-5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the DMS receives them.

**FOR FURTHER INFORMATION CONTACT:**

*Technical information:* Gerald Avella, Aerospace Engineer, Systems and Equipment Branch, ACE-119A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703-6066; fax (770) 703-6097.

*Plain language information:* Marcia Walters, [marcia.walters@faa.gov](mailto:marcia.walters@faa.gov).

**SUPPLEMENTARY INFORMATION:** We have received a report from the airplane manufacturer, Gulfstream, that the damper shafts in two actuators broke

under normal torquing requirements during assembly of the actuators for a Gulfstream Model GV-SP airplane. Approximately one week after the original occurrence, a third actuator was found with a cracked damper shaft. In each case, the cracks originated at the threaded base of the damper shaft. In addition, the third actuator was found to be from a manufacturing lot previous to that of the other two actuators. Parker Aerospace, the actuator manufacturer, notified Gulfstream that the production process used after 1998 to manufacture aileron and elevator actuator damper shafts (internal to the actuator) may induce cracks in the threaded portion of the shaft. This cracking could cause the retaining nut and the separated portion of the failed damper shaft to become dislodged from the damper body and block the movement of the assembly. This condition, if not corrected, could result in locking of an aileron or elevator actuator (hard-over condition), subsequent loss of aileron or elevator control, and consequent reduced controllability of the airplane.

The affected aileron and elevator actuators installed on Gulfstream Model G-1159, G-1159A, G-1159B, G-IV, and GV series airplanes, are identical to those installed on Model GV-SP airplanes. Therefore, all of these models may be subject to the identified unsafe condition.

**Other Rulemaking for Additional Airplane Models**

Operators should note that, as we explained previously, Gulfstream Model GV and GV-SP series airplanes are subject to the same unsafe condition addressed in this AD. We are currently considering additional rulemaking to address the unsafe condition for those airplanes. However, because the unsafe condition is less severe for those models, the planned compliance time for that action would allow enough time to provide notice and opportunity for prior public comment on the merits of the corrective actions.

**Relevant Service Information**

We have reviewed the following Gulfstream alert customer bulletins:

TABLE—RELEVANT SERVICE INFORMATION

For model—	Alert customer bulletin—	Revision—	Dated—
G-1159 and G-1159B series airplanes .....	Gulfstream GII/GIIB Alert Customer Bulletin 29A .....	A	August 23, 2004.
G-1159A series airplanes .....	Gulfstream GIII Alert Customer Bulletin 15A .....	A	August 23, 2004.
G-IV series airplanes .....	Gulfstream G300 Alert Customer Bulletin 32A .....	A	August 23, 2004.
G-IV series airplanes .....	Gulfstream G400 Alert Customer Bulletin 32A .....	A	August 23, 2004.
G-IV series airplanes .....	Gulfstream GIV Alert Customer Bulletin 32A .....	A	August 23, 2004.

The alert customer bulletins describe procedures for a one-time inspection of the left and right aileron and elevator actuators to determine the part number (P/N) and serial number (S/N) of each actuator. The alert customer bulletins also describe procedures for an inspection of the actuators with certain P/Ns and S/Ns to detect broken damper shafts, and replacement of any actuator having a broken damper shaft with a new or serviceable actuator.

#### **FAA's Determination and Requirements of This AD**

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. Therefore, we are issuing this AD to detect and correct broken damper shafts, which could result in locking of an aileron or elevator actuator (hard-over condition), subsequent loss of aileron or elevator control, and consequent reduced controllability of the airplane. This AD requires accomplishing the actions specified in the service information described previously, except as discussed under "Differences Between the AD and Alert Customer Bulletins." This AD also requires that operators report any broken damper shafts found during the initial and repetitive inspections required by paragraph (h) of this AD to the FAA.

#### **Differences Between the AD and Alert Customer Bulletins**

The alert customer bulletins do not specify the type of inspection to use to determine the P/N and S/N of the actuators. We have determined that the location of the actuators will require access and possibly additional inspection aides, and therefore, this AD requires a general visual inspection to determine the P/N and S/N of the actuators. We have included the definition of a general visual inspection in this AD.

The alert customer bulletins do not specify what to do if an installed actuator either has a P/N and/or S/N that is missing or is unreadable. This AD requires that those actuators be inspected to detect broken damper shafts—as if they have a P/N and S/N listed in the alert customer bulletin.

The alert customer bulletins recommend a one-time inspection of the aileron and elevator actuators for broken damper shafts. However, a suspect damper shaft found undamaged during the initial inspection still has the potential to break at some time in the future. Because a one-time inspection alone would not provide the degree of safety necessary, we have determined

that repetitive inspections of the suspect actuators are necessary to ensure an adequate level of safety for the affected transport airplane fleet. We have also determined that an interval of 500 flight hours or 12 months, whichever is first, is an appropriate compliance time for the repetitive inspections. Although the alert customer bulletins do not include repetitive inspections, they do note that a recurring inspection will be added to the applicable airplane maintenance manual.

The alert customer bulletins also do not specify the type of inspection to use to detect broken damper shafts. We have determined that a detailed inspection for this action is appropriate; we have included the definition of this inspection in this AD. Therefore, this AD requires a detailed inspection to detect broken damper shafts. We have included the definition of a detailed inspection in this AD.

The alert customer bulletins specify replacing an actuator having a broken damper shaft, but they do not specify with what type of replacement actuator. This AD requires replacement with either:

- A new or serviceable actuator having a subject P/N and S/N listed in the alert customer bulletin, provided it has been inspected for broken damper shafts in accordance with the requirements of this AD; or
- A new or serviceable actuator having a P/N and/or S/N different than those listed in the alert customer bulletin. Replacing an actuator with an actuator having a different P/N and/or S/N terminates the requirements of this AD for that actuator only.

We are not requiring the terminating action (*i.e.*, replacement of all suspect actuators) at this time, because we have determined, and the actuator manufacturer has confirmed, that the necessary replacement actuators (with a P/N and/or S/N not listed in the applicable alert customer bulletin) are not yet available and will not be available for another 24 to 36 months. Therefore, we are providing the terminating action as an option for operators once those parts become available.

The alert customer bulletins do not recommend that findings of broken damper shafts be reported. This AD requires findings of all broken damper shafts be reported to the FAA. When the unsafe condition addressed by an AD is likely due to a manufacturer's quality control (QC) problem, a reporting requirement is instrumental in ensuring that we can gather as much information as possible regarding the extent and nature of the QC problem or breakdown,

especially in cases where the data may not be available through other established means. This information is necessary to ensure that proper corrective action will be taken. Based on the results of these reports, we may determine that further corrective action is warranted.

The Accomplishment Instructions of the referenced alert customer bulletins specify to submit the Service Reply Card or compliance information to the manufacturer. This AD does not include those actions; we do not need this information from operators.

#### **Clarification of Applicability**

The effectivities of the alert customer bulletins include all Model G-1159, G-1159A, G-1159B, and G-IV series airplanes, equipped with aileron or elevator actuators having certain P/Ns and S/Ns. Because there is no way to determine if an actuator with a suspect P/N and S/N is installed without inspecting the airplane, this AD applies to all Model G-1159, G-1159A, G-1159B, and G-IV series airplanes. We would, however, point out that the first action in the alert customer bulletins is an inspection to determine if an actuator having a certain P/N and S/N is installed.

#### **Interim Action**

This AD is considered to be interim action. The inspection reports that are required by this AD will enable us to obtain better insight into the nature and extent of the broken damper shafts, and eventually to develop final action to address the unsafe condition. Once final action has been developed and replacement parts are available, we may consider further rulemaking.

#### **Changes to 14 CFR Part 39/Effect on the AD Relating to Special Flight Permits**

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). This material is included in part 39, except that the office authorized to approve AMOCs is identified in each individual AD.

However, as amended, part 39 provides for the FAA to add special requirements for operating an airplane to a repair facility to do the work required by an airworthiness directive. For purposes of this AD, we have determined that such a special flight permit is prohibited.

**FAA’s Determination of the Effective Date**

An unsafe condition exists that requires the immediate adoption of this AD; therefore, providing notice and opportunity for public comment before the AD is issued is impracticable, and good cause exists to make this AD effective in less than 30 days.

**Comments Invited**

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed under **ADDRESSES**. Include “Docket No. FAA–2004–19337; Directorate Identifier 2004–NM–155–AD” at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD. We will consider all comments received by the closing date and may amend the AD in light of those comments.

We will post all comments we receive, without change, to <http://dms.dot.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of our docket web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You can review the DOT’s complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), or you can visit <http://dms.dot.gov>.

We are reviewing the writing style we currently use in regulatory documents. We are interested in your comments on whether the style of this document is clear, and your suggestions to improve the clarity of our communications with

you. You can get more information about plain language at <http://www/ faa.gov/language> and <http:// www.plainlanguage.gov>.

**Regulatory Findings**

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD 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.

For the reasons discussed above, I certify that the 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. 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.

We prepared a regulatory evaluation of the estimated costs to comply with this AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

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

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

**Adoption of the Amendment**

■ Accordingly, under the authority delegated to me by the Administrator, the FAA amends 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. The FAA amends § 39.13 by adding the following new airworthiness directive (AD):

**2004–21–03 Gulfstream Aerospace Corporation:** Amendment 39–13824. Docket No. FAA–2004–19337; Directorate Identifier 2004–NM–155–AD.

**Effective Date**

(a) This AD becomes effective November 2, 2004.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to all Gulfstream Model G–1159, G–1159A, G–1159B, and G–IV series airplanes; certificated in any category.

**Unsafe Condition**

(d) This AD is prompted by reports of broken or cracked damper shafts within the aileron and elevator actuator assemblies. The FAA is issuing this AD to detect and correct broken damper shafts, which could result in locking of an aileron or elevator actuator (hard-over condition), subsequent loss of aileron or elevator control, and consequent reduced controllability of the airplane.

**Compliance**

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

**Note 1:** This AD refers to certain portions of Gulfstream alert customer bulletins for applicability and inspection information. In addition, this AD specifies inspection requirements beyond those included in the alert customer bulletins. Where the AD and the alert customer bulletins differ, the AD prevails.

**Service Information References**

(f) The term “alert customer bulletin,” as used in this AD, means the Accomplishment Instructions of the Gulfstream alert customer bulletins, as applicable, specified in Table 1 of this AD. Although the applicable alert customer bulletin recommends completing and submitting the Service Reply Card or reporting compliance with the applicable alert customer bulletin, those actions are not required by this AD.

TABLE 1.—APPLICABLE GULFSTREAM ALERT CUSTOMER BULLETINS

For model—	Alert customer bulletin—	Revision—	Dated—
G–1159 and G–1159B series airplanes .....	Gulfstream GII/GIIB Alert Customer Bulletin 29A.	A	August 23, 2004.
G–1159A series airplanes .....	Gulfstream GIII Alert Customer Bulletin 15A ...	A	August 23, 2004.
G–IV series airplanes .....	Gulfstream G300 Alert Customer Bulletin 32A	A	August 23, 2004.
G–IV series airplanes .....	Gulfstream G400 Alert Customer Bulletin 32A	A	August 23, 2004.
G–IV series airplanes .....	Gulfstream GIV Alert Customer Bulletin 32A ...	A	August 23, 2004.

**Inspection To Determine Actuator Part and Serial Numbers**

(g) Within 50 flight hours after the effective date of this AD, do a one-time general visual inspection of the left and right aileron and elevator actuators to determine the part number (P/N) and serial number (S/N) of each actuator, in accordance with the applicable alert customer bulletin.

**Note 2:** For the purposes of this AD, a general visual inspection is: "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 ensure visual access to all 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."

**Initial and Repetitive Actuator Inspections and Corrective Action**

(h) For any actuator identified during the inspection required by paragraph (g) of this AD with a P/N and S/N listed in the applicable alert customer bulletin, and for actuators for which the P/N and/or S/N were missing or unreadable: Before further flight, do a detailed inspection of each identified actuator to detect a broken damper shaft, in accordance with the applicable alert customer bulletin.

**Note 3:** For the purposes of this AD, a detailed inspection is: "An intensive examination of a specific item, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at an intensity deemed appropriate.

Inspection aids such as mirror, magnifying lenses, etc., may be necessary. Surface cleaning and elaborate procedures may be required."

(1) If no damper shaft is found broken: Repeat the inspection required by paragraph (h) of this AD thereafter at intervals not to exceed 500 flight hours or 12 months, whichever occurs first.

(2) If any damper shaft is found broken: Before further flight, do the action specified in paragraph (h)(2)(i) or (h)(2)(ii) of this AD, in accordance with the applicable alert customer bulletin.

(i) Replace the actuator with a new or serviceable actuator having a P/N and S/N listed in the applicable alert customer bulletin, provided the new or serviceable actuator has been inspected in accordance with the requirements of paragraph (h) of this AD. Thereafter, repeat the inspection required by paragraph (h) of this AD at intervals not to exceed 500 flight hours or 12 months, whichever occurs first.

(ii) Replace the actuator with a new or serviceable actuator having a P/N and/or S/N not listed in the applicable alert customer bulletin. This replacement terminates the requirements of this AD for that actuator only.

**Optional Terminating Action**

(i) Replacement of all suspect actuators with new or serviceable actuators having a P/N and/or S/N not listed in the applicable alert customer bulletin terminates the requirements of this AD.

**Reporting Requirement**

(j) Submit a report of any broken damper shafts to the Manager, Atlanta Aircraft Certification Office (ACO), FAA, Small Airplane Directorate, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; fax (770) 703-6097. The report must be done at the applicable time

specified in paragraph (j)(1) or (j)(2) of this AD. The report must include the inspection date, the airplane model and S/N, the actuator position (left or right aileron or elevator), and the actuator P/N and S/N. Information collection requirements contained in this AD have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120-0056.

(1) If the inspection required by paragraph (h) of this AD was done after the effective date of this AD: Submit the report within 10 days after the inspection.

(2) If the inspection required by paragraph (h) of this AD was done before the effective date of this AD: Submit the report within 10 days after the effective date of this AD.

**Parts Installation**

(k) As of the effective date of this AD, no person may install an aileron or elevator actuator having a P/N and S/N specified in the applicable alert customer bulletin, on any airplane, unless the actuator has been inspected according to paragraph (h) of this AD.

**Special Flight Permit**

(l) Special flight permits (14 CFR 21.197 and 21.199) are not allowed.

**Alternative Methods of Compliance (AMOCs)**

(m) The Manager, Atlanta ACO, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

**Material Incorporated by Reference**

(n) You must use the service information that is specified in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise.

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Alert customer bulletin—	Revision—	Dated—
Gulfstream GII/GIIB Alert Customer Bulletin 29A .....	A	August 23, 2004.
Gulfstream GIII Alert Customer Bulletin 15A .....	A	August 23, 2004.
Gulfstream GIV Alert Customer Bulletin 32A .....	A	August 23, 2004.
Gulfstream G300 Alert Customer Bulletin 32A .....	A	August 23, 2004.
Gulfstream G400 Alert Customer Bulletin 32A .....	A	August 23, 2004.

The Director of the Federal Register approves the incorporation by reference of those documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. For copies of the service information, contact Gulfstream Aerospace Corporation, P.O. Box 2206, Mail Station D-10, Savannah, Georgia 31402-9980. You can review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL-401, Nassif Building, Washington, DC; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741-6030, or go to [http://www.archives.gov/federal\\_register/](http://www.archives.gov/federal_register/)

*code\_of\_federal\_regulations/ibr\_locations.html.*

Issued in Renton, Washington, on October 4, 2004.

**Kalene C. Yanamura,**

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

[FR Doc. 04-23027 Filed 10-15-04; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF THE TREASURY**

**Internal Revenue Service**

**26 CFR Parts 1 and 602**

[TD 9144]

**RIN 1545-BA75**

**Statutory Options; Correction**

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Correcting amendment.

**SUMMARY:** This document corrects final regulations (TD 9144) that were

published in the **Federal Register** on Tuesday, August 3, 2004 (69 FR 46401).

The document contains final regulations relating to statutory options. These final regulations affect certain taxpayers who participate in the transfer of stock pursuant to the exercise of incentive stock options and the exercise of options granted pursuant to an employee stock purchase plan (statutory options).

**DATES:** This document is effective on August 3, 2004.

**FOR FURTHER INFORMATION CONTACT:** Erinn Madden, (202) 622-6030 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:**

**Background**

The final regulations (TD 9144) that is the subject of this correction are under sections 421, 422, and 424 of the Internal Revenue Code.

**Need for Correction**

As published, the final regulations (TD 9144) contains errors that may prove to be misleading and are in need of clarification.

**List of Subjects**

*26 CFR Part 1*

Income taxes, Reporting and recordkeeping requirements.

*26 CFR Part 602*

Reporting and recordkeeping requirements.

**Correction of Publication**

■ Accordingly, 26 CFR parts 1 and 602 are corrected by making the following correcting amendments:

**PART 1—INCOME TAXES**

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

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

**§ 1.421-1 [Corrected]**

■ 1. Section 1.421-1(g), fifth sentence, the language “See § 1.422-1(b)(3) *Example 3.*” is removed and the language “See § 1.422-1(b)(3) *Example 2.*” is added in its place.

■ 2. Section 1.421-1(j)(2), third sentence, the language “For statutory options granted after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting on the granting corporation occurring 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section.” is removed and the language “For statutory options granted after June 9, 2003, and before the

earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring at least 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section.” is added in its place.

**§ 1.421-2 [Corrected]**

■ 3. Section 1.421-2(f)(2), second sentence, the language “For statutory options granted after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section.” is removed and the language “For statutory options granted after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation at least 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or section.” is added in its place.

**§ 1.422-1 [Corrected]**

■ 4. Section 1.422-1(b)(3), example 2, fourth sentence, the language “Additionally, at the time of the disposition, section 422 and § 1.422-1(a) no longer apply, and thus, section 83(a) is used to measure the consequences of the disposition.” is removed and the language “Additionally, at the time of the disposition, section 422 and § 1.422-1a) no longer apply, and thus, section 83(a) is used to measure the consequences of the disposition and the holding period for capital gain purposes begin on the vesting date, six months after exercise.” is added in its place.

**§ 1.422-5 [Corrected]**

■ 5. Section 1.422-5(e), tenth sentence, the language “Under the rules of paragraph (b)(3) of this section, A has sold all 60 of the non-section-1036 shares and 15 of the 40 section-1036 shares.” is removed and the language “Under the rules of paragraph (b)(2) and (b)(3) of this section, A has sold all 60 of the non-section-1036 shares and 15 of the 40 section-1036 shares.” is added in its place.

■ 6. Section 1.422-5(f)(2), third sentence, the language “For statutory options granted after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section.” is removed and the language “For statutory options granted after June 9, 2003, and before the earlier of January

1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring at least 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section.” is added in its place.

**§ 1.424-1 [Corrected]**

■ 7. Section 1.424-1(a)(3)(ii), first sentence, the language “A distribution (excluding an ordinary dividend or a stock split or stock dividend described in § 1.424-1(e)(v)) or change in the terms or number of outstanding shares of such corporation; and” is removed and the language “A distribution (excluding an ordinary dividend or a stock split or stock dividend described in § 1.424-1(e)(4)(v)) or change in the terms or number of outstanding shares of such corporation; and” is added in its place.

■ 8. Section 1.424-1(a)(10), *Example 8*, sixth sentence, the language “Based on these facts, a new option to purchase 200 shares of Y at an option price of \$25 per share could be granted to E in complete substitution of E’s old option.” is removed and the language “Based on these facts, and new option to purchase 200 shares of Y at an option price of \$25 per share could be granted to E in complete substitution of E’s old option. In the alternative, it would also be permissible in connection with the spin off, to grant E a new option to purchase 100 shares of Y, at an option price of \$25 per share, and E retains an option to purchase 100 shares of X under the old option, with the option price adjusted to \$25. However, because X is no longer a related corporation with respect to Y, E must exercise the option for 100 shares of X within three months from the date of the spin off for the option to be treated as a statutory option. See § 1.421-1(h).” is added in its place.

■ 9. Section 1.424-1(a)(10), paragraph (iii) of *Example 9*, third sentence, the language “Because the amendment of the plan to allow options on a different stock is considered the adoption of a new plan under § 1.422-2(b)(2)(iii), the stockholders of X must approve the plan within 12 months before or after the date of the amendment of the plan.” is removed and the language “Because the amendment of the plan to allow options on a different stock is considered the adoption of a new plan under § 1.422-2(b)(2)(iii), the stockholders of Y must approve the plan within 12 months before or after the date of the amendment of the plan.” is added in its place.

■ 10. Section 1.424-1(a)(10), paragraph (iii) of *Example 9*, fourth sentence, the language “If the stockholders of X timely approve the plan, the future grants to acquire Y stock will be incentive stock options (assuming the other

requirements of § 1.422-2 have been met)." is removed and the language "If the stockholders of Y timely approve the plan, the future grants to acquire Y stock will be incentive stock options (assuming the other requirements of § 1.422-2 have been met)." is added in its place.

■ 11. Section 1.424-1(c)(4)(vi), the last sentence is removed.

■ 12. Section 1.424-1(c)(4)(viii), second sentence, the language "Thus, for example, if the terms of an option are inadvertently changed on March 1 to extend the exercise period and the change is removed on November, then if the option is not exercised prior to November 1, the option is not considered modified under this paragraph (e)." is removed and the language "Thus for example, if the terms of an option are inadvertently changed on March 1 to extend the exercise period and the change is removed on November 1, then if the option is not exercised prior to November 1, the option is not considered modified under this paragraph (e)." is added in its place.

■ 13. Section 1.424-1(g)(2), third sentence, the language "For statutory options granted after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section." is removed and the language "For statutory options granted after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring at least 6 months after August 3, 2004, taxpayers may rely on either the REG-122917-02 or this section." is added in its place.

#### § 1.6039-1 [Corrected]

■ 14. Section 1.6039-1(g)(2), second sentence, the language "For statutory options transferred after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring 6 months after August 3, 2004, taxpayers may rely on either REG-122917-02 or this section." is removed and the language "For statutory options transferred after June 9, 2003, and before the earlier of January 1, 2006, or the first regularly scheduled stockholders meeting of the granting corporation occurring at least 6 months

after August 3, 2004, taxpayers may rely on either REG-122917-02 or this section." is added in its place.

### PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

■ **Par. 2.** The authority citation for part 602 continues to read as follows:

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

#### § 602.101 [Corrected]

■ 15. Section 602.101(b) is amended by adding the entry "1.422-1 \* \* \* 1545-0820" to the table in numerical order.

**Cynthia E. Grigsby,**

*Acting Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedures and Administration).*

[FR Doc. 04-22858 Filed 10-15-04; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF DEFENSE

### Department of the Navy

#### 32 CFR Part 706

#### Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

**AGENCY:** Department of the Navy, DoD.  
**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS VIRGINIA (SSN 774) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** Effective January 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Commander Scott A. Kenney, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC

20374-5066, Telephone number: (202) 685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty) of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS VIRGINIA (SSN 774) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Rule 21(c), pertaining to the arc of visibility of the sternlight; Annex I, section 2(a)(i), pertaining to the height of the masthead light; Annex I, section 2(k), pertaining to the height and relative positions of the anchor lights; and Annex I, section 3(b), pertaining to the location of the sidelights. The Deputy Assistant Judge Advocate General (Admiralty) has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

#### List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

■ Accordingly, 32 CFR part 706 is amended as follows:

#### PART 706—[AMENDED]

■ 1. The authority citation for 32 CFR part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

■ 2. Table One of § 706.2 is amended by adding, in numerical order, the following entry for the USS VIRGINIA:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Distance in meters of forward masthead light below minimum required height. §2(a)(i), Annex I
USS VIRGINIA SSN 774	2.9	

■ 3. Table Three of § 706.2 is amended by adding, in numerical order, the following entry for USS VIRGINIA:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE 3

Vessel	Number	Masthead lights arc of visibility; rule 21(a)	Side lights arc of visibility; rule 21(b)	Stern light arc of visibility; rule 21(c)	Side lights distance in-board of ship's sides in meters 3(b) annex 1	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; 2(K) annex 1	Anchor lights relationship of aft light to forward light in meters 2(K) annex 1
VIRGINIA	SSN 774			205°	4.37	11.05	2.8	0.03 below.

Approved: January 12, 2004.  
**S.A. Kenney,**  
*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).*

**Editorial Note:** This document was received at the Office of the Federal Register October 13, 2004.

[FR Doc. 04-23216 Filed 10-15-04; 8:45 am]  
**BILLING CODE 3810-FF-P**

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 706**

**Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DOD.  
**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS JAMES E. WILLIAMS (DDG 95) is a vessel of the Navy which, due to its special construction and purpose, cannot fully

comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** *Effective Date:* July 9, 2004.

**FOR FURTHER INFORMATION CONTACT:** Commander Gregg A. Cervi, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000 Washington Navy Yard, DC 20374-5066 Telephone number: (202) 685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS JAMES E. WILLIAMS (DDG 95) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the

horizontal distance between the forward and after masthead lights; Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; and Annex I, paragraph 2(f)(ii), pertaining to the vertical placement of task lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ Accordingly, 32 CFR Part 706 is amended as follows:

Authority: 33 U.S.C. 1605.

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

**PART 706—[AMENDED]**

■ 1. The authority citation for 32 CFR Part 706 continues to read as follows:

■ 2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS JAMES E. WILLIAMS:

\* \* \* \* \*

Vessel	Number	Horizontal distance from the fore and aft centerline of the vessel in the athwartship direction
USS JAMES E. WILLIAMS .....	DDG 95 .....	1.89 meters.

■ 3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical

order, the following entry for USS JAMES E. WILLIAMS:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Obstruction angle relative ship's headings
USS JAMES E. WILLIAMS .....	DDG 95 .....	108.79 thru 112.50°.

■ 4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS JAMES E. WILLIAMS:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward mast-head light. Annex I, sec. 3(a)	Percentage horizontal separation attained
USS JAMES E. WILLIAMS .....	DDG 95 .....	X	X	X	14.6

Approved: July 9, 2004.

G.A. Cervi,

Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law).

[FR Doc. 04-23214 Filed 10-15-04; 8:45 am]

BILLING CODE 3810-FF-P

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 706**

**Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at

Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) (Acting) has determined that USS OKLAHOMA CITY (SSN 723) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** *Effective Date:* February 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Lieutenant Commander M. Robb Hyde,

JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) (Acting), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, Telephone number: (202) 685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) (Acting), under authority delegated by the Secretary of the Navy, has certified that USS OKLAHOMA CITY (SSN 723) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provision of 72

COLREGS without interfering with its special function as a naval ship: Rule 21(a), pertaining to the location of the masthead lights over the fore and aft centerline of the ship. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) (Acting) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ Accordingly, 32 CFR part 706 is amended as follows:

**PART 706—[AMENDED]**

■ 1. The authority citation for 32 CFR Part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

■ 2. Table Two of § 706.2 is amended by adding the following entry for USS OKLAHOMA CITY:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

TABLE TWO

Vessel	Number	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; § 2(K), Annex I	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of; Rule 30(a)(ii)	Side lights, distance below flight dk in meters; § 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; § 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; § 3(b), Annex I
USS OKLAHOMA CITY.	SSN 723 .....	0.41							

Approved: February 5, 2004.

**M.R. Hyde,**

*Lieutenant Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate, General (Admiralty and Maritime Law) (Acting).*

**Editorial Note.** This document was received at the Office of the Federal Register October 13, 2004.

[FR Doc. 04-23213 Filed 10-15-04; 8:45 am]

BILLING CODE 3810-FF-P

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 706**

**Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DOD.

**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and

exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has determined that USS CHUNG-HOON (DDG 93) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** January 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Commander Scott A. Kenney, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, Telephone number: (202) 685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C.

1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS CHUNG-HOON (DDG 93) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provisions of 72 COLREGS without interfering with its special function as a naval ship: Annex I, paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights; Annex I, paragraph 3(c), pertaining to placement of task lights not less than two meters from the fore and aft centerline of the ship in the athwartship direction; Annex I, paragraph 2(f)(i), pertaining to the placement of the masthead light or lights above and clear of all other lights and obstructions; and Annex I,

paragraph 2(f)(ii), pertaining to the vertical placement of task lights. The Deputy Assistant Judge Advocate General (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is

based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ Accordingly, 32 CFR Part 706 is amended as follows:

**PART 706—[AMENDED]**

■ 1. The authority citation for 32 CFR Part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

■ 2. Table Four, Paragraph 15 of § 706.2 is amended by adding, in numerical order, the following entry for USS CHUNG-HOON:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Horizontal distance from the fore and aft center-line of the vessel in the athwartship direction
USS CHUNG-HOON	DDG 93	1.95 meters.

■ 3. Table Four, Paragraph 16 of § 706.2 is amended by adding, in numerical

order, the following entry for USS CHUNG-HOON:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Obstruction angle relative ship's headings
USS CHUNG-HOON	DDG 93	108.38 thru 112.50°.

■ 4. Table Five of § 706.2 is amended by adding, in numerical order, the following entry for USS CHUNG-HOON:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. Annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward mast-head light. annex I, sec. 3(a)	Percentage horizontal separation attained
USS CHUNG-HOON	DDG 93	X	X	X	14.4

Dated: January 12, 2004.

**S.A. Kenney,**  
*Commander, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law).*

**Editorial Note:** This document was received at the Office of the Federal Register October 13, 2004.

[FR Doc. 04-23212 Filed 10-15-04; 8:45 am]

BILLING CODE 3810-FF-P

**DEPARTMENT OF DEFENSE**

**Department of the Navy**

**32 CFR Part 706**

**Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972**

**AGENCY:** Department of the Navy, DOD.  
**ACTION:** Final rule.

**SUMMARY:** The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has determined that USS PAUL HAMILTON (DDG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with certain provisions of the 72 COLREGS without interfering with its special function as a naval ship. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

**DATES:** January 12, 2004.

**FOR FURTHER INFORMATION CONTACT:** Commander S.A. Kenney, JAGC, U.S. Navy, Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), Office of the Judge Advocate General, Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374-5066, Telephone number: (202) 685-5040.

**SUPPLEMENTARY INFORMATION:** Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law), under authority delegated by the Secretary of the Navy, has certified that USS PAUL HAMILTON (DDG 60) is a vessel of the Navy which, due to its special construction and purpose, cannot fully comply with the following specific provision of 72 COLREGS without interfering with its special function as a naval ship: Annex I paragraph 3(a) pertaining to the location of the forward masthead light in the forward quarter of the vessel, and the horizontal distance between the forward and after masthead lights. The Deputy Assistant Judge Advocate General of the Navy (Admiralty and Maritime Law) has also certified that the lights involved are located in closest possible compliance with the applicable 72 COLREGS requirements. This amendment further provides notice that the Deputy Assistant Judge Advocate General (Admiralty and Maritime Law), has amended that certification to reflect that certain masthead lights on USS PAUL HAMILTON (DDG 60), previously

certified as not in compliance with 72 COLREGS, now comply with the applicable 72 COLREGS requirements, to wit: the arc of visibility of the forward masthead light is no longer obstructed, as required by Rule 21(a).

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

**List of Subjects in 32 CFR Part 706**

Marine safety, Navigation (water), and Vessels.

■ Accordingly, 32 CFR Part 706 is amended as follows:

**PART 706—[AMENDED]**

■ 1. The authority citation for 32 CFR Part 706 continues to read as follows:

**Authority:** 33 U.S.C. 1605.

**§ 706.2 [Amended]**

■ 2. Table Four, Paragraph 16 of § 706.2 is amended by deleting the entry for USS PAUL HAMILTON.

■ 4. Table Five of § 706.2 is amended by revising the entry for USS PAUL HAMILTON to read as follows:

**§ 706.2 Certifications of the Secretary of the Navy under Executive Order 11964 and 33 U.S.C. 1605.**

\* \* \* \* \*

Vessel	Number	Masthead lights not over all other lights and obstructions. annex I, sec. 2(f)	Forward mast-head light not in forward quarter of ship. annex I, sec. 3(a)	After mast-head light less than 1/2 ship's length aft of forward mast-head light. annex I, sec. 3(a)	Percentage horizontal separation attained
USS PAUL HAMILTON .....	DDG 60 .....	X	X	21.2	

Dated: January 12, 2004.

**S.A. Kenney,**

Commander, JAGC, U.S. Navy, Deputy  
Assistant Judge Advocate, General (Admiralty  
and Maritime Law).

**Editorial Note:** This document was  
received at the Office of the Federal Register  
October 13, 2004.

[FR Doc. 04-23211 Filed 10-15-04; 8:45 am]

BILLING CODE 3810-FF-P

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 1

[WT Docket No. 99-266; FCC 04-202]

#### Extending Wireless Telecommunications Services to Tribal Lands

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Final rules.

**SUMMARY:** In this rule, the Commission  
modifies limited aspects of the rules  
previously adopted in this proceeding to  
provide incentives for wireless  
telecommunications carriers to serve  
individuals living on tribal lands.  
Specifically, the Commission raises the  
wireline telephone penetration rate at  
which tribal lands are eligible for a  
bidding credit from 70 percent or less,  
to 85 percent or less. The Commission  
also increases the amount of the bidding  
credit available to carriers that pledge to  
deploy on and serve qualifying tribal  
lands.

**DATES:** Effective December 17, 2004.

**FOR FURTHER INFORMATION CONTACT:**  
Renee Crittendon or Michael Connelly,  
Wireless Telecommunications Bureau,  
at (202) 418-0620.

**SUPPLEMENTARY INFORMATION:** This is a  
summary of the Federal  
Communications Commission's *Third  
Report and Order*, FCC 04-202, adopted  
August 18, 2004, and released  
September 2, 2004. The full text of the  
*Third Report and Order* is available for  
public inspection during regular  
business hours at the FCC Reference  
Information Center, 445 12th St., SW.,  
Room CY-A257, Washington, DC 20554.  
The complete text may be purchased  
from the Commission's duplicating  
contractor: Best Copy & Printing, Inc.,  
445 12th Street, SW., Room CY-B402,  
Washington, DC 20554, telephone 800-  
378-3160, facsimile 202-488-5563, or  
via e-mail at [www.fcc@bcpiweb.com](mailto:www.fcc@bcpiweb.com).

## Synopsis of Report and Order

### I. Background

1. In June 2000, the Commission  
issued a *First Report and Order*, 65 FR  
47349, August 2, 2000 (*First R&O*)  
which established the tribal lands  
bidding credit program and limited  
availability of the credit to federally  
recognized tribal areas with telephone  
penetration rates equal to or less than 70  
percent, concluding that the bidding  
credits would assist tribal communities  
with the greatest need for access to  
telecommunications service. The  
Commission's *Second Report and Order*  
at 68 FR 23417, May 2, 2003, modified  
and clarified aspects of the bidding  
credit procedures, including: extending  
the deadline for obtaining the  
certifications from the applicable tribal  
governments from 90 to 180 days;  
clarifying the obligations of an assignee  
that has received the license from a  
licensee awarded a tribal lands bidding  
credit; requiring licensees to file an  
attachment along with their notification  
of construction; stating that it is  
providing coverage to 75 percent of the  
population of the tribal area for which  
the credit was awarded; and codifying  
penalties for failure to comply with  
build-out requirements, and failure to  
timely repay the bidding credit.

2. In the *Second Further Notice*, 18  
FCC Rcd 4775, March 14, 2003, the  
Commission sought comment on four  
discrete issues. First, the Commission  
asked whether it should reconsider or  
moderate the buildout obligations  
imposed on carriers in light of the lack  
of participation in the bidding credit  
program. Next, the Commission asked  
for comments on whether and how the  
bidding credit limit and formula might  
be modified to provide greater incentive  
for carriers to deploy facilities on tribal  
lands. Then, the Commission sought  
comment on whether it should adjust  
the bidding credit formula to  
incorporate data from the 2000 Census  
figures rather than the 1990 figures in  
calculating tribal penetration for  
purposes of determining eligibility for  
the credit. Finally, the Commission  
sought comment on allowing carriers  
who obtain tribal lands bidding credits,  
to obtain additional credit for extending  
their coverage to immediately adjacent  
non-tribal areas that also have low  
penetration rates.

### II. Discussion

#### A. Modifying the Construction Requirements of the Tribal Lands Bidding Credit

3. In the *Second Further Notice*, the  
Commission sought comment on

modifying the requirement that, within  
three years of grant of a license, a carrier  
must cover 75 percent of the tribal area  
for which the bidding credit was  
awarded. The Commission's underlying  
objective in applying the more stringent  
construction requirement was to  
encourage winning bidders that are  
committed to providing  
telecommunications services in Indian  
Country, and that will deploy those  
services rapidly. The Commission  
continues to believe that the heightened  
requirement serves those dual purposes,  
and believes that relaxing these  
requirements is not necessary to further  
the goals of the bidding credit program.  
The Commission also notes that should  
a carrier be unable to fulfill its  
construction requirement at the end of  
three years, it may seek a waiver from  
the relevant Commission rule.  
Therefore, the Commission determined  
not to modify the construction  
requirement. Rather, it strongly  
encourages parties to seek waivers of  
specific rules or file other requests for  
regulatory relief in those instances  
where greater flexibility than the rules  
allow would facilitate the provision of  
service to tribal lands. Also, because the  
Commission recognizes the unique  
sovereign status of Indian tribes, the  
trust relationship between the federal  
government and Indian tribes, and the  
Commission's ongoing federal  
obligation to guarantee the right of  
Indian tribes to self-government, the  
Commission declined to adopt a  
suggestion to allow applicants, as  
opposed to tribal governments, to certify  
compliance with certain baseline  
eligibility requirements.

#### B. Increasing the Bidding Credit Limit

4. In the *Second Further Notice*, the  
Commission asked commenters whether  
the current credit amounts were  
adequate or whether the bidding credit  
limit, as presently structured, was  
insufficient for applicants to recover  
costs for building on tribal lands.  
Determining that an increase in the  
bidding credit limit is warranted in  
order to further mitigate the economic  
risk associated with provision of  
service, the Commission adopted the  
following formula for calculating the  
credit amount. A winning bidder may  
receive a \$500,000 credit for up to the  
first 200 square miles (518 square  
kilometers) of qualifying tribal land  
within its license area. In instances  
where qualifying tribal lands within a  
license area exceed 200 square miles  
(518 kilometers), a winning bidder may  
receive an additional \$2500 per square  
mile (2.59 square kilometers), or  
\$500,000 for each additional 200 square

miles (518 square kilometers). All credits will be subject to a maximum limit based on the gross bid amount for the license for which the credit is sought. Where the gross bid amount is \$1 million or less, the cap will be 50 percent of the gross bid. Where the gross bid amount is greater than \$1 million and equal to or less than \$2 million, the cap will be \$500,000. Finally, where the gross bid amount exceeds \$2 million, the cap will be 35 percent of the gross bid.

#### C. Adjustment of the Eligibility Criteria Based on 2000 Census Data

5. In the *Second Further Notice*, the Commission noted that the statistics used in the initial notice for the tribal lands bidding credit program cited 1990 Census data, which showed that basic telecommunications service to Indian Country generally was well below the national average. The Commission sought comment on the advisability of using data from the 2000 Census, which indicated that average telephone penetration rates on tribal lands increased markedly during the 1990s, asking how that new information should be incorporated into the bidding credit formula.

6. While the increased rates in penetration, subscribership, and facilities deployment reflect the Commission's resolve in assuring that all Americans, including those living in Indian Country, have the benefits of access to basic telecommunications services, the Commission noted, nevertheless, that well over half of tribes continue to have penetration rates below our national average. The Commission therefore raised the telephone penetration level at which tribal lands are eligible for a credit. At the current 70 percent benchmark, based on the 2000 Census data, only a few dozen (out of nearly 450) federally recognized tribal lands would qualify under our rules for a tribal lands bidding credit. The Commission believes that raising the wireline telephone penetration benchmark from 70 to 85 percent will both increase the number of qualifying tribal lands eligible for this bidding credit program (to roughly 150) and provide a greater incentive for carriers to deploy facilities on tribal lands. The Commission also believes that an 85 percent benchmark for tribal lands bidding credit eligibility represents a balance between its efforts to expand the scope of, and encourage participation in, the existing tribal lands bidding credit program, with the Commission's objective to target those tribal communities with the greatest

need for access to telecommunications services.

#### D. Extending the Tribal Lands Bidding Credit to Adjacent Non-Tribal Areas With Low Penetration Rates

7. The Commission sought comment on a limited expansion of the bidding credit program that would allow carriers who obtain tribal lands bidding credits to obtain additional credit for extending their coverage to immediately adjacent non-tribal areas that have comparably low penetration rates, noting that certain areas abutting tribal lands often share the same characteristics as tribal lands (e.g., significant Native American population, income levels, terrain, etc.), but do not otherwise qualify for the tribal lands bidding credit. In particular, the Commission requested that commenters discuss how to define the geographic areas eligible for an additional credit, the appropriate certification process, and any other measures or conditions that should be adopted to safeguard the integrity of the process. The Commission also requested comment on its legal authority to extend the bidding credit in such a way.

8. While noting that it continues to seek ways to extend telecommunications service to all Americans, including providing incentives to carriers that will serve areas that might otherwise be neglected, the Commission decided not to extend the bidding credit program to adjacent non-tribal areas at this time. The Commission noted that, using Census tract data, the number of immediately adjacent non-tribal areas that would qualify for such a bidding credit (i.e., a tract wholly outside tribal lands with a telephone penetration rate equal to or less than eighty-five percent) is negligible. In particular, an estimated two percent of census tracts wholly outside but immediately adjacent to tribal lands have a telephone penetration rate equal to or less than 85 percent. Accordingly, it does not appear that expanding the bidding credit program to adjacent non-tribal areas with low penetration rates would have any marked impact on increased subscribership or facilities deployment for those areas. The Commission also noted that nothing in its rules prevents a licensee that has been awarded a tribal lands bidding credit from providing service to immediately adjacent, non-tribal areas.

### III. Procedural Matters

#### A. Final Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *First Report and Order and Further Notice of Proposed Rulemaking* and the *Second Report and Order and Second Further Notice of Proposed Rulemaking*. The Commission sought written public comment on the proposals in the *First Further Notice* and *Second Further Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

#### A. Need for, and Objectives of, the Third Report and Order

In this *Third Report and Order*, the Commission modifies rules previously adopted in the *First Report and Order* in this proceeding to provide incentives for wireless telecommunications carriers to serve individuals living on tribal lands. In that proceeding, the Commission authorized the grant of bidding credits to winning bidders who deploy facilities and provide service to federally-recognized tribal areas that have a wireline telephone subscription rate equal to or below 70 percent. In the present item, the Commission amends § 1.2110(f)(3)(i) of the Commission's rules to increase the wireline telephone subscription rate for a qualifying tribal land to equal to or less than 85 percent with the intention of increasing participation in the bidding credit program; it also amends §§ 1.2110(f)(3)(iii) and (iv) to increase the bidding credit available to applicants that deploy facilities on and provide wireless services to qualifying tribal lands. The objective of these actions, and of this *Third Report and Order*, is to address the need to provide incentives for carrier to provide wireless telecommunications services on generally underserved tribal lands. This *Third Report and Order* also addresses issues raised in the *Second Further Notice of Proposed Rulemaking*. In the *Second Further Notice*, the Commission requested comment on whether it should expand the use of bidding credits. Specifically, it sought comment as to whether to: (1) Modify the program's construction requirements; (2) increase the bidding credit limit; (3) adjust the eligibility criteria based on data from the 2000 Census; and (4) allow carriers who obtain tribal lands bidding credits, to obtain additional credit for extending their coverage to immediately adjacent non-tribal areas that also have low penetration rates.

The Commission believes that increasing the wireline telephone subscription rate at which tribal lands are eligible for a bidding credit to 85 percent or less, will have the effect of increasing participation in the program by increasing the number of qualifying tribes and providing additional incentives to carriers to enter into agreements with tribal governments to deploy wireless services within Indian Country. The Commission also believes that increasing the amount of bidding credit available will provide additional incentives to prospective wireless providers in Indian Country. Regarding the other issues raised, the Commission believes that the lack of a record supporting the proposed changes in the rules, as well as the availability of *ad hoc* or waiver process remedies, make it inappropriate to adopt those proposals as rules at this time. Specifically, the Commission does not believe that modifying the construction requirements or extending the bidding credit to adjacent, non-tribal lands will further the objectives of this *Third Report and Order*.

#### B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

No comments were filed that specifically addressed the rules and policies proposed in the IRFA.

#### C. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term "small entity" as having the same meaning as the terms "small business," "small organization," and "small governmental jurisdiction." In addition, the term "small business" has the same meaning as the term "small business concern" under the Small Business Act. A "small business concern" is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

**Cellular Licensees.** The SBA has developed a small business size standard for small businesses in the category "Cellular and Other Wireless Telecommunications." Under that SBA category, a business is small if it has 1,500 or fewer employees. According to the Bureau of the Census, only twelve firms from a total of 1238 cellular and other wireless telecommunications

firms operating during 1997 had 1,000 or more employees. Therefore, even if all twelve of these firms were cellular telephone companies, nearly all cellular carriers were small businesses under the SBA's definition. In addition, the Commission notes that there are 1807 cellular licenses; however, a cellular licensee may own several licenses. According to the most recent *Trends in Telephone Service* data, Industry Analysis Division, Wireline Competition Bureau, Table 5.3—Number of Telecommunications Service Providers that are Small Businesses (May 2002), 858 carriers reported that they were engaged in the provision of either cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio telephony services, which are placed together in that data. The Commission estimates that 291 of these are small under the SBA small business size standard. Accordingly, based on this data, the Commission estimates that not more than 291 cellular service providers will be affected by these revised rules.

**220 MHz Radio Service—Phase I Licensees.** The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a definition of small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the definition under the SBA rules applicable to "Cellular and Other Wireless Telecommunication" companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. According to the Bureau of the Census, only twelve firms from a total of 1238 cellular and other wireless telecommunications firms operating during 1997 had 1,000 or more employees. If this general ratio continues in 2002 in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business standard.

**220 MHz Radio Service "Phase II Licensees.** The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the 220 MHz *Third Report and Order*, the Commission adopted a small business size standard for defining "small" and "very small" businesses for purposes of determining their eligibility for special

provisions such as bidding credits and installment payments. This small business standard indicates that a "small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. A "very small business" is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed \$3 million for the preceding three years. The SBA has approved these small size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 683 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

**700 MHz Guard Band Licenses.** In the *700 MHz Guard Band Order*, the Commission adopted a small business size standard for "small businesses" and "very small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years. Additionally, a "very small business" is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to 9 bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

**Lower 700 MHz Band Licenses.** The Commission adopted criteria for defining three groups of small businesses for purposes of determining their eligibility for special provisions such as bidding credits. The Commission has defined a small business as an entity that, together with

its affiliates and controlling principals, has average gross revenues not exceeding \$40 million for the preceding three years. A very small business is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$15 million for the preceding three years. Additionally, the lower 700 MHz Service has a third category of small business status that may be claimed for Metropolitan/Rural Service Area (MSA/RSA) licenses. The third category is entrepreneur, which is defined as an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than \$3 million for the preceding three years. An auction of 704 licenses (one license in each of the 734 MSAs/RsAs and one license in each of the six Economic Area Groupings [EAGs]) commenced on August 27, 2002, and closed on September 18, 2002. Of the 740 licenses available for auction, 484 licenses were sold to 102 winning bidders. Seventy-two of the winning bidders claimed small business, very small business or entrepreneur status and won a total of 329 licenses.

*Private and Common Carrier Paging.* In the *Paging Second Report and Order*, the Commission adopted a small size standard for "small businesses" for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A small business is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding \$15 million for the preceding three years. The SBA has approved this definition. An auction of Metropolitan Economic Area (MEA) licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. At present, there are approximately 24,000 Private Paging site-specific licenses and 74,000 Common Carrier Paging licenses. According to the most recent *Trends in Telephone Service*, 608 carriers reported that they were engaged in the provision of either paging or "other mobile" services. Of these, the Commission estimates that 589 are small, under the SBA-approved small business size standard. The Commission estimates that the majority of private and common carrier paging providers would qualify as small entities under the SBA definition.

*Broadband Personal Communications Service (PCS).* The broadband PCS spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each

block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional small business size standard for "very small business" was added and is defined as an entity that, together with their affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 "small" and "very small" business bidders won approximately 40% of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission reaucted 347 C, D, E, and F Block licenses; there were 48 small business winning bidders. Based on this information, we conclude that the number of small broadband PCS licensees will include the 90 winning C Block bidders and the 93 qualifying bidders in the D, E, and F blocks plus the 48 winning bidders in the re-auction, for a total of 231 small entity PCS providers as defined by the SBA small business standards and the Commission's auction rules. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as "small" or "very small" businesses.

*Narrowband PCS.* The Commission has auctioned nationwide and regional licenses for narrowband PCS. There are 11 nationwide and 30 regional licensees for narrowband PCS. The Commission does not have sufficient information to determine whether any of these licensees are small businesses within the SBA-approved definition for radiotelephone companies. In March 2002, 106 MTA and BTA narrowband PCS licenses were granted to 4 licensees. Each of the licensees are small or very small businesses.

*Specialized Mobile Radio (SMR).* Pursuant to 47 CFR 90.814(b)(1), the Commission has established a small business size standard for purposes of auctioning 900 MHz SMR licenses, 800 MHz SMR licenses for the upper 200 channels, and 800 MHz SMR licenses for the lower 230 channels on the 800 MHz band as a firm that has had average annual gross revenues of \$15 million or less in the three preceding calendar years. The SBA has approved this small

business size standard for the 800 MHz and 900 MHz auctions. Sixty winning bidders for geographic area licenses in the 900 MHz SMR band qualified as small businesses under the \$15 million size standard. The auction of the 525 800 MHz SMR geographic area licenses for the upper 200 channels began on October 28, 1997, and was completed on December 8, 1997. Ten (10) winning bidders for geographic area licenses for the upper 200 channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard.

The auction of the 1,050 800 MHz SMR geographic area licenses for the General Category channels began on August 16, 2000, and was completed on September 1, 2000. Eleven (11) winning bidders for geographic area licenses for the General Category channels in the 800 MHz SMR band qualified as small businesses under the \$15 million size standard. In an auction completed on December 5, 2000, a total of 2,800 Economic Area licenses in the lower 80 channels of the 800 MHz SMR service were sold. Of the 22 winning bidders, 19 claimed "small business" status. Thus, 40 winning bidders for geographic licenses in the 800 MHz SMR band qualified as small business. In addition, there are numerous incumbent site-by-site SMR licensees on the 800 and 900 MHz band. The Commission awards bidding credits in auctions for geographic area 800 MHz and 900 MHz SMR licenses to firms that had revenues of no more than \$15 million in each of the three previous calendar years. This analysis applies to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than \$15 million. One firm has over \$15 million in revenues. The Commission assumes, for purposes of this analysis, that all of the remaining existing extended implementation authorizations are held by small entities, as that small business size standard is established by SBA.

#### D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

This *Third Report and Order* modifies a basic qualification for participation in the tribal lands bidding credit program. The Commission increases the wireline telephone subscription rate for an area to qualify for the tribal lands bidding credit from 70 percent or less to 85

percent or less. The Commission also increases the amount of bidding credit available that may be awarded to auction high bidders for deploying facilities on and providing service to qualifying tribal lands. The Commission does not propose any additional reporting, recordkeeping or compliance requirements.

#### E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small Entities.

In the *Third Report and Order*, the Commission first declined to modify the current construction requirements for a licensee that has been awarded a bidding credit for serving qualifying tribal lands, believing that the Commission's underlying objective (rapid deployment to underserved Indian Country) is best served by the current rules; this action will have no significant impact on small entities. Next, the Commission increased the amount of bidding credit to 500,000 dollars for the first 200 square miles of qualifying tribal lands, and 2,500 dollars for each additional square mile above the first 200 square miles; this action will have no significant negative impact on small entities. While the Commission considered leaving the existing bidding credit amount in place, it determined that increasing the bidding credit amount would provide a greater incentive for carriers and may benefit small entities that are capable of providing wireless services to Indian Country. The Commission also set the wireline telephone subscription rate for a qualifying tribal land at 85 percent or less, in order to increase the number of tribes whose lands qualify for the bidding credit; this action will have no significant impact on small entities. While the Commission considered implementing a benchmark above 85 percent or leaving the benchmark at 75 percent, it concluded that an 85 percent benchmark represents a balance

between its efforts to expand the scope of, and encourage participation in, the existing tribal lands bidding credit program, with the Commission's objective to target tribal communities with the greatest need for access to telecommunications services. Finally, the Commission declined to extend the tribal lands bidding credit to carriers serving adjacent, non-tribal lands, as it believed such action does not further the objective of this program; this action will not have a significant economic impact on small entities.

#### B. Paperwork Reduction Act Analysis

9. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198.

#### IV. Ordering Clauses

10. Pursuant to the authority of sections 1, 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(r), and 309(j), this *Third Report and Order* is adopted.

11. Pursuant to the authority of sections 4(i), 7, 303(c), 303(f), 303(g), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157, 303(c), 303(f), 303(g), 303(r), and 332, the rule changes specified in Appendix A are adopted.

12. The Commission's Consumer Information Bureau, Reference Information Center, shall send a copy of the *Third Report and Order*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

#### List of Subjects in 47 CFR Part 1

Communications common carriers, telecommunications.

Federal Communications Commission.

**Marlene H. Dortch,**  
Secretary.

#### Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR subpart Q of part 1 as follows:

#### PART 1—PRACTICE AND PROCEDURE

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

**Authority:** 47 U.S.C. 151, 154(i), 154(j), 155, 225, 303(r), 309 and 325(e).

■ 2. Amend § 1.2110 by revising paragraphs (f)(3)(i), (f)(3)(iii), and (f)(3)(iv) to read as follows:

#### § 1.2110 Designated entities.

\* \* \* \* \*

(f) \* \* \*

(3) \* \* \*

(i) Qualifying tribal land means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments, that has a wireline telephone subscription rate equal to or less than eighty-five (85) percent based on the most recently available U.S. Census Data.

\* \* \* \* \*

(iii) *Bidding credit formula.* Subject to the applicable bidding credit limit set forth in § 1.2110(f)(3)(iv), the bidding credit shall equal five hundred thousand (500,000) dollars for the first two hundred (200) square miles (518 square kilometers) of qualifying tribal land, and twenty-five hundred (2500) dollars for each additional square mile (2.590 square kilometers) of qualifying tribal land above two hundred (200) square miles (518 square kilometers).

(iv) *Bidding credit limit.* If the high bid is equal to or less than one million (1,000,000) dollars, the maximum bidding credit calculated pursuant to § 1.2110(f)(3)(iii) shall not exceed fifty (50) percent of the high bid. If the high bid is greater than one million (1,000,000) dollars, but equal to or less than two million (2,000,000) dollars, the maximum bidding credit calculated pursuant to § 1.2110(f)(3)(iii) shall not exceed five hundred thousand (500,000) dollars. If the high bid is greater than two million (2,000,000) dollars, the maximum bidding credit calculated pursuant to § 1.2110(f)(3)(iii) shall not exceed thirty-five (35) percent of the high bid.

\* \* \* \* \*

[FR Doc. 04-23187 Filed 10-15-04; 8:45 am]

BILLING CODE 6712-01-P

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 571**

RIN: 2127-AH80

**Federal Motor Vehicle Safety Standards; Low Speed Vehicles****AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Termination of rulemaking.

**SUMMARY:** The purpose of this document is to announce the termination of a rulemaking in which the agency had considered establishing performance criteria and tests for the existing requirements for low speed vehicles. After considering the amount of additional research that is still needed before the necessary criteria and tests can be finalized and proposed for public comment, and the absence of data showing a safety problem with current safety equipment, the agency has decided to terminate the rulemaking. The agency may pursue future research relative to low speed vehicles (LSV) as funding and priorities permit.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, contact Mr. William D. Evans, Office of Crash Avoidance Standards, phone (202) 366-2272. For legal issues, contact Christopher Calamita, Office of Chief Council, phone (202) 366-2992. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:****I. Background**

On June 17, 1998, NHTSA published a final rule establishing Federal Motor Vehicle Safety Standard (FMVSS) No. 500, "Low-speed vehicles," and added a definition of "low-speed vehicle" to 49 CFR 571.3 (63 FR 33194). This new FMVSS and vehicle classification responded to the growing public interest in using golf cars and other similarly sized small vehicles to make short trips for shopping and social/recreational purposes primarily within retirement or other self-contained communities. An LSV is defined in 49 CFR 571.3 as a 4-

wheeled motor vehicle, other than a truck, whose speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 mph) and not more than 40 kilometers per hour (25 mph) on a paved level surface<sup>1</sup>. Due to their small size, low operating speed and restricted area of use, LSVs are exempt from many of the FMVSSs that apply to conventional, higher speed motor vehicles. LSVs are not required to have doors or bumpers and are not required to meet any crashworthiness tests. However, FMVSS No. 500 does require LSVs certified for use on public roads to be equipped with certain safety equipment: headlamps, front and rear turn signal lamps, tail lamps, stop lamps, reflex reflectors, rearview mirrors, a parking brake, a windshield and a Type 1 or Type 2 seat belt assembly at each seating position. The standard currently does not contain performance criteria and test procedures for the safety equipment installed other than the following:

- A windshield that conforms to the FMVSS on glazing materials (49 CFR 571.205).
- A Vehicle Identification Number (VIN) that conforms to the requirements of 49 CFR part 565, Vehicle Identification Number.
- A Type 1 or Type 2 seat belt assembly conforming to 49 CFR 571.209, Seat belt assemblies, installed at each designated seating position.

NHTSA received Petitions for Reconsideration to the Final Rule from the Connecticut Department of Motor Vehicles, the Florida Department of Highway Safety and Motor Vehicles, and the American Association of Motor Vehicle Administrators (AAMVA). These organizations requested that NHTSA establish performance criteria and tests for the safety equipment required by FMVSS No. 500. NHTSA recognized that a requirement for LSVs to be equipped with an item of equipment without specifying its performance could result in the introduction of LSVs by different manufacturers whose safety equipment would not perform in an identical manner. NHTSA also recognized that

<sup>1</sup> In a separate rulemaking proceeding, NHTSA is considering possible amendments to this definition to allow certain trucks to be classified as LSVs (68 FR 68319).

allowing a manufacturer total freedom of choice regarding the performance of equipment might result in the installation of equipment that did not provide an adequate level of safety. NHTSA considered the Petitions for Reconsideration from Connecticut, Florida and AAMVA to be Petitions for Rulemaking and granted them in 2000.

**II. Decision To Withdraw Rulemaking**

NHTSA initiated a research plan in an effort to develop performance requirements for LSVs. Some research testing has been performed on LSVs relative to the safety equipment currently required by FMVSS No. 500. In addition, other equipment such as service brakes and seat belt assembly anchorages have been examined and tested. NHTSA still has further research and testing to complete on lighting photometric requirements, seat belt anchorages and service brakes. Research and testing has verified that LSVs are equipped with a variety of safety equipment with various performance characteristics. Some systems and equipment that vary widely in performance characteristics are lighting and service brake systems. However, due to the lack of crash data on LSVs it is difficult to determine the safety consequences of these variations in system performance. Searches in NHTSA's Fatal Analysis Reporting System (FARS) and the National Automotive Sampling System (NASS) have not provided any crash data involving LSVs. This may reflect police reporting practices that do not recognize LSVs as motor vehicles. After considering the amount of additional research that is still needed before the necessary performance criteria and test procedures could be finalized and proposed for public comment, and the absence of data showing a safety problem with current safety equipment, the agency has decided to terminate the rulemaking. The agency may pursue future research relative to LSVs as funding and priorities permit.

Issued on: October 7, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-23077 Filed 10-15-04; 8:45 am]

**BILLING CODE 4910-59-P**

# Proposed Rules

Federal Register

Vol. 69, No. 200

Monday, October 18, 2004

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 AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 1032

[Docket No. AO-313-A48; DA-04-06]

#### Milk in the Central Marketing Area; Delay of Hearing Date

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Proposed rule; notice of hearing delay.

**SUMMARY:** The Agricultural Marketing Service is delaying the hearing for the proposed rule that appeared in the **Federal Register** of September 22, 2004 (69 FR 56725), which gave notice of a public hearing being held to consider proposals that would amend certain provisions of the Central milk marketing order. The hearing was originally scheduled to begin October 18, 2004, and has been delayed until December 6, 2004.

**DATES:** The hearing will convene at 1 p.m. on Monday, December 6, 2004.

**ADDRESSES:** The hearing will be held at the Hilton Kansas City Airport, 8801 NW 112th Street, Kansas City, Missouri 64153; (816) 891-8900.

**FOR FURTHER INFORMATION CONTACT:** Jack Rower, Marketing Specialist, Order Formulation and Enforcement, USDA/AMS/Dairy Programs, STOP 0231—Room 2971, 1400 Independence Avenue, SW, Washington, DC 20250-0231, (202) 720-2357, e-mail address: [Jack.Rower@usda.gov](mailto:Jack.Rower@usda.gov).

**SUPPLEMENTARY INFORMATION:** In the proposed rule beginning on page 56725 of the **Federal Register** for Wednesday, September 22, 2004, the hearing dates in the third column on page 56725 is changed in both the **DATES** and **SUPPLEMENTARY INFORMATION** sections to read as follows:

**DATES:** The hearing will convene at 1:00 p.m. on Monday, December 6, 2004.

**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.

Notice is hereby given of a public hearing to be held at the Hilton Kansas City Airport, 8801 NW 112th Street, Kansas City, Missouri 64153; (816) 891-8900, beginning at 1 p.m., on Monday, December 6, 2004, with respect to proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Central milk marketing area. The hearing is being delayed to accommodate a request by industry participants for additional time to prepare for the hearing.

**Authority:** 7 U.S.C. 601-674.

Dated: October 13, 2004.

**A.J. Yates,**  
*Administrator, Agricultural Marketing Service.*

[FR Doc. 04-23351 Filed 10-14-04; 10:17 am]

**BILLING CODE 3410-02-P**

## DEPARTMENT OF JUSTICE

### 28 CFR Part 16

[AAG/A Order No. 014-2004]

#### Privacy Act of 1974; Implementation

**AGENCY:** Criminal Division, Department of Justice.

**ACTION:** Proposed rule.

**SUMMARY:** The Criminal Division (CRM), Department of Justice, proposes to amend its Privacy Act regulations to add exemptions for a newly-created Privacy Act system of records entitled "Organized Crime Drug Enforcement Task Force Fusion Center System," JUSTICE/CRM-028, as described in today's notice section of the **Federal Register**. The "Organized Crime Drug Enforcement Task Force Fusion Center System," JUSTICE/CRM-028, will be exempt from the subsections of the Privacy Act listed below for the reasons set forth in the following text. Information in this system of records relates to matters of law enforcement, and the exemptions are necessary to avoid interference with law enforcement responsibilities and to protect the privacy of third parties.

**DATES:** Submit any comments by November 17, 2004.

**ADDRESSES:** Address all comments to Mary Cahill, Management and Planning

Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building), Facsimile Number (202) 307-1853. To ensure proper handling, please reference the AAG/A Order No. on your correspondence. You may view an electronic version of this proposed rule at [www.regulations.gov](http://www.regulations.gov). You may also comment via the Internet to the DOJ/Justice Management Division at the following e-mail address: [DOJPrivacyACTProposedRegulations@usdoj.gov](mailto:DOJPrivacyACTProposedRegulations@usdoj.gov); or by using the [www.regulations.gov](http://www.regulations.gov) comment form for this regulation. When submitting comments electronically, you must include the AAG/A Order No. in the subject box.

**FOR FURTHER INFORMATION CONTACT:** Mary Cahill, (202) 307-1823.

**SUPPLEMENTARY INFORMATION:** This proposed rule seeks to amend 28 CFR 16.91 to add paragraphs (u) and (v) as set forth below. These new paragraphs exempt the "Organized Crime Drug Enforcement Task Force Fusion Center System," JUSTICE/CRM-028, from certain provisions of the Privacy Act of 1974, as amended.

This order relates to individuals rather than small business entities. Nevertheless, pursuant to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601-612, this order will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 28 CFR Part 16

Administrative practices and procedures, Courts, Freedom of Information, Sunshine Act and Privacy.

Pursuant to the authority vested in the Attorney General by 5 U.S.C. 552a and delegated to me by Attorney General Order No. 793-78, it is proposed to amend 28 CFR part 16 as follows:

#### PART 16—[AMENDED]

1. The authority citation for Part 16 continues to read as follows:

**Authority:** 5 U.S.C. 301, 552, 552a, 552b(g), and 553; 18 U.S.C. 4203(a)(1); 28 U.S.C. 509, 510, 534; 31 U.S.C. 3717 and 9701.

2. Section 16.91 is amended by adding paragraphs (u) and (v) as follows:

**§ 16.91 Exemption of Criminal Division Systems—limited access, as indicated.**

\* \* \* \* \*

(u) The following system of records is exempted pursuant to the provisions of 5 U.S.C. 552a(j) and/or (k) from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g) of 5 U.S.C. 552a.

Organized Crime Drug Enforcement Task Force Fusion Center System (JUSTICE/CRM-028). These exemptions apply only to the extent that information in this system is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k).

(v) Exemptions from the particular subsections are justified for the following reasons:

(1) From subsection (c)(3) because to provide the subject with an accounting of disclosures of records in this system could inform that individual of the existence, nature, or scope of an actual or potential law enforcement or counterintelligence investigation by the Organized Crime Drug Enforcement Task Force Fusion Center or the recipient agency, and could permit that individual to take measures to avoid detection or apprehension, to learn the identity of witnesses and informants, or to destroy evidence, and would therefore present a serious impediment to law enforcement or counterintelligence efforts. In addition, disclosure of the accounting would amount to notice to the individual of the existence of a record. Moreover, release of an accounting may reveal information that is properly classified pursuant to Executive Order 12958 (or successor or prior Executive Order) or a statute and could compromise the national defense or foreign policy.

(2) From subsection (c)(4) because this subsection is inapplicable to the extent that an exemption is being claimed for subsection (d)(1), (2), (3), and (4).

(3) From subsection (d)(1) because disclosure of records in the system could alert the subject of an actual or potential criminal, civil, or regulatory violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of confidential witnesses and informants, of the investigative interest of Organized Crime Drug Enforcement Task Force Fusion Center and other intelligence or law enforcement agencies (including those responsible for civil proceedings related to laws against drug trafficking or related financial crimes); lead to the destruction of evidence, improper influencing of witnesses, fabrication of testimony, and/or flight of the subject; reveal the details of a sensitive investigative or intelligence technique, or the identity of a confidential source; or otherwise impede, compromise, or

interfere with investigative efforts and other related law enforcement and/or intelligence activities. In addition, disclosure could invade the privacy of third parties and/or endanger the life, health, and physical safety of law enforcement personnel, confidential informants, witnesses, and potential crime victims. Access to records could also result in the release of information properly classified pursuant to Executive Order 12958 (or successor or prior Executive Order) or by statute, thereby compromising the national defense or foreign policy.

(4) From subsection (d)(2) because amendment of the records thought to be incorrect, irrelevant, or untimely would also interfere with ongoing investigations, criminal or civil law enforcement proceedings, and other law enforcement activities and impose an impossible administrative burden by requiring investigations, analyses, and reports to be continuously reinvestigated and revised.

(5) From subsections (d)(3) and (4) because these subsections are inapplicable to the extent exemption is claimed from (d)(1) and (2).

(6) From subsection (e)(1) because, in the course of its acquisition, collation, and analysis of information under the statutory authority granted to it, the Organized Crime Drug Enforcement Task Force Fusion Center will occasionally obtain information concerning actual or potential violations of law that are not strictly within its statutory or other authority or may compile information in the course of an investigation which may not be relevant to a specific prosecution. It is impossible to determine in advance what information collected during an investigation will be important or crucial to the apprehension of fugitives. In the interests of effective law enforcement, it is necessary to retain such information in this system of records because it can aid in establishing patterns of criminal activity and can provide valuable leads for federal and other law enforcement agencies. This consideration applies equally to information acquired from, or collated or analyzed for, both law enforcement agencies and agencies of the U.S. foreign intelligence community and military community.

(7) From subsection (e)(2) because in a criminal, civil, or regulatory investigation, prosecution, or proceeding, the requirement that information be collected to the greatest extent practicable from the subject individual would present a serious impediment to law enforcement because the subject of the investigation,

prosecution, or proceeding would be placed on notice as to the existence and nature of the investigation, prosecution, and proceeding and would therefore be able to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, thorough and effective investigation and prosecution may require seeking information from a number of different sources.

(8) From subsection (e)(3) (to the extent applicable) because the requirement that individuals supplying information be provided a form stating the requirements of subsection (e)(3) would constitute a serious impediment to law enforcement in that it could compromise the existence of a confidential investigation or reveal the identity of witnesses or confidential informants and endanger their lives, health, and physical safety. The individual could seriously interfere with undercover investigative techniques and could take appropriate steps to evade the investigation or flee a specific area.

(9) From subsection (e)(5) because the acquisition, collation, and analysis of information for law enforcement purposes from various agencies does not permit a determination in advance or a prediction of what information will be matched with other information and thus whether it is accurate, relevant, timely and complete. With the passage of time, seemingly irrelevant or untimely information may acquire new significance as further investigation brings new details to light and the accuracy of such information can often only be determined in a court of law. The restrictions imposed by subsection (e)(5) would restrict the ability of trained investigators, intelligence analysts, and government attorneys to exercise their judgment in collating and analyzing information and would impede the development of criminal or other intelligence necessary for effective law enforcement.

(10) From subsection (e)(8) because the individual notice requirements of subsection (e)(8) could present a serious impediment to law enforcement by revealing investigative techniques, procedures, evidence, or interest and interfering with the ability to issue warrants or subpoenas, and could give persons sufficient warning to evade investigative efforts.

(11) From subsection (g) because this subsection is inapplicable to the extent that the system is exempt from other specific subsections of the Privacy Act.

(12) In addition, exemption is claimed for this system of records from compliance with the following

provisions of 5 U.S.C. 552a pursuant to the provisions of 5 U.S.C. 552a(k); subsections (c)(3), (d), (e)(1), to the extent that the records contained in this system are specifically authorized to be kept secret in the interests of national defense and foreign policy.

Dated: October 9, 2004.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

[FR Doc. 04-23243 Filed 10-15-04; 8:45 am]

BILLING CODE 4410-14-P

## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Parts 252, 257, and 259

[Docket No. RM 2004-6 CARP]

#### Filing of Claims for Cable, Satellite, and DART Royalties

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Proposed rule.

**SUMMARY:** The Copyright Office of the Library of Congress is proposing to amend its regulations governing the filing of claims to allow for the on-line submission of cable, satellite, and DART claims and to require claimants file their claims by hand delivery or by mail using forms created by the Copyright Office.

**DATES:** Comments must be received no later than November 17, 2004.

**ADDRESSES:** If hand delivered by a private party, an original and five copies of comments should be brought to Room LM-401 of the James Madison Memorial Building and the envelope should be addressed as follows: Office of the General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000 between 8:30 a.m. and 5 p.m. If delivered by a commercial courier, an original and five copies of comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Streets, N.E. between 8:30 a.m. and 4 p.m. The envelope should be addressed as follows: Office of the General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. If sent by mail (including overnight delivery using U.S. Postal Service Express Mail), an original and five copies of comments should be addressed to: Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station,

Washington, DC. 20024. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, etc., due to delays in processing receipt of such deliveries.

**FOR FURTHER INFORMATION CONTACT:**

David O. Carson, General Counsel, or Gina Giuffreda, Attorney-Advisor, Copyright Arbitration Royalty Panel (CARP), PO Box 70977, Southwest Station, Washington, DC 20024. Telephone: (202) 707-8380. Telefax: (202) 252-3423.

**SUPPLEMENTARY INFORMATION:**

#### Background

The Copyright Act directs the Copyright Office to collect royalties paid by cable systems and satellite carriers for the retransmission of over-the-air broadcast signals, 17 U.S.C. 111(d)(4)(A), 119(b)(4)(A), respectively, as well as royalties paid by manufacturers and importers of digital audio recording devices and media ("DART") who distribute the products in the United States. 17 U.S.C. 1003. Eligibility to receive royalties from any of these three funds is predicated upon the submission of a claim during the time specified by statute: DART claims must be filed during the months of January and February, 17 U.S.C. 1007; cable and satellite claims must be filed during the month of July, 17 U.S.C. 111, 119.<sup>1</sup>

Prior to 2002, claims to the cable, satellite, and DART royalties generally were considered timely filed with the Copyright Office only if they were hand delivered to the correct location within the Copyright Office during the requisite month, or if the claim was mailed to the correct address and bore the appropriate U.S. Postal Service postmark. However, in October 2001, concerns about possible anthrax contamination of mail addressed to facilities in the District of Columbia caused severe disruptions of postal service to the Copyright Office.

<sup>1</sup> In any year in which the last day of February falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, DART claims received by the Copyright Office by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service by the first business day in March and bearing a U.S. postmark shall be considered timely filed. 37 CFR 259.5(b). Likewise, in any year in which July 31 falls on Saturday, Sunday, a holiday or other nonbusiness day within the District of Columbia or the Federal Government, cable and satellite claims received by the Copyright Office by the first business day in August or claims that are properly addressed and deposited with sufficient postage with the United States Postal Service by the first business day in August and bearing a U.S. postmark shall be considered timely filed. 37 CFR 252.4(b), 257.4(b).

See 66 FR 62942 (December 4, 2001) and 66 FR 63267 (December 5, 2001). As a result, the Copyright Office announced alternative methods for the filing of DART, cable, and satellite claims for the claim year 2001. See 67 FR 5213 (February 5, 2002) and 67 FR 21176 (April 30, 2002). Specifically, the Office waived its CARP regulations requiring that claims bear the original signature of the copyright owner claimant or of a duly authorized representative of the copyright owner claimant to allow the submission of claims via electronic mail as file attachments to specified mailboxes. 67 FR 5213 (February 5, 2002) and 67 FR 21176, 21177 (April 30, 2002). Additionally, since the volume of DART claims received by the Office is significantly lower than that of cable and satellite claims, the Office also waived its CARP regulation prohibiting the filing of claims by facsimile transmission and allowed DART claims to be filed via facsimile. See 67 FR 5214 (February 5, 2002).

Although mail delivery to the Copyright Office resumed, the Office continued to experience delays in the receipt of mail due in part to the diversion of all incoming mail to an off-site location for screening. Consequently, the Office again waived its CARP regulations that required an original signature and prohibited the submission of DART claims via facsimile transmission, and the Office offered alternative methods for the electronic filing of DART, cable, and satellite claims for the claim years 2002 and 2003. However, instead of submitting claims via electronic mail, claimants were allowed to make on-line submissions of claims. DART: See 67 FR 71477 (December 2, 2002) and 68 FR 74481 (December 24, 2003); cable and satellite: See 68 FR 32381 (May 30, 2003) and 69 FR 30577 (May 28, 2004).

As noted in the May 28, 2004, Notice regarding the filing of claims to the 2003 cable and satellite royalty funds, the Office's mail will continue to be diverted to an off-site location for screening. Moreover, problems associated with untimely filings of claims by mail, see *Metro-Goldwyn-Mayer Studios, Inc. v. Peters*, 309 F. Supp.2d. 48 (D.D.C. 2004), and *Universal Studios LLLP v. Peters*, 308 F. Supp.2d. 1 (D.D.C. 2004), have led the Office to conclude that claimants should be encouraged to file their claims electronically. Indeed, the vast majority of claims filed for claim years 2001 through 2003 have been filed electronically. In addition, the electronic submission of claims has proven to be more administratively efficient for the Office. Therefore, the

Copyright Office has decided to amend its regulations to provide for a permanent system for the electronic submission of claims. This notice of proposed rulemaking is the first step in that process. See 69 FR 30577, 30578 (May 28, 2004).

### On-Line Submission of Claims

#### *a. Cable and Satellite Claims*

With one exception (see the discussion on signatures below), the permanent system of electronic filing of claims that the Office is proposing will be virtually identical to the system in place for the claim year 2003. Specifically, on-line electronic forms for filing both single and joint cable and satellite claims will be available on the Copyright Office Web site. Claimants will be able to access and complete the forms via the Office's Web site in accordance with instructions accompanying the forms. As is the current practice, joint claimants will have the option of either listing up to ten joint copyright owners directly on the on-line joint claim form or submitting the list of joint copyright owners as a file attachment to the submission page. The acceptable formats for submission of such attachments will be specified in the instructions accompanying the on-line forms. Any attachment to a joint claim must contain only the names and addresses of the joint copyright owners; attachments containing information other than the names and addresses of joint copyright owners will not be accepted.

The cable and satellite on-line forms will be available for use during the month of July. During the past three years, cable and satellite claims submitted on-line had to be received by the Office no later than 11:59 p.m. E.D.T. on July 31. However, near the end of the filing period that just closed, some claimants notified the Office that they were experiencing technical difficulties when trying to file their claims. Because the Office was made aware of these difficulties during its normal business hours, the technical problems were rectified quickly. Had those notifications come after business hours on July 31, the Office probably would not have been able to respond. Therefore, to better ensure the swift resolution of any technical difficulties in the unlikely event they occur, the Office is proposing that claims submitted on-line must be received by the Office by no later than 5 p.m. E.D.T. on July 31. Specifically, the completed on-line form must be received by the Office's server by that time. Any claim

received after that time will be considered as untimely filed.

Claimants filing their claims on-line can ascertain the timeliness of their claim by the receipt of two confirmations. First, immediately after submitting the claim, a confirmation page will appear showing a copy of the claim submitted, noting the attachment of a file, when applicable, and displaying the time and date the claim was submitted. Second, the claimant will receive shortly thereafter an electronic mail message stating that the Office has received the submission. The electronic mail message will show a copy of the claim filed, will contain a copy of the attachment listing the names and addresses of the joint copyright owners to a joint claim, when applicable, and will note the time and date of submission. Either confirmation will constitute sufficient proof of a timely filed on-line claim should a question arise regarding timeliness. Therefore, claimants submitting their claims on-line should not consider their claims successfully submitted to the Office until they receive at least one of the two aforementioned forms of official confirmation. If for some reason neither confirmation is received and the claimant is unable to complete the electronic filing process, the claimant should immediately notify the Office of the problem and be prepared to submit a claim by other means such as by hand delivery or by mail in accordance with current §§ 252.4 (cable) and 257.4 (satellite).

#### *b. DART Claims*

The proposed procedure for the on-line submission of DART claims will operate identically to that for cable and satellite claims as described above, with a few exceptions. First, the on-line electronic forms for filing both single and joint DART claims will be available during the months of January and February. Second, as with cable and satellite claims, joint DART claimants will have the option of either listing up to ten joint claimants directly on the on-line joint claim form or submitting the list of joint claimants as a file attachment to the submission page. However, DART claimants filing a joint claim are required to provide only the names—and not the addresses as required for cable and satellite claims—of the joint DART claimants.

Therefore, any attachment to a joint DART claim must contain only the names of the joint claimants; attachments containing information other than the names of joint claimants will not be accepted.

Finally, as with cable and satellite claims, the Office is proposing that DART claims submitted on-line must be received by the Office by no later than 5 p.m. E.S.T., instead of 11:59 p.m. E.S.T., on the last day of February for the reasons discussed above. Specifically, the completed on-line form must be received by the Office's server by that time. Any claim received after that time will be considered as untimely filed.

Ascertainment of the timeliness of DART claims will be determined in the same manner as for cable and satellite claims, as DART claimants will receive the same two forms of official confirmation of receipt of the claim. Again, if neither confirmation is received, the claimant should immediately notify the Office and be prepared to submit the claim by hand delivery or by mail in accordance with current § 259.5. See *supra* n.2.

### Original Signatures on Claims Submitted On-Line

The current regulations governing the filing of cable, satellite and DART claims require an original signature of the copyright owner claimant or of a duly authorized representative of the copyright owner claimant. For claim years 2001 through 2003, the Office reluctantly waived these regulations for cable, satellite and DART claims submitted electronically because the Office was not equipped to receive and process electronic signatures. While the Office still is not able at this time to institute such a process Office-wide and because of the risk of fraudulent claims, the Office is loath to waive its CARP regulations requiring an original signature on claims. Consequently, the Office is proposing a system for the on-line submission of claims that utilizes a Personal Identification Number ("PIN") as a proxy for a signature. The system proposed herein applies only to the submission of cable, satellite, and DART claims and in no way applies to any other filings with the Copyright Office.

The Office notes at the outset that the signature on a claim constitutes an affirmative statement to the Office that the person signing the claim has the authority to submit the claim. The proposed PIN system allows the Office to obtain this same affirmation in a simple, reasonable way without unduly burdening claimants.

The Office is proposing to use a PIN comprised of six to eight alphanumeric characters (ex: A1B2C3D) which will be selected by the person "signing" the claim on-line and placed in the designated space on the appropriate on-line claim form. Selection of a PIN will

occur on a one-time basis—the first time a claimant submits a claim on-line under any of the three licenses. Claimants may select a PIN in one of the following ways.

*a. Advance Selection of PIN*

The Office is proposing to allow claimants to select a PIN prior to the filing period for cable, satellite and DART claims. Under this option, claimants would select a PIN by completing a form (“Advance Selection Form”) located on the Office’s Web site at <http://www.copyright.gov/carp/electronicfiling.html> which the claimant would print, complete, sign and return to the Office. This form will be available on the Office’s Web site until the beginning of each respective filing period and will be unavailable during each filing period. In other words, the Advance Selection Form will be available until 11:59 p.m. E.S.T. on December 31 since the filing period for DART claims begins on January 1 and will be unavailable during the months of January and February. Likewise, the form will be available until 11:59 p.m. E.D.T. on June 30, as the filing period for cable and satellite claims begins on July 1, and will be unavailable during the month of July.

*b. Selection of PIN During the Filing Period*

During the respective filing periods for DART, cable and satellite claims, the person submitting the claim, whether it be the copyright owner or an authorized representative of the copyright owner, will select the PIN and place it in the designated space on the appropriate on-line claim form. As previously described, upon submitting the claim, a confirmation page displaying the claim, including the PIN selected, will be generated. The copyright owner or an authorized representative of the copyright owner, whomever is submitting the claim, must then print this page, sign it, and return it to the Copyright Office in accordance with the instructions accompanying the confirmation page.

*c. Valid Use of PIN*

In order to validate the use of the PIN, regardless of the method used for selection, the Office must receive either the signed Advance Selection Form or signed confirmation page. The signature then will be kept on file with the Office. Once the Office receives the signed Advance Selection Form or the signed confirmation page, the PIN and the name will be placed in a confidential directory of PINs created and

maintained by the Office.<sup>2</sup> Thereafter, the PIN will constitute and serve as a substitute for the actual signature on any claim filed by that person.

Because the signature denotes authority to submit the claim, it is important to note that the PIN will correspond and be personal to the person submitting the claim, whether it be the copyright owner or a representative of the copyright owner authorized to file the claim on behalf of the copyright owner. Therefore, as long as that person submits claims on-line, this same PIN must be used each time that person submits a cable, satellite or DART claim on-line. Conversely, if a person fails to provide the Office with an original signature in accordance with the proposed regulations, any claim submitted on-line bearing the PIN selected by that person will be subject to dismissal for failure to comply with the original signature requirement.

*d. Lost or Forgotten PIN*

Claimants may request from the Office their self-selected PIN in the event the PIN is lost or forgotten. A link titled “Lost or Forgotten PIN” will be located on the instruction page accompanying the Advance Selection Form located on the Office’s Web site at <http://www.copyright.gov/carp/electronicfiling.html> as well as on the instruction page accompanying the on-line claim forms (see discussion on forms below). By clicking on this link, claimants will be taken to a page with instructions on how to request the PIN. Upon receipt of a request, the Office will send the PIN to the claimant via electronic mail to the electronic mail address on file with the Office by close of business the next business day. Therefore, claimants requesting their PIN during a filing period should do so early in the period in order to allow the Office a sufficient time to respond. The Office will not guarantee a same-day response for requests made on the last day of a filing period.

Because the PIN corresponds to the copyright owner or to an authorized representative of the copyright owner, the request for the PIN must come from that person. Similarly, the Office will provide the PIN only to that person.

Finally, the Office will accept only those requests for a lost or forgotten PIN made as set forth above and, therefore, will not accept any requests made by telephone.

Until such time as the Office develops an Office-wide system for receiving and processing electronic signatures, the

Office believes that the PIN system proposed above represents the most reasonable method for the on-line submission of claims because it does not require any further waivers of its CARP regulations nor does it impose any undue burdens on claimants.

**Affirmation**

As noted above, the Office is concerned about the risk of fraudulent claims. This concern stems from a serious incident of fraud in which fraudulent cable and satellite claims covering several claim years were filed with the Office. In an effort to deter any future filings of fraudulent claims, the Office proposes to require an affirmation under penalty of law that the person filing the claim has the authority to do so, can attest to the veracity of the information contained in the claim, and is filing the claim in good faith. Therefore, the person filing the claim must be someone who can make this affirmation, namely, the copyright owner or a representative of the copyright owner authorized to file the claim on behalf of the copyright owner.

**Facsimile Transmission**

Since February 5, 2002, DART claimants have been allowed to submit their claims via facsimile transmission. However, very few claimants utilized this method. In addition, in proposing changes to the regulations governing the filing of claims, the Office seeks uniformity in its methods for filing all claims. For these reasons, the Office is not proposing to amend the regulations governing the filing of DART claims to allow for the submission of claims via facsimile.

**Forms**

The Office is proposing to amend its regulations governing the filing of cable, satellite, and DART claims to require that all claims, not just claims filed on-line, be furnished on the appropriate form prescribed by the Copyright Office. Heretofore, the Office has not issued claim forms, except for those created for the on-line submission of claims. However, the Office has decided to propose the use of standard forms for the filing of all claims, regardless of the filing method selected, in an effort to minimize, if not eliminate, errors frequently made on self-made forms, such as the failure to provide required information. Reduction or elimination of such errors will facilitate the processing of claims.

The proposed regulation will state that forms for claims filed by mail or by hand delivery are available on the Office’s Web site at <http://www.loc.gov/>

<sup>2</sup> The PIN will not appear on the copies of claims made available for public inspection and copying.

*copyright/carp/forms*. On-line DART claim forms can be found on the Office's Web site at <http://www.copyright.gov/carp/dart/index.html> during the months of January and February each year. On-line cable claim forms can be found on the Office's Web site at <http://www.copyright.gov/carp/cable/claims.html> during the month of July each year. On-line satellite claim forms can be found on the Office's Web site at <http://www.copyright.gov/carp/satellite/claims.html> during the month of July each year.

Prototypes of the proposed forms, including the Advance Selection Form, and the confirmation page to be signed and returned to the Office are, or soon will be, available on the Office's Web site at <http://www.copyright.gov/carp/electronicfiling.html>. Parties may comment on the prototypes, limiting such comments to the layout and utility of the proposed forms. Comments should not be made on the graphics and typography of the prototypes, as these elements will be determined by the Office.

#### Other Proposed Amendments

The Copyright Office also proposes to amend its regulations governing the filing of cable, satellite and DART claims by requiring that each claim include the e-mail address, if any, of the person or entity filing the claim. An e-mail address for the person or entity filing the claim will be required when submitting the claim on-line. In addition, the Office proposes to require the name, telephone number, facsimile number, if any, and e-mail address, if any, of a person whom the Office can contact about the claim. The contact person may be the copyright owner, a representative of the copyright owner authorized to file the claim on behalf of the copyright owner, or a designee of either of these entities. However, the contact information must identify an actual person who can respond to inquiries from the Office. Having this information will assist in the processing of claims.

In 2001, in an effort to eliminate the filing of placeholder claims, the Copyright Office amended its regulations governing the filing of cable and satellite claims to clarify that such claims must list the name of each copyright owner covered by the claim. See 66 FR 29700 (June 1, 2001). However, that clarification was made only to the respective sections of the regulations specifying the content of the claims. The Office is now proposing to amend Parts 252 and 257 to eliminate any reference to the words "party," "parties," and "claimant" by

substituting the phrases "copyright owner" and "an authorized representative of the copyright owner," where appropriate.

Finally, the Office is proposing to amend current §§ 252.4 (cable), 257.4 (satellite) and 259.5 (DART) to clarify that the only acceptable means of overnight delivery of claims is via U.S. Postal Service Express Mail addressed to the CARP mailbox. On June 30, 2004, the Office amended its regulations to reflect the new procedures for delivering items to the Copyright Office, including the filing of claims. 69 FR 39331 (June 30, 2004). The new procedures do not allow the filing of claims by overnight delivery services such as Federal Express and United Parcel Service ("UPS") because these services will not deliver packages to post office boxes. Since the Office has received questions regarding this provision, we are proposing to amend our regulations to clarify that claimants wishing to deliver their claims by means of overnight delivery can do so only by using the Express Mail service provided by the U.S. Postal Service, as using this service will better ensure the procurement of the appropriate U.S. Postal Service postmark. In addition, such deliveries, unlike those from services such as Federal Express and UPS, will reach the Office in a timely manner.

#### Comments on Proposed Amendments

All interested parties are requested to file comments with the Copyright Office in accordance with the information set forth in this document. Unless persuaded otherwise by the commenters, the Office intends to issue final rules in time for the submission of DART claims in January and February 2005.

#### List of Subjects

37 CFR Part 252

Cable television, Claims, Copyright.

37 CFR Part 257

Claims, Copyright, Satellite television.

37 CFR Part 259

Claims, Copyright, Digital audio recording devices and media.

#### Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes to amend 37 CFR chapter II as follows:

#### PART 252—FILING OF CLAIMS TO CABLE ROYALTY FEES

1. The authority citation for part 252 continues to read as follows:

Authority: 17 U.S.C. 111(d)(4), 801, 803.

#### § 252.1 [Amended]

2. Section 252.1 is amended by removing "parties" and adding "copyright owners" in its place.

#### § 252.2 [Amended]

3. Section 252.2 is amended by removing "party" each place it appears and adding "copyright owner" in its place; and by removing "Claimants" and adding "Copyright owners, or an authorized representative of the copyright owner," in its place.

4. Revise § 252.3 to read as follows:

#### § 252.3 Form and content of claims.

(a) *Forms*. (1) Each claim to cable compulsory license royalty fees shall be furnished on a form prescribed by the Copyright Office and shall contain the information required by that form and its accompanying instructions.

(2) Copies of cable claim forms are available:

(i) On the Office's Web site at <http://www.copyright.gov/carp/forms> for claims filed with the Office by mail or by hand delivery in accordance with § 252.5(a)(2) through (4);

(ii) On the Office's Web site at <http://www.copyright.gov/carp/cable/claims.html> during the month of July for claims filed on-line in accordance with § 252.5(a)(1); and

(iii) Upon request to the Public Information Office, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000.

(b) *Content*—(1) *Single Claim*. A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a cable system shall include the following information:

(i) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(ii) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a cable system of such work or works establishing a basis for the claim.

(iii) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the single claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(iv) The name, telephone number, facsimile number, if any, and e-mail address, if any, of the person whom the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized

representative of the copyright owner, or a designee of either of these entities.

(v) An original signature of the copyright owner or of a duly authorized representative of the copyright owner. The signature on a claim submitted on-line through the Copyright Office Web site shall be provided in accordance with § 252.4.

(vi) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(2) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a cable system shall include the following information:

(i) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(ii) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(2)(i) of this section.

(iii) A general statement of the nature of the copyright owners' works and identification of at least one secondary transmission of one of the copyright owners' works by a cable system establishing a basis for the joint claim and the identification of the copyright owner of each work so identified.

(iv) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the joint claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(v) The name, telephone number, facsimile number, if any, and e-mail address, if any, of the person the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(vi) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners. The signatures on a claim submitted on-line through the Copyright Office Web site must be provided in accordance with § 252.4.

(vii) Notwithstanding paragraph (b)(2)(ii) of this section, a declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

5. Revise § 252.4 to read as follows:

**§ 252.4 Original signature on claims submitted on-line.**

(a) *General.* This section prescribes the procedures for the provision of an original signature for cable claims submitted on-line.

(b) *Personal Identification Number (PIN).* A copyright owner or an authorized representative of the copyright owner submitting a cable claim on-line may use a six-to-eight-character alphanumeric Personal Identification Number (PIN) as a substitute for an actual signature; Provided that the PIN is selected in accordance with the procedures set forth in paragraphs (b)(1) and (2) of this section. Each PIN is associated with a single signature on file with the Copyright Office.

(1) *Selection of PIN prior to filing period.* A copyright owner or an authorized representative of the copyright owner may select a PIN prior to July 1 each year by completing the Advance Selection Form located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html>, which will be available until 11:59 p.m. E.D.T. on June 30 each year. In order to validate use of the PIN, the copyright owner or an authorized representative of the copyright owner must complete and print the Advance Selection Form, sign it and return it to the Copyright Office in accordance with the instructions accompanying the form. Upon receipt of the signed Advance Selection Form, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized representative of the copyright owner who is filing the claim and shall serve

as a substitute for the actual signature of that person on any claim submitted on-line. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(2) *Selection of PIN during the filing period.* If a PIN is not selected prior to July 1 each year, then during the month of July, a copyright owner or an authorized representative of the copyright owner shall select a PIN upon submission of the cable claim on-line through the Copyright Office Web site. The copyright owner or an authorized representative of the copyright owner must sign and return to the Copyright Office the confirmation page generated upon submission of the claim in accordance with the instructions accompanying the confirmation page. Upon receipt of the signed confirmation page, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized representative of the copyright owner who is filing the claim and shall serve as a substitute for the actual signature of that person. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(c) *Lost or Forgotten PIN.* (1) In the event that a PIN is lost or forgotten, a copyright owner or an authorized representative of the copyright owner may request from the Copyright Office the PIN selected in accordance with paragraph (b) of this section by clicking on the link titled "Lost or Forgotten PIN" located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html> and at <http://www.copyright.gov/carp/cable/claims.html> and following the accompanying instructions. Such requests shall be made only by the person to whom the PIN corresponds, whether it be the copyright owner or an authorized representative of the copyright owner. Upon receipt of such request, the Copyright Office will send the PIN to that person via electronic mail to the electronic mail address on file with the Office by close of business the next business day.

(2) The Copyright Office will not guarantee a same-day response for requests made for a lost or forgotten PIN.

(3) The Copyright Office will not accept requests for a PIN made by telephone.

(d) *Frequency of PIN selection.* Selection of a PIN shall occur on a one-time basis, either in advance of the initial submission of a royalty claim on-line or upon the initial submission of a royalty claim on-line through the Copyright Office Web site pursuant to 17 U.S.C. 111, 17 U.S.C. 119, or Chapter 10 of title 17 of the United States Code.

(e) *Confidentiality.* All PINs will be kept in a confidential directory created and maintained by the Copyright Office and will be disclosed only as set forth in paragraph (c) of this section.

6. Revise § 252.5 to read as follows:

**§ 252.5 Compliance with statutory dates.**

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are filed on-line through the Copyright Office Web site at <http://www.copyright.gov/carp/cable/claims.html> during the month of July. On-line claims must be received in the Office's server no later than 5 p.m. E.D.T. on July 31.

(2) They are hand delivered by a private party and addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. These claims must be delivered to the Public Information Office, located at the U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of July.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) and addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. These claims must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of July. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(4) They are sent through the U.S. Postal Service and addressed as follows: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service

must have sufficient postage and bear a July U.S. postmark.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via U.S. Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after July 31 will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in August, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, proper filing of the claim may nonetheless be proven if it was sent by certified mail return receipt requested, and a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (c) of this section applies, can be provided. No affidavits will be accepted in lieu of the receipt.

(f) The Copyright Office will accept either the confirmation page generated upon submission of the claim on-line through the Copyright Office Web site or the electronic mail message from the Copyright Office confirming receipt of the claim as proof that a claim submitted on-line through the Copyright Office Web site was received timely in the Office's server. No affidavits will be accepted in lieu thereof.

6a. Add § 252.6 to read as follows:

**§ 252.6 Copies of claims.**

A copyright owner or an authorized representative of the copyright owner shall, for each claim submitted to the Copyright Office by hand delivery or by mail, file an original and two copies of the claim to cable royalty fees.

**PART 257—FILING OF CLAIMS TO SATELLITE CARRIER ROYALTY FEES**

7. The authority citation for part 257 continues to read as follows:

**Authority:** 17 U.S.C. 119(b)(4).

**§ 257.1 [Amended]**

8. Section 257.1 is amended by removing "parties" and adding "copyright owners" in its place.

**§ 257.2 [Amended]**

9. Section 257.2 is amended by removing "party" each place it appears and adding "copyright owner" in its place; and by removing "Claimants" and adding "Copyright owners, or an authorized representative of the copyright owner," in its place.

10. Section 257.3 is revised to read as follows:

**§ 257.3 Form and content of claims.**

(a) *Forms.* (1) Each claim to compulsory license royalty fees for secondary transmissions by satellite carriers of television broadcast signals to the public for private home viewing shall be furnished on a form prescribed by the Copyright Office and shall contain the information required by that form and its accompanying instructions.

(2) Copies of satellite claim forms are available:

(i) On the Office's Web site at <http://www.copyright.gov/carp/forms> for claims filed with the Office by mail or by hand delivery in accordance with § 257.5(a)(2) through (4);

(ii) On the Office's Web site at <http://www.copyright.gov/carp/satellite/claims.html> during the month of July for claims filed on-line in accordance with § 257.5(a)(1); and

(iii) Upon request to the Public Information Office, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000.

(b) *Content*—(1) *Single Claim.* A claim filed on behalf of a single copyright owner of a work or works secondarily transmitted by a satellite carrier shall include the following information:

(i) The full legal name and address of the copyright owner entitled to claim the royalty fees.

(ii) A general statement of the nature of the copyright owner's work or works, and identification of at least one secondary transmission by a satellite carrier of such work or works establishing a basis for the claim.

(iii) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the single claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(iv) The name, telephone number, facsimile number, if any, and e-mail address, if any, of the person whom the Copyright Office can contact regarding

the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(v) An original signature of the copyright owner or of a duly authorized representative of the copyright owner. The signature on a claim submitted on-line through the Copyright Office Web site shall be provided in accordance with § 257.4.

(vi) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(2) *Joint claim.* A claim filed on behalf of more than one copyright owner whose works have been secondarily transmitted by a satellite carrier shall include the following information:

(i) A list including the full legal name and address of each copyright owner to the joint claim entitled to claim royalty fees.

(ii) A concise statement of the authorization for the person or entity filing the joint claim. For this purpose, a performing rights society shall not be required to obtain from its members or affiliates separate authorizations, apart from their standard membership affiliate agreements, or to list the name of each of its members or affiliates in the joint claim as required by paragraph (b)(2)(i) of this section.

(iii) A general statement of the nature of the copyright owners' works, identification of at least one secondary transmission of one of the copyright owners' works by a satellite carrier establishing a basis for the joint claim, and the identification of the copyright owner of each work so identified.

(iv) The name, telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the joint claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(v) The name, telephone number, facsimile number, if any, and e-mail address, if any, of a person whom the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(vi) Original signatures of the copyright owners to the joint claim or of a duly authorized representative or representatives of the copyright owners. The signatures on a claim submitted on-line through the Copyright Office Web

site must be provided in accordance with § 257.4.

(vii) Notwithstanding paragraph (b)(2)(ii) of this section, a declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) In the event that the legal name and/or address of the copyright owner entitled to royalties or the person or entity filing the claim changes after the filing of the claim, the Copyright Office shall be notified of the change. If the good faith efforts of the Copyright Office to contact the copyright owner or person or entity filing the claim are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

11. Revise § 257.4 to read as follows:

#### **§ 257.4 Original signature on claims submitted on-line.**

(a) *General.* This section prescribes the procedures for the provision of an original signature for satellite claims submitted on-line.

(b) *Personal Identification Number (PIN).* A copyright owner or an authorized representative of the copyright owner submitting a satellite claim on-line may use a six-to-eight-character alphanumeric Personal Identification Number (PIN) as a substitute for an actual signature; Provided that the PIN is selected in accordance with the procedures set forth in paragraphs (b)(1) and (2) of this section. Each PIN is associated with a single signature on file with the Copyright Office.

(1) *Selection of PIN prior to filing period.* A copyright owner or an authorized representative of the copyright owner may select a PIN prior to July 1 each year by completing the Advance Selection Form located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html>, which will be available until 11:59 p.m. E.D.T. on June 30 each year. In order to validate use of the PIN, the copyright owner or an authorized representative of the copyright owner must complete and print the Advance Selection Form, sign it and return it to the Copyright Office in accordance with the instructions accompanying the form. Upon receipt of the signed Advance Selection Form, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized

representative of the copyright owner who is filing the claim and shall serve as a substitute for the actual signature of that person on any claim submitted on-line. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(2) *Selection of PIN during the filing period.* If a PIN is not selected prior to July 1 each year, then during the month of July, a copyright owner or an authorized representative of the copyright owner shall select a PIN upon submission of the satellite claim on-line through the Copyright Office Web site. The copyright owner or an authorized representative of the copyright owner must sign and return to the Copyright Office the confirmation page generated upon submission of the claim in accordance with the instructions accompanying the confirmation page. Upon receipt of the signed confirmation page, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the copyright owner or the authorized representative of the copyright owner who is filing the claim and shall serve as a substitute for the actual signature of that person. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that copyright owner or that authorized representative of the copyright owner.

(c) *Lost or Forgotten PIN.* (1) In the event that a PIN is lost or forgotten, a copyright owner or an authorized representative of the copyright owner may request from the Copyright Office the PIN selected in accordance with paragraph (b) of this section by clicking on the link titled "Lost or Forgotten PIN" located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html> and at <http://www.copyright.gov/carp/satellite/claims.html> and following the accompanying instructions. Such requests shall be made only by the person to whom the PIN corresponds, whether it be the copyright owner or an authorized representative of the copyright owner. Upon receipt of such request, the Copyright Office will send the PIN to that person via electronic mail to the electronic mail address on file with the Office by close of business the next business day.

(2) The Copyright Office will not guarantee a same-day response for requests made for a lost or forgotten PIN.

(3) The Copyright Office will not accept requests for a PIN made by telephone.

(d) *Frequency of PIN selection.* Selection of a PIN shall occur on a one-time basis, either in advance of the initial submission of a royalty claim on-line or upon the initial submission of a royalty claim on-line through the Copyright Office Web site pursuant to 17 U.S.C. 111, 17 U.S.C. 119, or Chapter 10 of title 17 of the United States Code.

(e) *Confidentiality.* All PINs will be kept in a confidential directory created and maintained by the Copyright Office and will be disclosed only as set forth in paragraph (c) of this section.

12. Revise § 257.5 to read as follows:

**§ 257.5 Compliance with statutory dates.**

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are filed on-line through the Copyright Office Web site at <http://www.copyright.gov/carp/satellite/claims.html> during the month of July. On-line claims must be received in the Office's server no later than 5 p.m. E.D.T. on July 31.

(2) They are hand delivered by a private party and addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. These claims must be delivered to the Public Information Office, located at the U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of July.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) and addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. These claims must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of July. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(4) They are sent through the U.S. Postal Service and addressed as follows: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service

must have sufficient postage and bear a July U.S. postmark.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via U.S. Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after July 31 will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which July 31 falls on a Saturday, Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in August, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in August, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, proper filing of the claim may nonetheless be proven if it was sent by certified mail return receipt requested, and a receipt bearing a July date stamp of the U.S. Postal Service, except where paragraph (c) of this section applies, can be provided. No affidavits will be accepted in lieu of the receipt.

(f) The Copyright Office will accept either the confirmation page generated upon submission of the claim on-line through the Copyright Office Web site or the electronic mail message from the Copyright Office confirming receipt of the claim as proof that a claim submitted on-line through the Copyright Office Web site was received timely in the Office's server. No affidavits will be accepted in lieu thereof.

12a. Revise § 257.6 to read as follows:

**§ 257.6 Copies of claims.**

A copyright owner or an authorized representative of the copyright owner shall, for each claim submitted to the Copyright Office by hand delivery or by mail, file an original and two copies of the claim to satellite carrier royalty fees.

12b. Add § 257.7 to read as follows:

**§ 257.7 Separate claims required.**

If a copyright owner or an authorized representative of the copyright owner intends to file claims for both cable compulsory license and satellite carrier compulsory license royalty fees during

the same month of July, that copyright owner or authorized representative of the copyright owner must file separate claims with the Copyright Office. Any single claim which purports to file for both cable and satellite carrier royalty fees will be dismissed.

**PART 259—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS**

13. The authority citation for part 259 continues to read as follows:

**Authority:** 17 U.S.C. 1007(a)(1).

14. Revise § 259.3 to read as follows:

**§ 259.3 Form and content of claims.**

(a) *Forms.* (1) Each claim to digital audio recording devices and media royalty payments (DART) shall be furnished on a form prescribed by the Copyright Office and shall contain the information required by that form and its accompanying instructions.

(2) Copies of DART claim forms are available:

(i) On the Office's Web site at <http://www.copyright.gov/forms/claims> for claims filed with the Office by mail or by hand delivery in accordance with § 259.6(a)(2)-(4);

(ii) On the Office's Web site at <http://www.copyright.gov/carp/dart/index.html> during the months of January and February for claims filed on-line in accordance with § 259.6(a)(1); and

(iii) Upon request to the Public Information Office, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000.

(b) *Content.* Claims filed by interested copyright parties for digital audio recording devices and media royalty payments shall include the following information:

(1) The full legal name and address of the person or entity claiming royalty payments.

(2) The telephone number, facsimile number, if any, full address, including a specific number and street name or rural route, and e-mail address, if any, of the person or entity filing the claim. An e-mail address must be provided on claims submitted on-line through the Copyright Office Web site.

(3) The name, telephone number, facsimile number, if any, and e-mail address, if any, of a person whom the Copyright Office can contact regarding the claim. The contact person may be the copyright owner, an authorized representative of the copyright owner, or a designee of either of these entities.

(4) A statement as to how the claimant fits within the definition of interested

copyright party specified in 17 U.S.C. 1001(7).

(5) A statement as to whether the claim is being made against the Sound Recordings Fund or the Musical Works Fund, as set forth in 17 U.S.C. 1006(b) and as to which Subfund of the Sound Recordings Fund (*i.e.*, the copyright owners or featured recording artists Subfund) or the Musical Works Fund (*i.e.*, the music publishers or writers Subfund) the claim is being made against as set forth in 17 U.S.C. 1006(b)(1) through (2).

(6) Identification, establishing a basis for the claim, of at least one musical work or sound recording embodied in a digital musical recording or an analog musical recording lawfully made under title 17 of the United States Code that has been distributed (as that term is defined in 17 U.S.C. 1001(6)), and that, during the period to which the royalty payments claimed pertain, has been (i) Distributed (as that term is defined in 17 U.S.C. 1001(6)) in the form of digital musical recordings or analog musical recordings, or (ii) Disseminated to the public in transmissions.

(7) A declaration of the authority to file the claim and of the veracity of the information contained in the claim and the good faith of the person signing in providing such information. Penalties for fraud and false statements are provided under 18 U.S.C. 1001 *et seq.*

(c) Claims shall bear the original signature of the claimant or of a duly authorized representative of the claimant. The signature on a claim submitted on-line through the Copyright Office Web site must be provided in accordance with § 259.5.

(d) In the event that the legal name and/or address of the claimant changes after the filing of the claim, the claimant shall notify the Copyright Office of such change. If the good faith efforts of the Copyright Office to contact the claimant are frustrated because of failure to notify the Office of a name and/or address change, the claim may be subject to dismissal.

(e) If the claim is a joint claim, it shall include a concise statement of the authorization for the filing of the joint claim in addition to the declaration required under paragraph (b)(7) of this section and the name of each claimant to the joint claim.

(f) If an interested copyright party intends to file claims against more than one Subfund, each such claim must be filed separately with the Copyright Office. Any claim that purports to file against more than one subfund will be rejected.

#### §§ 259.5, 259.6 [Redesignated]

15. Redesignate §§ 259.5 and 259.6 as §§ 259.6 and 259.7, respectively.

15a. Add a new § 259.5 to read as follows:

#### § 259.5 Original signature on claims submitted on-line.

(a) *General.* This section prescribes the procedures for the provision of an original signature for DART claims submitted on-line.

(b) *Personal Identification Number (PIN).* A claimant or an authorized representative of the claimant submitting a DART claim on-line may use a six-to-eight-character alphanumeric Personal Identification Number (PIN) as a substitute for an actual signature; Provided that the PIN is selected in accordance with the procedures set forth in paragraphs (b)(1) and (2) of this section. Each PIN is associated with a single signature on file with the Copyright Office.

(1) *Selection of PIN prior to filing period.* A claimant or an authorized representative of the claimant may select a PIN prior to January 1 each year by completing the Advance Selection Form located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html>, which will be available until 11:59 p.m. E.S.T. on December 31 each year. In order to validate use of the PIN, the claimant or an authorized representative of the claimant must complete and print the Advance Selection Form, sign it and return it to the Copyright Office in accordance with the instructions accompanying the form. Upon receipt of the signed Advance Selection Form, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the claimant or the authorized representative of the claimant who is filing the claim and shall serve as a substitute for the actual signature of that person on any claim submitted on-line. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that claimant or that authorized representative of the claimant.

(2) *Selection of PIN during the filing period.* If a PIN is not selected prior to January 1 each year, then during the months of January and February, a claimant or an authorized representative of the claimant shall select a PIN upon submission of the DART claim on-line through the Copyright Office Web site. The claimant or an authorized representative of the claimant must sign and return to the Copyright Office the confirmation page generated upon

submission of the claim in accordance with the instructions accompanying the confirmation page. Upon receipt of the signed confirmation page, the name and the PIN shall be entered into a confidential directory of PINs created and maintained by the Copyright Office. The PIN shall correspond to the claimant or the authorized representative of the claimant who is filing the claim and shall serve as a substitute for the actual signature of that person. Thereafter, the PIN must be included on each subsequent claim submitted on-line through the Copyright Office Web site by that claimant or that authorized representative of the claimant.

(c) *Lost or Forgotten PIN.* (1) In the event that a PIN is lost or forgotten, a claimant or an authorized representative of the claimant may request from the Copyright Office the PIN selected in accordance with paragraph (b) of this section by clicking on the link titled "Lost or Forgotten PIN" located on the Copyright Office Web site at <http://www.copyright.gov/carp/electronicfiling.html> and at <http://www.copyright.gov/carp/DART/index.html> and following the accompanying instructions. Such requests shall be made only by the person to whom the PIN corresponds, whether it be the claimant or an authorized representative of the claimant. Upon receipt of such request, the Copyright Office will send the PIN to that person via electronic mail to the electronic mail address on file with the Office by close of business the next business day.

(2) The Copyright Office will not guarantee a same-day response for requests made for a lost or forgotten PIN.

(3) The Copyright Office will not accept requests for a PIN made by telephone.

(d) *Frequency of PIN selection.* Selection of a PIN shall occur on a one-time basis, either in advance of the initial submission of a royalty claim on-line or upon the initial submission of a claim on-line through the Copyright Office Web site pursuant to 17 U.S.C. 111, 17 U.S.C. 119, or Chapter 10 of title 17 of the United States Code.

(e) *Confidentiality.* All PINs will be kept in a confidential directory created and maintained by the Copyright Office and will be disclosed only as set forth in paragraph (c) of this section.

16. Revise newly redesignated § 259.6 to read as follows:

**§ 259.6 Compliance with statutory dates.**

(a) Claims filed with the Copyright Office shall be considered timely filed only if:

(1) They are filed on-line through the Copyright Office Web site at <http://www.copyright.gov/carp/DART/index.html> during the month of January or February. On-line claims must be received in the Office's server no later than 5 p.m. E.S.T. on the last day of February.

(2) They are hand delivered by a private party and addressed as follows: Copyright Office General Counsel/CARP, U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000. These claims must be delivered to the Public Information Office, located at the U.S. Copyright Office, James Madison Memorial Building, Room LM-401, 101 Independence Avenue, SE., Washington, DC 20559-6000, Monday through Friday, between 8:30 a.m. and 5 p.m. during the month of January or February.

(3) They are hand delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services) and addressed as follows: Copyright Office General Counsel/CARP, Room LM-403, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC. These claims must be delivered to the Congressional Courier Acceptance Site (CCAS) located at Second and D Street, NE., Washington, DC, during the month of January or February. The CCAS will accept items from couriers with proper identification, e.g., a valid driver's license, Monday through Friday, between 8:30 a.m. and 4 p.m.

(4) They are sent through the U.S. Postal Service and addressed as follows: Copyright Arbitration Royalty Panel, P.O. Box 70977, Southwest Station, Washington, DC 20024-0977. Claims sent through the U.S. Postal Service must have sufficient postage and bear a January or February U.S. postmark.

(5) Federal Express, United Parcel Service and similar overnight delivery services may not be used for the filing of claims. A claim sent by means of overnight delivery shall be done via U.S. Postal Service Express Mail, and the claim shall be addressed in accordance with paragraph (a)(4) of this section.

(b) Claims dated only with a business meter that are received after the last day in February will not be accepted as having been timely filed.

(c) Notwithstanding paragraphs (a) and (b) of this section, in any year in which the last day of February falls on a Saturday, Sunday, a holiday, or other nonbusiness day within the District of Columbia or the Federal Government, claims received by the Copyright Office by the first business day in March, or properly addressed and deposited with sufficient postage with the United States Postal Service and postmarked by the first business day in March, shall be considered timely filed.

(d) No claim may be filed by facsimile transmission.

(e) In the event that a properly addressed and mailed claim is not timely received by the Copyright Office, a claimant may nonetheless prove that the claim was properly filed if it was sent by certified mail return receipt requested, and the claimant can provide a receipt bearing a January or February date stamp of the U.S. Postal Service, except where paragraph (c) of this section applies. No affidavits will be accepted in lieu of the receipt.

(f) A claimant may prove that a claim submitted on-line through the Copyright Office Web site was received timely in the Office's server by providing either the confirmation page generated upon submission of the claim or the electronic mail message from the Copyright Office confirming receipt of the claim. No affidavits will be accepted in lieu thereof.

**§ 259.7 [Amended]**

17. Amend newly redesignated § 259.7 by adding "by hand delivery or by mail," after "Copyright Office".

Dated: October 13, 2004.

**Marybeth Peters,**

*Register of Copyrights.*

[FR Doc. 04-23298 Filed 10-15-04; 8:45 am]

**BILLING CODE 1410-33-P**

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**FEDERAL COMMUNICATIONS COMMISSION**
**47 CFR Part 54**

[CC Docket No. 95-116, FCC 04-217]

**Telephone Number Portability**

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** In this document, the Commission seeks comment on the recommendation of the North American Numbering Council (NANC), its advisory committee on numbering issues, for reducing the time interval for intermodal porting (porting between

wireline and wireless carriers). The Commission also seeks comment on implementation issues in the event that a reduced intermodal porting interval is adopted.

**DATES:** Comments are due on or before November 17, 2004. Reply comments are due on or before December 17, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. See Comment Filing Procedures for further filing instructions.

**FOR FURTHER INFORMATION CONTACT:** Pam Slipakoff, Attorney Advisor, Wireline Competition Bureau, Telecommunications Access Policy Division, (202) 418-7705, TTY (202) 418-0484 or Jennifer Salhus, Attorney Advisor, Wireless Telecommunications Bureau, Policy Division, (202) 418-1310, TTY (202) 418-1169.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Second Further Notice of Proposed Rulemaking, CC Docket No. 95-116, released September 16, 2004. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

**I. Introduction**

1. In this Second Further Notice of Proposed Rulemaking, we seek comment on the NANC's recommendation for reducing the time interval for intermodal porting. We also seek comment on implementation issues in the event that a reduced intermodal porting interval is adopted.

**II. Discussion**

2. *Porting Intervals.* In implementing the requirements of section 251 of the Communications Act of 1934 (Communications Act), as amended, the Commission has sought input from the NANC on various issues. In 1997, the Commission adopted the NANC's recommendation of a four business day porting interval for wireline ports. At that time, the NANC did not specify a porting interval for intermodal porting. Meanwhile, the wireless industry has established a voluntary standard of two and one half hours for wireless-to-wireless ports.

3. On November 10, 2003, the Commission released a *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 68 FR 68831 (December 10, 2003) (*Intermodal Porting Order and FNPRM*) clarifying certain aspects of intermodal porting and seeking further comment on issues relating to intermodal local number

portability. Specifically, we sought comment on whether carriers should be required to reduce the current four business day porting interval for ports between wireless and wireline carriers. We also sought comment on what the reduced porting interval should be. We sought input from the NANC on this issue.

4. *NANC Report.* In response to the Further Notice of Proposed Rulemaking, the NANC submitted a report that provides several options for reducing the intermodal porting interval. The report explains the differences between the wireline porting process and the wireless porting process and how these differences impact the intermodal porting interval. Generally, there is a two stage porting process—the Confirmation Interval (which currently takes up to 24 hours for ports involving wireline carriers) and the Activation Interval (which currently takes up to three business days for ports involving wireline carriers). The Confirmation Interval involves inter-carrier communications for the exchange of the Local Service Request (LSR or Port Response) and the Firm Order Confirmation (FOC) between the old service provider and the new service provider. During the Confirmation Interval, the new service provider collects information from the customer to prepare a LSR that is sent to the old service provider. During this process, the new service provider and old service provider exchange information and agree on a due date to port the telephone number.

5. To reduce the overall four-day porting interval, the NANC considered reductions to the Confirmation Interval and the Activation Interval. Specifically, it developed two Confirmation Interval proposals (Proposals C1 and C2) and three Activation Interval proposals (Proposals A1, A2, and A3). Each of the two Confirmation Interval proposals were considered with each of the three Activation Interval proposals, for a total of six proposals for reducing the intermodal porting interval.

6. After reviewing the proposals, the NANC found that the costs of Proposal C1 outweighed the potential benefits. With respect to the Activation Interval, the NANC determined that Proposal A3 provides a substantial reduction in the intermodal porting interval at a much lower cost to the industry and consumers than the other Activation Interval proposals. Likewise, the NANC notes that Proposal A2 would likely result in greater costs to the industry in comparison to the costs to implement Proposal A3.

7. The NANC concluded that the C2/A3 combination provides a shorter porting interval and the most economical approach to a reduced intermodal porting interval. If this approach is adopted, orders received in a mechanized manner should be responded to in five hours or less (Proposal C2) and the ten-digit triggers should be set 24 hours before 12:01 a.m. of the confirmed due date (Proposal A3). According to the NANC, this combination provided the shortest “maximum porting interval” (53 hours) and the greatest total time saved (43 hours) compared to the four business day (96 hours) interval in our rules. For example, if a request to port was placed at 9:00 a.m. on a Monday, the Confirmation Interval would be completed by 2:00 p.m. that afternoon. The Activation Interval could then begin. The ten-digit trigger could then be set for 11:59 p.m. on Wednesday. The port could be completed as early as 12:01 a.m. on Thursday.

8. *Porting Interval Reduction.* The NANC proposes a method that would reduce the intermodal porting interval by almost 45 percent, from 96 hours to 53 hours, by requiring a response to orders received in a mechanized manner in five hours or less and using a process called “Early Morning Activation.” We seek comment on the NANC’s recommendation for shortening the intermodal porting interval to 53 hours. We also seek comment on alternative mechanisms for reducing the intermodal porting interval.

9. According to the NANC’s report, a uniform format for the exchange of information and a single mechanized interface could reduce the Confirmation Interval from 24 hours to five hours. Currently, each LEC may choose a different Local Service Ordering Guideline (LSOG) version based on its business needs. The NANC recommends that the industry establish one common LSOG version for porting to facilitate a reduction in the Confirmation Interval. We seek comment on the NANC’s recommendation. We also seek comment on whether or not the costs of a standardized LSOG and mechanized interface would outweigh the benefits, including for small entities. Commenters advocating a uniform LSOG should specify the items that should be included in a standardized LSOG.

10. In its report, the NANC also notes that reducing the intermodal porting interval could increase the number of inadvertent ports. We seek comment on the impact of a reduced intermodal porting interval on inadvertent ports. We also seek comment on the

procedures that should be established to minimize and restore inadvertent ports. We further seek comment on the costs for correcting inadvertent ports that result from a reduced intermodal porting interval.

11. The NANC did not consider the extent to which reducing the intermodal porting interval will benefit consumers. Thus, we seek comment on whether the costs of a reduced intermodal porting interval outweigh the benefits of making it quicker for consumers to port their numbers.

12. Recently, many small carriers providing service in areas outside of the top 100 Metropolitan Statistical Areas (MSAs) implemented number portability. We recognize that reducing the intermodal porting interval now for these carriers may produce unique challenges. The NANC notes that the economic impacts of shortening the intermodal porting interval may not be justified for rural telephone companies. We seek comment on whether certain classes of carriers (e.g., SBA Tier III wireless carriers, rural telephone companies and/or rural carriers) should be exempt from a reduced intermodal porting interval, if one is adopted. Similarly, we seek comment on whether an exemption is necessary for certain classes of small telephone companies as defined generically by the SBA. We seek comment on what costs these classes of carriers face to reduce the intermodal porting interval pursuant to the NANC proposal. Specifically, we seek comment on the costs SBA Tier III wireless carriers, rural telephone companies and/or rural carriers would face to establish a mechanized interface pursuant to Proposal C2. In addition, we seek comment on the costs these carriers would face to establish an early morning activation method as outlined in Proposal A3. Finally, we seek comment on the appropriate length of any potential exemption and any other alternative approaches to minimizing the economic impact for SBA Tier III wireless carriers, rural telephone companies and/or rural carriers.

13. *Implementation.* The NANC Report states that the industry could require up to 24 months to reduce the intermodal porting interval as recommended in Proposal C2/A3. We seek comment on this proposed implementation timeframe. We also seek comment on whether we should establish implementation milestones. Commenters advocating implementation milestones should specify what milestones should be established. Finally, we seek comment on whether an alternative timeframe should be established for certain classes of carriers

(e.g., SBA Tier III wireless carriers, rural telephone companies and/or rural carriers) or carriers operating in different geographic areas (i.e., the top 100 MSAs versus areas outside of the top 100 MSAs).

14. The NANC also noted several issues that it believes require further exploration prior to implementing its recommendation. Specifically, the NANC recommends further exploration of the following issues which are currently being addressed by the NANC's Local Number Portability Administration Working Group: (1) Ports attempted while port conflict still unresolved; (2) intermodal "port confirmation" date not recognized; (3) inconsistent intermodal porting process causes service disruption on due date; (4) intermodal port date change (post confirmation) not recognized; (5) Customer Service Request (CSR) not executable for intermodal porting from a Type 1 reseller; and (6) various service provider operational systems issues. We seek comment on the impact of these, and any other outstanding issues, on implementing a shorter intermodal porting interval. Specifically, we seek comment on whether the resolution of these, and any other outstanding issues, will help or hinder the implementation of a reduced intermodal porting interval. Similarly, we seek comment on whether a reduced intermodal porting interval will help or hinder industry efforts to resolve these outstanding issues.

15. *Cost Recovery*. In our recent order addressing BellSouth's petition for a waiver of our cost recovery rules, we rejected the request of Sprint and CenturyTel that we declare that costs associated with future changes to intermodal LNP requirements, including porting intervals, are recoverable by incumbent LECs through a new or modified LNP charge without seeking a special waiver. In that order, we determined that the issue of cost recovery for any proposed regulatory mandate should be considered in conjunction with the proposed mandate. Accordingly, we seek comment in this proceeding on the magnitude of costs that incumbent LECs would incur to reduce the intermodal porting interval pursuant to either the NANC proposal or alternative proposals under consideration in this proceeding. We also seek comment on whether the implementation of a special cost recovery mechanism for such costs is appropriate. The NANC estimates that the proposal to respond to mechanized orders within five hours or less would cost less than \$50 million to implement industrywide. We seek comment on this

estimate as well as estimates for alternative proposals that are submitted.

16. We note that section 251(e)(2) provides that "[t]he cost of establishing telecommunications numbering administration arrangements and number portability shall be borne by all telecommunications carriers on a competitively neutral basis as determined by the Commission." In the *Cost Recovery Order*, 63 FR 35150, June, 29, 1998, the Commission determined that "'the costs of establishing number portability' include not just the costs associated with the creation of the regional databases and the initial physical upgrading of the public switched telephone network, but also the ongoing costs, such as the costs involved in transferring a telephone number to another carrier and routing calls under the N-1 protocol." The Commission also determined, however, that "once incumbent LECs have recovered their initial implementation costs, number portability will be a normal network feature, and a special end-user charge will no longer be necessary to ensure that incumbent LECs recover their number portability costs on a competitively neutral basis." Accordingly, we seek comment on whether the costs of implementing a reduced porting interval, if any, are "initial implementation costs" or costs associated with "normal network features" that are not entitled to a special cost recovery mechanism.

### III. Procedural Issues

#### A. Ex Parte Presentations

17. This is a permit-but-disclose notice and comment rulemaking proceeding. Members of the public are advised that ex parte presentations are permitted, provided they are disclosed under the Commission's Rules.

#### B. Initial Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a significant number of small entities by the policies and rules proposed in this Second Further Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further Notice of Proposed Rulemaking* provided below. The Commission will send a copy of the *Second Further Notice of Proposed Rulemaking*, including this IRFA, to the Chief

Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Second Further Notice of Proposed Rulemaking* and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objective of, the Proposed Rules

19. This *Second Further Notice of Proposed Rulemaking* seeks comment on the recommendation of the North American Numbering Council (NANC), our advisory committee on numbering issues, for reducing the interval for intermodal porting (wireline to wireless and wireless to wireline porting) from 96 to 53 hours. The Commission also seeks comment on alternative mechanisms for reducing the intermodal porting interval. In addition, the Commission seeks comment on whether the costs of a reduced intermodal porting interval outweigh the benefits of making it quicker for consumers to port their numbers. The Commission also seeks comment on whether certain classes of carriers (e.g., SBA Tier III wireless carriers, rural telephone companies and/or rural carriers) should be exempt from a shorter intermodal porting interval, if adopted. In addition, the Commission also seeks comment on whether an exemption is necessary for certain classes of small telephone companies as defined generically by the SBA. Specifically, the Commission seeks comment on the costs these classes of carriers face to reduce the intermodal porting interval pursuant to the NANC proposal. The Commission also seeks comment on the appropriate length of any potential exemption and any other alternative approaches to minimizing the economic impact on SBA Tier III wireless carriers, rural telephone companies and/or rural carriers.

20. In this *Second Further Notice of Proposed Rulemaking*, the Commission seeks comment on implementation issues in the event that a reduced intermodal porting interval is adopted. Specifically, the Commission seeks comment on the implementation timeframe and whether or not it should establish implementation milestones. In addition, the Commission seeks comment on the magnitude of costs that incumbent LECs would incur to reduce the intermodal porting interval pursuant to either the NANC proposal or alternative proposals under consideration in this proceeding, and whether a special recovery mechanism for such costs is appropriate.

## 2. Legal Basis

21. The proposed action is authorized under sections 1, 3, 4(i), 201, 202, 251 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 153, 154(i), 201–202, and 251.

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

22. The RFA directs agencies to provide a description of, and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term “small entity” as having the same meaning as the terms “small business,” “small organization,” and “small governmental jurisdiction.” In addition, the term “small business” has the same meaning as the term “small business concern” under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a “small business concern” is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).

23. We have included small incumbent local exchange carriers in this present RFA analysis. As noted above, a “small business” under the RFA is one that, *inter alia*, meets the pertinent small business size standard (e.g., a telephone communications business having 1,500 or fewer employees), and “is not dominant in its field of operation.” The SBA’s Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not “national” in scope. We have therefore included small incumbent local exchange carriers in this IRFA analysis, although we emphasize that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

24. *Incumbent Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific small business size standard for incumbent local exchange service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 1,310 incumbent local exchange carriers reported that they were engaged in the provision of

local exchange services. Of these 1,310 carriers, an estimated 1,025 have 1,500 or fewer employees and 285 have more than 1,500 employees.

25. *Competitive Local Exchange Carriers.* Neither the Commission nor the SBA has developed a specific small business size standard for competitive local exchange service providers. The closest applicable size standard under the SBA rules is for Wired Telecommunications Carriers. Under that standard, such a business is small if it has 1,500 or fewer employees. According to the FCC’s *Telephone Trends Report* data, 563 companies reported that they were engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 563 companies, an estimated 472 have 1,500 or fewer employees and 91 have more than 1,500 employees.

26. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of “Paging” and “Cellular and Other Wireless Telecommunications.” Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 1997 show that there were 1,320 firms in this category that operated for the entire year. Of this total, 1,303 firms had employment of 999 or fewer employees, and an additional 17 firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

27. *Cellular Licensees/Wireless Telephony.* Wireless telephony includes cellular, personal communications services, and specialized mobile radio telephony carriers. As noted above, the SBA has developed a small business size standard for wireless firms within the broad economic census category “Cellular and Other Wireless Telecommunications.” Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category Cellular and Other Wireless Telecommunications firms, Census Bureau data for 1997 show that

there were 977 firms in this category that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. Also, according to *Telephone Trends Report* data, 447 carriers report that they are engaged in the provision of cellular service, personal communications service, or specialized mobile radio telephony services, which are placed together in the data. We have estimated that 245 of these are small under the SBA small business size standard and 202 have more than 1,500 employees.

28. *Broadband Personal Communications Service.* The broadband personal communications services (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission has created a small business size standard for Blocks C and F as an entity that has average gross revenues of less than \$40 million in the three previous calendar years. For Block F, an additional small business size standard for “very small business” was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than \$15 million for the preceding three calendar years. These small business size standards, in the context of broadband PCS auctions, have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 “small” and “very small” business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission reaucted 155 C, D, E, and F Block licenses; there were 113 small business winning bidders.

29. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as “small” or “very small” businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

#### 4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

30. After reviewing several alternatives, the NANC found that the C2/A3 Proposal provides a shorter porting interval and the most economical approach to an intermodal porting interval based on the proposals considered. Pursuant to this plan, orders received in a mechanized manner should be responded to in five hours or less (Proposal C2) and the ten-digit trigger should be set a full day before 12:01 a.m. of the confirmed due date (Proposal A3). According to the NANC, this combination provides the shortest "maximum porting interval" (53 hours) and the greatest reduction in total time saved (43 hours). The NANC, however, estimates that the industry would need approximately 24 months to implement Proposal C2 after a Commission mandate is issued. Should the Commission decide to adopt the NANC's recommendation, or any other change, all carriers, including small entity carriers, may require upgrades to their porting systems. These potential changes may impose new obligations and costs on carriers. We seek comment on the types of burdens carriers could face if the proposed recommendations, or any other suggested recommendations are adopted. Entities, especially small businesses, are encouraged to quantify, if possible, the costs and benefits of potential reporting, recordkeeping and other compliance requirements. We note that the NANC estimates that the C2/A3 Proposal would cost less than \$50 million to implement industry wide. The Commission seeks comment on this estimate. Commenters should address the specific costs of the NANC's recommendations for the C2/A3 Proposal, including the costs associated with establishing a mechanized interface pursuant to Proposal C2 and an early morning activation approach as described in Proposal A3. The Commission also seeks comment on the impacts of such changes on small and rural telephone companies. The Commission also considers an exemption for certain classes of carriers. We also note that the Commission may choose to keep the intermodal porting interval at four days. Thus, there would be no new requirements on any group of carriers, including small entity carriers.

#### 5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

31. The RFA requires an agency to describe any significant, specifically small business, alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

32. This IRFA seeks comment on how the NANC's recommendation, and any other potential changes to the intermodal porting interval, could be implemented in a manner that reduces the potential burden of cost compliance for small entities. Specifically, the Commission seeks comment on whether, and for what period of time, certain classes of carriers, (e.g., SBA Tier III wireless carriers, rural telephone companies and/or rural carriers) should be exempt from a shorter intermodal porting interval, if adopted. The Commission also seeks comment on whether an exemption is necessary for certain classes of small telephone companies as defined by the SBA. Such an exemption may benefit small entities by obviating the need, or deferring the timeframe, for small and rural telephone companies to establish a mechanized interface for intermodal porting and an early morning activation process. The Commission also seeks comment on alternative approaches that would minimize the economic impact on SBA Tier III wireless carriers, rural telephone companies and/or rural carriers. Thus, we seek comment on the NANC recommendation, and any other possible changes to the intermodal porting interval, and whether any or all of them would minimize the economic impact on small entities, which may include providers of wireless as well as wireline communications services. We note that the NANC considered and did not recommend higher cost alternatives. The NANC Report states that the industry could require up to 24 months to reduce the intermodal porting interval as recommended in Proposal C2/A3. The Commission seeks comment on this proposed implementation timeframe and whether implementation milestones should be established. The

Commission also seeks comment on whether a different timeframe should be established for certain classes of carriers (e.g., SBA Tier III wireless carriers, rural telephone companies and/or rural carriers) or carriers operating in different geographic areas (i.e., the top 100 MSAs versus areas outside of the top 100 MSAs).

#### 6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

33. None.

#### C. Paperwork Reduction Act

34. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104-13. Public and agency comments are due December 17, 2004. Comments should address: (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 estimates; (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. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might "further reduce the information collection burden for small business concerns with fewer than 25 employees."

#### D. Comment Filing Procedures

35. We invite comment on the issues and questions set forth in the Further Notice or Proposed Rulemaking and Initial Regulatory Flexibility Analysis contained herein. Pursuant to applicable procedures set forth in sections 1.415 and 1.419 of the Commission's rules, interested parties may file comments as follows: Comments are due on or before November 17, 2004, and reply comments are due on or before December 17, 2004. All filings should refer to CC Docket No. 95-116. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper

copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, (May 1, 1998).

36. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

37. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal

Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission.

38. Parties also must send three paper copies of their filing to Sheryl Todd, Telecommunications Access Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street SW., Room 5-B540, Washington, DC 20554. In addition, commenters must send diskette copies to the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20054.

39. Accessible formats (computer diskettes, large print, audio recording and Braille) are available to persons with disabilities by contacting Brian Millin, of the Consumer & Governmental Affairs Bureau, at (202) 418-7426, TTY (202) 418-7365, or at [bmillin@fcc.gov](mailto:bmillin@fcc.gov). This *Second Further Notice of Proposed Rulemaking* can be downloaded in ASCII Text format at: <http://www.fcc.gov/wtb>.

#### IV. Ordering Clauses

40. Pursuant to the authority contained in sections 1, 4(i), 4(j), 201-205, 218, 251, and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 201-205, 218, 251, and 332, this *Second Further Notice of Proposed Rulemaking* is adopted.

41. It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Second Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-23292 Filed 10-15-04; 8:45 am]

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# Notices

Federal Register

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Monday, October 18, 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

### Rural Utilities Service

#### Announcement of Grant Awards Under the RUS Distance Learning and Telemedicine Grant Program

AGENCY: Rural Utilities Service, USDA.

**ACTION:** Notice of applications selected to receive grant awards.

**SUMMARY:** The Rural Utilities Service (RUS) hereby announces the recipients selected to receive grant awards during fiscal year (FY) 2004 under the Distance Learning and Telemedicine Grant Program.

**ADDRESSES:** Subject to the provisions of the Freedom of Information Act (5 U.S.C. 552), applications will be available for public inspection at the U.S. Department of Agriculture, 1400 Independence Avenue, SW., Washington, DC 20250.

**FOR FURTHER INFORMATION CONTACT:** Gary B. Allan, Branch Chief, Universal Services Branch, U.S. Department of

Agriculture, Rural Utilities Service. Telephone: (202) 720-0413, Fax (202) 720-1051, [dltinfo@usda.gov](mailto:dltinfo@usda.gov). The list of awards may be viewed on the Internet at <http://www.usda.gov/rus/telecom/dlt/dlt.htm>.

**SUPPLEMENTARY INFORMATION:**

Pursuant to 7 CFR 1703.101, RUS hereby publishes the names of the 62 organizations that have been awarded \$24.6 million in grants under 7 CFR part 1703, subpart D, Distance Learning and Telemedicine Grant Program. The recipients are as follows:

State	Organization	Amount
AK	Chatham School District	\$472,579
AK	Haines Borough School District	\$499,999
AK	Kuspuk School District	\$411,913
AL	Escambia County School District	\$499,869
AR	McGehee School District	\$361,687
AR	Osceola School District	\$408,442
AR	Pocahontas School District	\$461,521
AS	KVZK-TV, Office of Public Information	\$499,794
AZ	Arizona Western College	\$500,000
CA	West Hills Community College	\$447,752
CO	East Central BOCES	\$452,154
DE	Seaford School District	\$ 78,156
FL	Florida Department of Health	\$236,180
GA	Northeast Health Systems, Inc.	\$176,774
GU	Pacific Island Bible College	\$230,635
HI	Kona Hospital Foundation	\$500,000
IA	Wayne County Hospital	\$422,278
ID	St. Mary's Hospital	\$500,000
IL	St. Francis Hospital of Hospital Systems of the Third Order of St. Francis	\$310,000
IN	Southwest Dubois County School Corp. LEA for: Southern Indiana Education Center	\$370,416
KS	Maude Norton Memorial City Hospital Board of Trustees	\$198,000
KY	Morehead State University	\$499,153
KY	Saint Joseph Hospital Foundation	\$235,636
LA	Primary Care Providers for a Healthy Feliciana	\$500,000
MA	The Brigham and Women's Hospital, Inc.	\$471,197
ME	Visiting Nurse of Aroostook	\$264,448
MI	Harbor Beach Community School District	\$446,865
MI	Marquette General Health System	\$176,421
MI	Mid-Michigan Visiting Nurse Association	\$215,519
MN	Minnesota Tele-Media	\$482,791
MO	Hale Public Schools	\$389,809
MS	Delta State University	\$500,000
MS	East Tallahatchie School District	\$500,000
MS	North Bolivar School District	\$500,000
MT	St. Luke and Nursing Home	\$500,000
NC	Warren County Schools—Roanoke River Valley Education Consortium	\$445,143
ND	North Dakota Healthcare Foundation	\$395,747
NE	Good Samaritan Hospital Foundation	\$284,766
NH	Southeastern Regional Education Service Center, Inc. (SERESC)	\$499,965
NJ	Rutgers, The State of New Jersey	\$497,906
NM	Central Consolidated School District #22	\$490,910
NM	Northeast Regional Education Cooperative	\$398,936
NM	Northwest Regional Education Center 2	\$500,000
NV	White Pine County School District	\$493,544
NY	Cattaraugus-Allegany-Erie-Wyoming BOCES	\$498,979

State	Organization	Amount
OH	Adams County Hospital	\$300,000
OK	Guymon School District	\$359,439
OK	Miami Tribe Business Development Authority	\$157,937
OK	Wapanucka Public School	\$497,500
OR	St. Charles Medical Center Foundation	\$431,302
PA	Lewistown Hospital	\$500,000
SC	Orangeburg Consolidated School District Four	\$500,000
SD	Horizon Health Care, Inc.	\$202,720
TN	University of Tennessee at Martin	\$499,999
TX	CHRISTUS St. Michael Health System	\$500,000
TX	Educational Service Center Region XV	\$462,271
TX	Frank Phillips College	\$429,840
UT	University of Utah	\$208,899
VT	Rutland Area Visiting Nurse Association & Hospice	\$238,250
WA	Community Choice PHCO	\$499,332
WI	Space Education Initiative, Inc.	\$218,400
WV	Southern West Virginia Community and Technical College	\$372,900

Dated: October 10, 2004.

**James R. Newby,**

*Acting Administrator, Rural Utilities Service.*

[FR Doc. 04-23202 Filed 10-15-04; 8:45 am]

BILLING CODE 3410-15-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[C-507-501]

#### **Certain In-Shell Pistachios From the Islamic Republic of Iran: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**ACTION:** Notice of extension of time limit for preliminary results of countervailing duty administrative review.

**EFFECTIVE DATE:** October 18, 2004.

**FOR FURTHER INFORMATION CONTACT:** Darla Brown or Eric B. Greynolds, AD/CVD Enforcement, Office III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-2786.

#### **Time Limits**

##### *Statutory Time Limits*

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), requires the Department of Commerce ("the Department") to make a preliminary determination within 245 days after the last day of the anniversary month of an order for which a review is requested. However, if it is not practicable to complete the preliminary results of review within this time period, section 751(a)(3)(A) of the Act allows the

Department to extend the time limit for the preliminary determination to a maximum of 365 days.

#### *Background*

On April 28, 2004, the Department initiated an administrative review of the countervailing duty order on certain in-shell pistachios from the Islamic Republic of Iran (Iran). See 69 FR 23170. The administrative review covers the period January 1, 2003, through December 31, 2003. The respondent in this administrative review is the Tehran Negah Nima Trading Company (Nima). The preliminary results are currently due no later than December 1, 2004.

#### *Extension of Time Limit for Preliminary Results of Review*

Due to the fact that we have received several new subsidy allegations from petitioners and due to the complicated nature of this case, we find that it is not practicable for the Department to complete the preliminary results of the administrative review within the 245-day statutory time frame. Therefore, the Department is extending the time limits for completion of the preliminary results until March 31, 2005.

This extension is in accordance with section 751(a)(3)(A) of the Act.

Dated: October 8, 2004.

**Jeffrey A. May,**

*Deputy Assistant Secretary for Import Administration.*

[FR Doc. E4-2704 Filed 10-15-04; 8:45 am]

BILLING CODE 3510-DS-P

## DEPARTMENT OF COMMERCE

### International Trade Administration

[A-580-839]

#### **Certain Polyester Staple Fiber From Korea: Final Results of Antidumping Duty Administrative Review and Final Determination To Revoke the Order in Part**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**SUMMARY:** On June 10, 2004, the Department of Commerce ("the Department") published the preliminary results of the administrative review of the antidumping duty order on certain polyester staple fiber from the Republic of Korea ("Korea"). The period of review is May 1, 2002, through April 30, 2003. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and an examination of our calculations, we have made certain changes for the final results. The final weighted-average dumping margins for the three manufacturers/exporters are listed below in the "Final Results of the Review" section of this notice.

**EFFECTIVE DATE:** October 18, 2004.

**FOR FURTHER INFORMATION CONTACT:** Andrew McAllister, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482-1174.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

Since the publication of the preliminary results in this review (see *Certain Polyester Staple Fiber From Korea; Preliminary Results of*

*Antidumping Duty Administrative Review and Partial Rescission of Review*, 69 FR 32497 (June 10, 2004) (“*Preliminary Results*”), the following events have occurred.

We invited parties to comment on the preliminary results of the review. On June 10, 2004, we granted a request submitted by Saehan for an extension to file rebuttal briefs until July 19, 2004. On July 12, 2004, Artega Specialties S.a.r.l., d/b/a KoSa and Wellman, Inc. (“the petitioners”), and the respondents Saehan Industries, Inc. (“Saehan”) and Huvis Corporation (“Huvis”) filed case briefs. On July 19, 2004, Huvis filed a rebuttal brief. A public hearing was held at the request of Saehan on August 3, 2004.

### Scope of the Order

For the purposes of this order, the product covered is certain polyester staple fiber (“PSF”). PSF is defined as synthetic staple fibers, not carded, combed or otherwise processed for spinning, of polyesters measuring 3.3 decitex (3 denier, inclusive) or more in diameter. This merchandise is cut to lengths varying from one inch (25 mm) to five inches (127 mm). The merchandise subject to this order may be coated, usually with a silicon or other finish, or not coated. PSF is generally used as stuffing in sleeping bags, mattresses, ski jackets, comforters, cushions, pillows, and furniture. Merchandise of less than 3.3 decitex (less than 3 denier) currently classifiable under the *Harmonized Tariff Schedule of the United States* (“HTSUS”) at subheading 5503.20.00.20 is specifically excluded from this order. Also specifically excluded from this order are polyester staple fibers of 10 to 18 denier that are cut to lengths of 6 to 8 inches (fibers used in the manufacture of carpeting). In addition, low-melt PSF is excluded from this order. Low-melt PSF is defined as a bi-component fiber with an outer sheath that melts at a significantly lower temperature than its inner core.

The merchandise subject to this order is currently classifiable in the HTSUS at subheadings 5503.20.00.45 and 5503.20.00.65. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise under order is dispositive.

### Period of Review

The period of review (“POR”) is May 1, 2002, through April 30, 2003.

### Verification

As stated in the *Preliminary Results* and provided in section 782(i) of the

Tariff Act of 1930, as amended (“the Act”), we verified information provided by Keon Baek Co. Ltd. (“Keon Baek”) using standard verification procedures, including on-site inspection of the manufacturer’s facilities, examination of relevant sales, cost and financial records, and selection of original documentation containing relevant information.

### Determination To Revoke

The Department “may revoke, in whole or in part” an antidumping duty order upon completion of a review under section 751 of the Act. While Congress has not specified the procedures that the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. This regulation requires, *inter alia*, that a company requesting revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than normal value (“NV”) in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in each of the three years forming the basis of the request in commercial quantities; and, (3) an agreement to reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. See 19 CFR 351.222(e)(1).

Pursuant to 19 CFR 351.222(e)(1), Keon Baek requested revocation of the antidumping duty order as it pertains to that company. Consistent with the *Preliminary Results*, we continue to find that the request from Keon Baek meets all of the criteria under 19 CFR 351.222(e)(1).

According to 19 CFR 351.222(b)(2), upon receipt of such a request, the Department may revoke an order, in part, if it concludes that (1) the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) the continued application of the antidumping duty order is not otherwise necessary to offset dumping; and (3) the company has agreed to its immediate reinstatement in the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV.

As explained in these final results, our calculations show that Keon Baek sold PSF at not less than NV during the current review period. In addition, Keon Baek sold PSF at not less than NV during the 1999–2001 review period

(*i.e.*, Keon Baek’s dumping margin was zero or *de minimis*). See *Polyester Staple Fiber From Korea: Final Results of Antidumping Duty Administrative Review*, 67 FR 63616 (October 15, 2002) (“*1999–2001 PSF AR Final*”), covering the period November 8, 1999, through April 30, 2001. As permitted by 19 CFR 351.222(d), we did not review the intervening review period.

Moreover, based on our examination of the sales data submitted by Keon Baek, we find that Keon Baek sold the subject merchandise in the United States in commercial quantities in each of the consecutive years cited by Keon Baek to support its request for revocation. See Memorandum to the File, “Sales and Cost Verification Report—Keon Baek,” dated May 26, 2004 (“*Keon Baek Verification Report*”), which is on file in the Department’s Central Records Unit (“CRU”) in room B–099 of the main Department building.

Finally, we find that application of the antidumping order to Keon Baek is no longer warranted for the following reasons: (1) As noted above, the company had zero or *de minimis* margins for a period of at least three consecutive years; (2) the company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and (3) the continued application of the order is not otherwise necessary to offset dumping.

Therefore, we determine that Keon Baek qualifies for revocation of the order on PSF pursuant to 19 CFR 351.222(b)(2) and that the order, with respect to subject merchandise produced and exported by Keon Baek, should be revoked. In accordance with 19 CFR 351.222(f)(3), we are terminating the suspension of liquidation for subject merchandise produced and exported by Keon Baek that was entered, or withdrawn from warehouse, for consumption on or after May 1, 2003, and will instruct U.S. Customs and Border Protection (“CBP”) to refund with interest any cash deposits for such entries.

### Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the “Issues and Decision Memorandum” from Jeffrey A. May, Deputy Assistant Secretary for Import Administration, to James J. Jochum, Assistant Secretary for Import Administration, dated October 8, 2004 (*Decision Memorandum*), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the

*Decision Memorandum.* Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at <http://ia.ita.doc.gov/frn/index.html>. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

#### Fair Value Comparisons

We calculated export price ("EP"), NV, and the cost of production ("COP") based on the same methodologies used in the *Preliminary Results* with the following exceptions:

- For Saehan, we have adjusted the general and administrative expense ratio. See Memorandum from Julie H. Santoboni to File, "Final Results Calculation Memorandum for Saehan Industries, Inc.," dated October 8, 2004 (*Saehan Calculation Memorandum*); see also *Decision Memorandum*, at Comments 1–3.

- For Saehan, we also corrected certain clerical errors made in the preliminary margin programs. See *Saehan Calculation Memorandum*.

- With respect to Huvis, for one of its home market customers, we have adjusted the credit period for open payment sales. See Memorandum from Team to File, "Final Results Calculation Memorandum for Huvis Corporation," dated October 8, 2004; see also *Decision Memorandum*, at Comment 5.

#### Results of the COP Test

Pursuant to section 773(b)(1)(C)(i) of the Act, where less than 20 percent of a respondent's sales of a given product were made at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in "substantial quantities." Where 20 percent or more of a respondent's sales of a given product during the 12-month period were at prices less than the COP, we determined such sales to have been made in "substantial quantities" within an extended period of time in accordance with section 773(b)(1)(A) of the Act. In such cases, we also determined that such below-cost sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

We found that, for certain specific products, more than 20 percent of Keon Baek's, Saehan's and Huvis' home market sales were at prices less than the COP and, thus, the below-cost sales

were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1).

#### Currency Conversions

We made currency conversions in accordance with section 773A of the Act in the same manner as in the *Preliminary Results*.

#### Final Results of the Review

We determine that the following percentage margins exist for the period May 1, 2002, through April 30, 2003:

Exporter/manufacturer	Weighted-average margin percentage
Huvis Corporation .....	1.54
Keon Baek Co., Ltd .....	10.07
Saehan Industries, Inc .....	4.19

<sup>1</sup> *De minimis*.

#### Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated exporter/importer (or customer)-specific assessment rates for merchandise subject to this review. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total value of the sales to that importer (or customer). Where an importer (or customer)-specific *ad valorem* rate was greater than *de minimis*, we calculated a per-unit assessment rate by aggregating the dumping margins calculated for all U.S. sales to that importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer).

The Department will issue appropriate assessment instructions directly to the CBP within 15 days of publication of these final results of review.

#### Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of PSF from Korea entered, or withdrawn from warehouse, for

consumption, effective on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be the rates listed above (except no cash deposit will be required if a company's weighted-average margin is *de minimis*, i.e., less than 0.5 percent); (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 7.91 percent, the "all others" rate established in *Certain Polyester Staple Fiber From the Republic of Korea: Notice of Amended Final Determination and Amended Order Pursuant to Final Court Decision*, 68 FR 74552 (December 24, 2003).

These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

#### Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

#### Notification Regarding APOs

This notice also serves as a reminder to parties subject to administrative protective orders ("APOs") of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: October 8, 2004.

**James J. Jochum,**

*Assistant Secretary for Import Administration.*

#### **Appendix I—List of Comments in the Issues and Decision Memorandum**

Comment 1: Inclusion of Indirect Selling Expenses in Saehan's G&A Calculation.

Comment 2: Inclusion of Non-Operating Gains and Losses in Saehan's G&A Calculation.

Comment 3: Calculation of Saehan's Net Interest Expense Ratio.

Comment 4: Clerical Errors in Saehan's Preliminary Margin Calculations.

Comment 5: Huvis' Reported Credit Expenses on Home Market Sales.

Comment 6: Huvis' Home Market Short-Term Interest Rate.

[FR Doc. E4-2705 Filed 10-15-04; 8:45 am]

**BILLING CODE 3510-DS-P**

## **DEPARTMENT OF COMMERCE**

### **National Oceanic and Atmospheric Administration**

[I.D. 101304D]

#### **Proposed Information Collection; Comment Request; Northeast (NE) Multispecies Framework Adjustment 40-A Permit Information Data Collection**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, 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 December 17, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be

directed to Douglas W. Christel, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930; telephone: 978-281-9141.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Abstract**

The proposed rule for Framework Adjustment 40-A (Framework 40-A) to the NE Multispecies Fishery Management Plan (FMP) was published in the **Federal Register** on September 14, 2004 (69 FR 55388). Framework 40-A was developed by the New England Fishery Management Council (Council) to provide additional opportunities for vessels in the fishery to target relatively healthy stocks of groundfish in order to mitigate the economic and social impacts resulting from the effort reductions promulgated by Amendment 13 to the FMP (69 FR 22906, April 27, 2004), and to harvest groundfish stocks at levels that approach optimum yield. Framework 40-A proposes to create three programs to allow vessels to use Category B Days-at-Sea (DAS) (both Regular and Reserve) to target healthy stocks: (1) Regular B DAS Pilot Program; (2) Closed Area (CA) I Hook Gear Haddock Special Access Program (SAP); and (3) Eastern U.S./Canada Haddock SAP Pilot Program.

In addition, Framework 40-A proposes to relieve an Amendment 13 restriction that currently prohibits vessels from fishing both in the Western U.S./Canada Area, and outside that area on the same trip.

The information collection for the provisions within Framework 40-A was approved by the Office of Management and Budget in an emergency clearance on September 22, 2004. This information collection submission included automated vessel monitoring system (VMS) polling of vessel position; observer notifications; area and DAS category declarations via VMS; when fishing on a Category B DAS, declaration of a DAS category "flip" to a Category A DAS when a vessel exceeds the possession limit; and a declaration to participate in the Closed Area I Hook Gear Haddock SAP.

##### **II. Method of Collection**

Automated VMS polling of vessel position would be required of all vessels intending to participate in the programs proposed under Framework 40-A. The vessel operator would not be required to submit this information manually. Vessel owners would be charged a monthly operational fee for VMS usage. The area to be fished and the category of DAS to be used would be required to be declared prior to leaving port on a trip in which a vessel intends to

participate in one of the programs proposed in Framework 40-A. A DAS category "flip" would be required if a vessel exceeds the possession limit specified for several species of concern when fishing on a Category B DAS. Reporting this information via VMS is required to monitor: (1) DAS usage; (2) compliance with the provisions of the specific programs proposed in Framework 40-A; and (3) compliance with the closed area regulations.

Notification of the intent to participate in any of the programs proposed under Framework 40-A prior to each trip, as well as the declaration of a vessel's intent to participate in the Closed Area I Hook Gear Haddock SAP, would occur via a telephone call to the contracting company tasked with providing observer coverage. This information is required to determine the necessary observer coverage for these programs.

##### **III. Data**

*OMB Number:* 0648-0501.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Business or other for profit organizations; and individuals or households.

*Estimated Number of Respondents:* 997.

*Estimated Time Per Response:* Each automated VMS positional poll requires an estimated 5 seconds per response. Declarations of the area to be fished, DAS to be used, and DAS "flips" via VMS would take approximately 5 minutes per declaration. The observer notification prior to each trip is estimated to take 2 minutes per notification. Finally, declaring a vessel's intent to participate in the Closed Area I Hook Gear Haddock SAP is expected to take approximately 2 minutes per declaration.

*Estimated Total Annual Burden Hours:* The information collection submission for Framework 40-A included revisions to previously approved information collections for Amendment 13. As a result, the estimated total annual burden hours for the provisions contained within Framework 40-A information collection submission amount to a reduction of 2,094 hours from previous submissions.

*Estimated Total Annual Cost to Public:* \$1,181,264.

##### **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, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 12, 2004.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 04-23284 Filed 10-15-04; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 101304C]

**Proposed Information Collection; Comment Request; Southeast Region Bycatch Reduction Device Certification Family of Forms**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, 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 December 17, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to James M. Nance, Ph.D., F/ SEC5, NOAA Fisheries, 4700 Avenue U,

Galveston, TX 77551-5997 (phone 409-766-3507).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

Bycatch Reduction Devices (BRDs) are used in shrimp trawls in the Exclusive Economic Zone (EEZ) to reduce the bycatch of other species. Only BRDs certified by the NOAA Fisheries can be used. Persons seeking to get certification from NOAA Fisheries for BRDs must submit information showing that testing proves the effectiveness of the equipment.

**II. Method of Collection**

The information is submitted in paper form.

**III. Data**

*OMB Number:* 0648-0345.

*Form Number:* None.

*Type of Review:* Regular submission

*Affected Public:* Business or other for-profit organizations, individuals or households.

*Estimated Number of Respondents:* 45.

*Estimated Time Per Response:* 140 minutes for an application for pre-certification testing or for certification testing; 20 minutes for a Station Sheet (Gulf of Mexico); 50 minutes for a station sheet bycatch reduction device evaluation form (South Atlantic); 20 minutes for a Condition and Fate form; 30 minutes for a gear specification form (South Atlantic); 20 minutes for a gear specification form (Gulf of Mexico); 20 minutes for a length frequency form (Gulf of Mexico); 50 minutes for a length frequency form (South Atlantic); 5 hours for a species characterization form; 20 minutes for a BRD specification form (Gulf of Mexico); 20 minutes for a vessel information form (Gulf of Mexico); and 30 minutes for a vessel information form (South Atlantic).

*Estimated Total Annual Burden Hours:* 5,679

*Estimated Total Annual Cost to Public:* \$338,000.

**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, including through the

use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 12, 2004.

**Gwellnar Banks,**

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 04-23285 Filed 10-15-04; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 101304B]

**Proposed Information Collection; Comment Request; 2005 Coastal Resource Management Customer Survey**

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, 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 December 17, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Tom Fish at NOAA Coastal Services Center, (843) 740-1271 or [Tom.Fish@noaa.gov](mailto:Tom.Fish@noaa.gov).

**SUPPLEMENTARY INFORMATION:**

**I. Abstract**

This survey will be used by the NOAA Coastal Services Center to obtain information from our customers about their natural resource management

issues, their information, training, and technical assistance needs, and their technical capabilities in order to make quality improvements the Center's products and services.

## II. Method of Collection

A paper survey will be used, but a password-protected Web version of the survey will also be available.

## III. Data

*OMB Number:* None.

*Form Number:* None.

*Type of Review:* Regular submission.

*Affected Public:* Federal government; state, local, or tribal government (e.g., natural resource management agencies); not-for-profit institutions (Sea Grant programs).

*Estimated Number of Respondents:* 1,500.

*Estimated Time Per Response:* 30 minutes.

*Estimated Total Annual Burden Hours:* 750 hours.

*Estimated Total Annual Cost to Public:* \$0.

## 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, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 12, 2004.

### Gwellnar Banks,

*Management Analyst, Office of the Chief Information Officer.*

[FR Doc. 04-23286 Filed 10-15-04; 8:45 am]

BILLING CODE 3510-JE-S

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 101304A]

#### Proposed Information Collection; Comment Request; Northeast (NE) Multispecies Framework Adjustment 40-A Logbook Information Data Collection

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA).

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, 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 December 17, 2004.

**ADDRESSES:** Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at [dHynek@doc.gov](mailto:dHynek@doc.gov)).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to Douglas W. Christel, National Marine Fisheries Service, 1 Blackburn Drive, Gloucester, MA 01930; telephone: 978-281-9141.

#### SUPPLEMENTARY INFORMATION:

##### I. Abstract

The proposed rule for Framework Adjustment 40-A (Framework 40-A) to the NE Multispecies Fishery Management Plan (FMP) was published in the **Federal Register** on September 14, 2004 (69 FR 55388). Framework 40-A was developed by the New England Fishery Management Council (Council) to provide additional opportunities for vessels in the fishery to target relatively healthy stocks of groundfish in order to mitigate the economic and social impacts resulting from the effort reductions promulgated by Amendment 13 to the NE Multispecies FMP (69 FR 22906, April 27, 2004), and to harvest groundfish stocks at levels that approach optimum yield. Framework 40-A proposes to create three programs to allow vessels to use Category B Days-

at-Sea (DAS) (both Regular and Reserve) to target healthy stocks: (1) Regular B DAS Pilot Program; (2) Closed Area I Hook Gear Haddock Special Access Program (SAP); and (3) Eastern U.S./Canada Haddock SAP Pilot Program.

In addition, Framework 40-A proposes to relieve an Amendment 13 restriction that currently prohibits vessels from fishing both in the Western U.S./Canada Area, and outside that area on the same trip.

The information collection for the provisions relating to logbook requirements within Framework 40-A was approved by the Office of Management and Budget in an emergency clearance submission on September 22, 2004. This information collection submission included daily catch reports for vessels participating in the Category B (regular) DAS Pilot Program or fishing on combined trips in the Western U.S./Canada Area and outside of the area. This submission also included daily catch reports for vessels that are not participating in the Georges Bank (GB) Cod Hook Sector and that would be fishing in the Closed Area I Hook Gear Haddock SAP. Daily catch reports for vessels participating in the Eastern U.S./Canada Area Haddock SAP Pilot Program were previously considered and approved under the information collection submitted for Amendment 13.

##### II. Method of Collection

Catch reports for vessels participating in the above programs proposed in Framework 40-A would be required to be submitted on a daily basis. In addition, for those vessels participating in the Closed Area I Hook Gear Haddock SAP or fishing on a combined trip into the Western U.S./Canada Area, vessels would also be required to submit a catch report when entering or exiting each area. The catch reports would be required to be submitted using the vessel monitoring system (VMS) aboard each vessel. Reporting this information via VMS is required to monitor the catches of regulated multispecies so that the incidental catch hard total allowable catches (TACs) associated with the U.S./Canada Resource Sharing Agreement for GB cod, GB haddock, or GB yellowtail flounder, and the incidental catch TACs for species of concern proposed in Framework 40-A, would not be exceeded. These data would also be used in biological analyses and stock assessments, regulatory impact analyses, quota allocation selections and monitoring, economic profitability profiles, and analysis of ecological interactions among species.

**III. Data**

OMB Number: 0648-0502.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for profit organizations; and individuals or households.

Estimated Number of Respondents: 997.

Estimated Time Per Response: Each catch report is expected to take approximately 15 minutes (0.25 hours) per submission.

Estimated Total Annual Burden Hours: 2,533.

Estimated Total Annual Cost to Public: \$0.

**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, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 12, 2004.

**Gwellnar Banks,**

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 04-23287 Filed 10-15-04; 8:45 am]

BILLING CODE 3510-22-S

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 050304B]

**Endangered and Threatened Species: Extension of Public Comment Period and Notice of Rescheduled Public Hearing on Proposed Hatchery Listing Policy**

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

**ACTION:** Extension of public comment period; notice of rescheduled public hearing.

**SUMMARY:** In June 2004, NMFS proposed a new policy for the consideration of hatchery salmon (chum, *Oncorhynchus keta*; coho, *O. kisutch*, sockeye, *O. nerka*; chinook, *O. tshawytscha*) and *O. mykiss* (inclusive of anadromous steelhead and resident rainbow trout) in Endangered Species Act (ESA) listing determinations and subsequently extended the due date for public comments and announced public hearings. NMFS is again extending the public comment period on the proposed policy through November 12, 2004. Additionally, NMFS is rescheduling a public hearing in Portland, OR (originally to be held on October 13, 2004) to be held on November 9, 2004.

**DATES:** The due date for written comments is extended from October 20, 2004, to November 12, 2004. A public hearing is rescheduled to be held on November 9, 2004.

**ADDRESSES:** You may submit comments on the proposed hatchery listing policy (69 FR 31354; June 3, 2004) by any of the following methods:

E-mail: The mailbox address for submitting e-mail comments on the proposed hatchery listing policy is [hatch.policy@noaa.gov](mailto:hatch.policy@noaa.gov). Please include in the subject line of the e-mail comment the document identifier "Hatchery Listing Policy."

Mail: Submit written comments and information to Chief, NMFS, Protected Resources Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737. Please identify the comment as regarding the "Hatchery Listing Policy." You may hand-deliver written comments to our office at the street address given above, suite 210. Business hours are 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Hand Delivery/Courier: NMFS, Protected Resources Division, 525 NE Oregon Street, Suite 210, Portland, OR 97232-2737. Business hours are noted above.

Fax: 503-230-5435. Please identify the fax comment as regarding the "Hatchery Listing Policy."

The public hearing will be held at the Doubletree Hotel Portland-Columbia River, 1401 N. Hayden Island Drive, Portland, OR 97217. You may obtain information updates on the public hearing on the Internet at the following web address: <http://www.nwr.noaa.gov/AlseaResponse/20040528/meetings.html>.

**FOR FURTHER INFORMATION CONTACT:** Garth Griffin, NMFS, Northwest Region,

(503) 231-2005. Copies of the **Federal Register** notices cited herein and additional salmon-related materials are available on the Internet at [http://www.nwr.noaa.gov/1srd/Prop\\_Determins/](http://www.nwr.noaa.gov/1srd/Prop_Determins/). For information regarding public hearings on the proposed hatchery listing policy being held in California, please contact Craig Wingert, NMFS, Southwest Region, (562) 980-4021. Information on public hearings in California is also available on the Internet at <http://swr.nmfs.noaa.gov/news/SalmonidHearings.NR.pdf>.

**SUPPLEMENTARY INFORMATION:****Background**

On June 3, 2004, NMFS published a proposed policy addressing the role of hatchery produced Pacific salmon and *O. mykiss* in ESA listing determinations (69 FR 31354; "proposed hatchery listing policy"). The proposed hatchery listing policy would supersede NMFS' 1993 Interim Policy on salmonid artificial (hatchery) propagation (58 FR 17573; April 5, 1993), which requires revision following the 2001 U.S. District Court ruling in *Alsea Valley Alliance v. Evans* (161 F. Supp. 2d 1154, D. Ore. 2001; appeal dismissed, 358 F.3d 1181 (9th Cir. 2004); *Alsea* ruling). The *Alsea* ruling held that NMFS had made an improper distinction under the ESA by not listing certain artificially propagated salmon populations determined to be part of the same Evolutionarily Significant Unit (ESU) as listed natural populations. Under the proposed hatchery listing policy: hatchery fish with a level of genetic divergence relative to local natural populations that is no more than would be expected between closely related populations within the ESU would be included as part of the ESU; within-ESU hatchery fish would be considered in determining whether the ESU should be listed under the ESA; and within-ESU hatchery fish would be included in any listing of the ESU. NMFS applied this proposed policy in conducting its comprehensive review of ESA listing status for 26 previously listed ESUs, and one candidate ESU, of West Coast salmon and *O. mykiss*.

With the publication of the proposed hatchery listing policy NMFS announced a 90-day public comment period extending through September 1, 2004. In **Federal Register** notices published on August 31, 2004 (69 FR 53039) and September 9, 2004 (69 FR 54647), NMFS extended the public comment period for the proposed policy through October 20, 2004. Additionally, NMFS announced that it would hold

public hearings at eight locations in the Pacific Northwest and six locations in California to provide additional opportunities and formats to receive public input. To date NMFS has held seven of these public hearings in Oregon, Washington, and Idaho, and all six public hearings in California.

#### Extension of Public Comment Period

NMFS has received a request from a U.S. congressional representative to extend the public comment period and postpone any remaining public meetings to provide additional opportunity for the public to consider the proposed hatchery listing policy and to provide comment. In this notice NMFS is extending the public comment period through November 12, 2004.

#### Rescheduling of Public Hearing

In addition to extending the public comment period, NMFS is rescheduling a public hearing in Portland, OR (originally to be held on October 13, 2004) to be held on November 9, 2004 (see **ADDRESSES** for hearing location).

#### Public Hearing Format

Joint Commerce-Interior ESA implementing regulations state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In past ESA rule-making, NMFS has conducted traditional public hearings, consisting of recorded oral testimony from interested individuals. This format, although providing an alternative means of public input, is time consuming for the attendees and does not provide opportunities for dialogue and information exchange. In the **Federal Register** notice published on August 31, 2004 (69 FR 53039), NMFS described an alternative "open-house" format aimed at providing all hearing participants with the opportunity to obtain information on and discuss the proposed hatchery listing policy. NMFS has held seven of these "open-house" style public hearings, and believes that the new format improves the ability of the public to engage effectively in the rulemaking process.

#### Afternoon Practitioners' Session

An afternoon session (1:30 p.m. to 4:30 p.m., November 9, 2004) in Portland (Oregon) will be provided for local practitioners and stakeholders involved with managing the ESA on a regular basis, including: tribal governments; forestry and agricultural interests; home builders and developers;

the sport and commercial fishing community; the environmental community; the business community; utility and special districts; local government elected officials and their staff; other locally based Federal and state agencies; and public interest groups. Attendance at the afternoon sessions in Portland (Oregon) will be on a pre-registration basis. Information on attending the practitioners' afternoon session in Portland is available from NMFS upon request (see **FOR FURTHER INFORMATION CONTACT**, above) as well as on the Internet at <http://www.nwr.noaa.gov/AlseaResponse/20040528/PortlandMeeting.html>.

#### Evening Open House and Public Testimony

An evening "open house" session, designed for broader public participation, will be conducted in Portland (Oregon) on the same day as the afternoon practitioners' session (November 9, 2004) from 6:30 p.m. to 9:30 p.m. The "open house" format will provide the general public with an opportunity to meet with NMFS staff in small groups on specific topics. This evening meeting will also provide opportunities for the public to make formal recorded comments on the proposal. There is no need to register; just drop in anytime during the course of the evening event.

#### Special Accommodations

This hearing is physically accessible to people with disabilities. Requests for sign language or other aids should be directed to Garth Griffin (see **ADDRESSES**) 7 days before the meeting date.

#### References

Copies of the **Federal Register** notices and related materials cited in this document are available on the Internet at <http://nwr.noaa.gov>, or upon request (see **ADDRESSES** section above).

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: October 12, 2004.

**Laurie K. Allen,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 04-23281 Filed 10-15-04; 8:45 am]

**BILLING CODE 3510-22-S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 052104F]

#### Endangered and Threatened Species: Extension of Public Comment Period and Notice of Rescheduled Public Hearing on Proposed Listing Determinations for West Coast Salmonids

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

**ACTION:** Extension of public comment period; notice of rescheduled public hearing.

**SUMMARY:** In June 2004, NMFS proposed to list 27 Evolutionarily Significant Units (ESUs) of salmon (chum, *Oncorhynchus keta*; coho, *O. kisutch*, sockeye, *O. nerka*; chinook, *O. tshawytscha*) and *O. mykiss* as threatened and endangered under the Endangered Species Act (ESA) and subsequently extended the public comment period and announced public hearings. NMFS is again extending the public comment period on the proposed listing determinations through November 12, 2004. Additionally, NMFS is rescheduling a public hearing in Portland, Oregon (originally to be held on October 13, 2004) to be held on November 9, 2004.

**DATES:** The due date for written comments is extended from October 20, 2004, to November 12, 2004. A public hearing is rescheduled to November 9, 2004.

**ADDRESSES:** You may submit comments on the proposed hatchery listing policy (69 FR 31354; June 3, 2004) by any of the following methods:

E-mail: The mailbox address for submitting e-mail comments on the proposed listing determinations is [salmon.nwr@noaa.gov](mailto:salmon.nwr@noaa.gov). Please include in the subject line of the e-mail comment the document identifier "Proposed Listing Determinations."

Mail: Submit written comments and information to Chief, NMFS, Protected Resources Division, 525 NE Oregon Street, Suite 500, Portland, OR 97232-2737. Please identify the comment as regarding the "Proposed Listing Determinations." You may hand-deliver written comments to our office at the street address given above, suite 210. Business hours are 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

Hand Delivery/Courier: NMFS, Protected Resources Division, 525 NE

Oregon Street, Suite 210, Portland, OR 97232-2737. Business hours are noted above.

Fax: 503-230-5435. Please identify the fax comment as regarding the "Proposed Listing Determinations."

The public hearing will be held at the Doubletree Hotel Portland-Columbia River, 1401 N. Hayden Island Drive, Portland, OR 97217. You may obtain information updates on the public hearing on the Internet at the following web address: <http://www.nwr.noaa.gov/AlseaResponse/20040528/meetings.html>.

**FOR FURTHER INFORMATION CONTACT:**

Garth Griffin, NMFS, Northwest Region, (503) 231-2005. Copies of the **Federal Register** notices cited herein and additional salmon-related materials are available on the Internet at [http://www.nwr.noaa.gov/1srd/Prop\\_Determins/](http://www.nwr.noaa.gov/1srd/Prop_Determins/). For information regarding public hearings on the proposed listing determinations held in California, please contact Craig Wingert, NMFS, Southwest Region, (562) 980-4021. Information on public hearings in California is also available on the Internet at <http://swr.nmfs.noaa.gov/news/SalmonidHearings.NR.pdf>.

**SUPPLEMENTARY INFORMATION:**

**Background**

On June 14, 2004, NMFS published proposed ESA listing determinations for 27 salmon and *O. mykiss* ESUs, including 18 ESUs that occur in Oregon, Washington and Idaho (69 FR 33101). The 27 proposed listing determinations include 162 total hatchery programs as part of 4 ESUs being proposed for endangered status and 23 ESUs being proposed for threatened status. In addition, NMFS proposed amendments to the existing ESA 4(d) protective regulations for the proposed threatened ESUs.

With the publication of the proposed listing determinations NMFS announced a 90-day public comment period extending through September 13, 2004. In **Federal Register** notices published on August 31, 2004 (69 FR 53031) and September 9, 2004 (69 FR 54620), NMFS extended the public comment period for the proposed policy through October 20, 2004. Additionally, NMFS announced that it would hold public hearings at eight locations in the Pacific Northwest and six locations in California to provide additional opportunities and formats to receive public input. To date NMFS has held seven of these public hearings in Oregon, Washington, and Idaho, and all six public hearings in California.

**Extension of Public Comment Period**

NMFS has received a request from a U.S. congressional representative to extend the public comment period and postpone any remaining public meetings to provide additional opportunity for the public to consider the proposed listing determinations and to provide comment. In this notice NMFS is extending the public comment period through November 12, 2004.

**Rescheduling of Public Hearing**

In addition to extending the public comment period, NMFS is rescheduling a public hearing in Portland, Oregon (originally to be held on October 13, 2004) to be held on November 9, 2004 (see **ADDRESSES** for hearing location).

**Public Hearing Format**

Joint Commerce-Interior ESA implementing regulations state that the Secretary shall promptly hold at least one public hearing if any person requests one within 45 days of publication of a proposed regulation to list a species or to designate critical habitat (see 50 CFR 424.16(c)(3)). In past ESA rule-making, NMFS has conducted traditional public hearings, consisting of recorded oral testimony from interested individuals. This format, although providing an alternative means of public input, is time consuming for the attendees and does not provide opportunities for dialogue and information exchange. In the **Federal Register** notice published on August 31, 2004 (69 FR 53039), NMFS described an alternative "open-house" format aimed at providing all hearing participants with the opportunity to obtain information on and discuss the proposed listing determinations. NMFS has held seven of these "open-house" style public hearings, and believes that the new format improves the ability of the public to engage effectively in the rulemaking process.

*Afternoon Practitioners' Session*

An afternoon session (1:30 p.m. to 4:30 p.m., November 9, 2004) in Portland (Oregon) will be provided for local practitioners and stakeholders involved with managing the ESA on a regular basis, including: tribal governments; forestry and agricultural interests; home builders and developers; the sport and commercial fishing community; the environmental community; the business community; utility and special districts; local government elected officials and their staff; other locally based Federal and state agencies; and public interest groups. Attendance at the afternoon sessions in Portland (Oregon) will be on

a pre-registration basis. Information on attending the practitioners' afternoon session in Portland is available from NMFS upon request (see **FOR FURTHER INFORMATION CONTACT**, above) as well as on the Internet at <http://www.nwr.noaa.gov/AlseaResponse/20040528/PortlandMeeting.html>.

*Evening Open House and Public Testimony*

An evening "open house" session, designed for broader public participation, will be conducted in Portland (Oregon) on the same day as the afternoon practitioners' session (November 9, 2004) from 6:30 p.m. to 9:30 p.m. The "open house" format will provide the general public with an opportunity to meet with NMFS staff in small groups on specific topics. This evening meeting will also provide opportunities for the public to make formal recorded comments on the proposal. There is no need to register; just drop in anytime during the course of the evening event.

**Special Accommodations**

This hearing is physically accessible to people with disabilities. Requests for sign language or other aids should be directed to Garth Griffin (see **ADDRESSES**) 7 days before the meeting date.

**References**

Copies of the **Federal Register** notices and related materials cited in this document are available on the Internet at <http://nwr.noaa.gov>, or upon request (see **ADDRESSES** section above).

**Authority:** 16 U.S.C. 1531 *et seq.*

Dated: October 12, 2004.

**Laurie K. Allen,**

*Director, Office of Protected Resources,  
National Marine Fisheries Service.*

[FR Doc. 04-23283 Filed 10-15-04; 8:45 am]

**BILLING CODE 3510-22-S**

**DEPARTMENT OF COMMERCE**

**National Oceanic and Atmospheric Administration**

[I.D. 100804C]

**Gulf of Mexico Fishery Management Council; Public Meeting**

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

**ACTION:** Notice of Southeast Data, Assessment and Review (SEDAR) 7 Assessment Workshop for Gulf of Mexico Red Snapper.

**SUMMARY:** The SEDAR process for the Gulf of Mexico Red Snapper consists of a series of three workshops: a data workshop, an assessment workshop, and a review workshop. A second Assessment Workshop is being held to continue the assessment work that could not be completed during the first Assessment Workshop for red snapper. See **SUPPLEMENTARY INFORMATION**.

**DATES:** The SEDAR 7 Assessment Workshop II for red snapper will take place December 14–17, 2004. The workshop will be held December 14-16, 2004, 8:30 a.m. 5:30 p.m. and December 17, 2004, 8:30 a.m.–1 p.m.

**ADDRESSES:** The Assessment Workshop will be held at the Wyndham Grand Bay Hotel, 2669 South Bayshore Drive, Coconut Grove, FL 33133; telephone: (305)858–9600.

**FOR FURTHER INFORMATION CONTACT:** John Carmichael, SEDAR Coordinator, SEDAR/SAFMC, One Southpark Circle, Suite 306, Charleston, SC 29407; telephone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520.

**SUPPLEMENTARY INFORMATION:** The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the SEDAR process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR typically includes three workshops: (1) Data workshop, (2) assessment workshop, and (3) review workshop. The product of the data workshop and the assessment workshop is a stock assessment report, which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment report is independently peer reviewed at the review workshop. The products of the review workshop are a Consensus Summary Report, which reports Panel opinions regarding the strengths and weaknesses of the stock assessment and input data, and an Advisory Report, which summarizes the status of the stock. Participants for SEDAR workshops are appointed by the Regional Fishery Management Councils. Participants include data collectors, database managers, stock assessment scientists, biologists, fisheries researchers, fishermen, environmentalists, Council members, international experts, and staff of Regional Councils, Interstate Commissions, and state and Federal agencies.

The Assessment Workshop conducts stock assessments, prepares stock rebuilding analyses, and estimates population benchmarks. Workshop Panelists analyze the available data and document their opinions on various stock assessment models. Panelists are responsible for drafting section III of the SEDAR Stock Assessment Report.

During the first SEDAR 7 Gulf of Mexico Red Snapper Assessment Workshop a number of data and modeling issues were identified that could not be adequately addressed in the time allotted. Therefore a second Assessment Workshop will be held to complete the stock assessment of red snapper.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

#### Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the South Atlantic Fishery Management Council office at the address listed above at least 5 business days prior to the workshop.

Dated: October 12, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. E4–2690 Filed 10–15–04; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

[I.D. 101204A]

#### New England Fishery Management Council; Public Meetings

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

**ACTION:** Notice of a public meeting.

**SUMMARY:** The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee in

November, 2004. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

**DATES:** The meeting will held on Monday, November 1, 2004 at 9:30 a.m.

**ADDRESSES:** The meeting will be held at the Sheraton Colonial, One Audubon Road, Wakefield, MA 01880; telephone: (781) 245–9300.

*Council address:* New England Fishery Management Council, 50 Water Street, Newburyport, MA 01950.

**FOR FURTHER INFORMATION CONTACT:** Paul J. Howard, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

**SUPPLEMENTARY INFORMATION:** The Research Steering Committee will address issues related to the use of days-at-sea for vessels participating in cooperative research projects, the experimental fishery permit process and its interface with cooperative research, and Council research priorities for 2005.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens 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 Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: October 13, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. E4–2691 Filed 10–15–04; 8:45 am]

**BILLING CODE 3510–22–S**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration**

[I.D. 100804B]

**Western Pacific Fishery Management Council; Public Scoping Meetings on Ecosystem-based Fisheries Management Within the U.S. Exclusive Economic Zone of the Western Pacific Region**

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

**ACTION:** Notice of Intent to prepare a programmatic environmental impact statement (PEIS); notice of scoping meetings; request for written comments.

**SUMMARY:** The Western Pacific Fishery Management Council (Council) and NMFS announce their intent to prepare a PEIS in accordance with the National Environmental Policy Act of 1969 (NEPA) on the development of an ecosystem-based fisheries management regime in the Western Pacific Region. The Council and NMFS are jointly holding public scoping meetings throughout the region to solicit comments on management options for ecosystem-based fisheries management. The scoping meetings and written comments will provide for public input on the issues, range of alternatives, impacts, and any other issues or concerns related to the proposed action which should be analyzed in detail in the PEIS, as described in this scoping notice.

**DATES:** Public scoping meetings will be held in October, November and December 2004. See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations of hearings. Written comments must be received by January 3, 2005.

**ADDRESSES:** Submit written comments to Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813, and/or William L. Robinson, Administrator, Pacific Islands Regional Office (PIRO), NMFS, 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814. You may submit comments to the Council via facsimile (fax) at 808-522-8226 or PIRO at 808-973-2941. You may also submit comments via e-mail to [scopePEISecosystem@noaa.gov](mailto:scopePEISecosystem@noaa.gov). Include in the subject line the following document identifier: "scope ecosystem PEIS." See **SUPPLEMENTARY INFORMATION** for specific dates, times, and locations of hearings.

**FOR FURTHER INFORMATION CONTACT:** Eric Kingma (Council) at 808-522-8220 or Alvin Katekaru (PIRO) at 808-973-2937.

**SUPPLEMENTARY INFORMATION:** Under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), the United States has exclusive management authority over all living marine resources found within the U.S. Exclusive Economic Zone (EEZ). The management of these resources, with the exception of sea birds and some marine mammals, is vested in the Secretary of Commerce (Secretary). Eight regional fishery management councils prepare fishery management plans for approval and implementation by the Secretary. The Council has the responsibility to prepare fishery management plans (FMPs) for fishery resources in the EEZ of the Western Pacific Region, which include the Federal waters surrounding Hawaii, the Territories of American Samoa and Guam, the Commonwealth of Northern Mariana Islands, and the Pacific Remote Island Areas (Palmyra Atoll, Kingman Reef, Jarvis Island, Baker Island, Howland Island, Johnston Atoll, Wake Island, and Midway Atoll).

The Council has developed FMPs for the following fisheries: bottomfish and seamount groundfish, coral reef ecosystems, crustaceans, pelagics, and precious corals. At its 123rd meeting (June 2004), the Council decided to initiate a process to develop fishery ecosystem management plans (FEMPs), thereby managing fisheries within an ecosystem context. Thus, the primary objective of the PEIS is to serve as a broad-scale planning tool for the Council's shift toward ecosystem-based management, and ultimately the development and implementation of FMPs, if approved by the Secretary, for managed fisheries of the Western Pacific Region. The scope of the PEIS analysis will, among other things, describe the management, monitoring, and conduct of fisheries FMPs of the Western Pacific Region; examine various options for managing fisheries within an ecosystem context; consider the potential impacts of ecosystem-based management on target species, non-target species, essential fish habitat, protected species; and describe mechanisms for community involvement and participation in the management of local fishery resources.

NEPA requires preparation of an environmental impact statement for any major Federal action significantly impacting the quality of the human environment. Regulations implementing NEPA at 40 CFR 1502.4(b) state:

Environmental impact statements may be prepared, and are sometimes required, for

broad Federal actions such as adoption of new agency programs or regulations. Agencies shall prepare statements on broad actions so that they are relevant to policy and are timed to coincide with meaningful points in agency planning and decision making.

Under 40 CFR 1508.25(a), cumulative and connected actions require the development of a PEIS. However, relevant case law since the promulgation of NEPA has further expanded the PEIS requirement to: (1) actions relating to broad program or regional planning and, (2) when there are cumulative or synergistic environmental impacts upon the environment from past, present, or reasonably foreseeable future actions. In this regard, the PEIS serves as an analytical tool for regional planning and potential implementation of an ecosystem-based management regime in the Western Pacific.

**Alternatives**

The Council and NMFS are conducting scoping meetings to establish a reasonable range of alternatives. Preliminary alternatives have been drawn from the following categories: (1) FEMP boundaries (e.g. archipelagic vs. island-by-island), (2) management unit species (e.g., multi-species linkages), (3) environmental indicators (e.g., productivity cycles), (4) the role of communities in ecosystem-based management (e.g., monitoring) and (5) the Council process relating to advisory body structures (e.g., sector specific representation vs. ecosystem boundary representation). In addition to developing possible alternatives, the scoping meetings will serve to identify and eliminate the issues which are not significant or which have been covered by prior environmental review.

**Public Involvement**

Public scoping is an early and open process for determining the scope of issues to be addressed. A principal objective of the scoping and public involvement process is to identify a reasonable range of management alternatives that, with adequate analysis, will delineate critical issues and provide a clear basis for distinguishing between those alternatives and selecting a preferred alternative.

**Other Issues to be Discussed**

In order to broaden the public scoping opportunity described above, the Council and NMFS will also solicit public comments on the following issues: marine mammal mitigation measures, blue marlin, bigeye and yellowfin tuna management, and c) recreational fisheries data collection.

Depending on public comments received and subsequent initial Council action, these issues may require the preparation of an EIS. If it is decided that an EIS will be prepared for any of the issues listed above, a corresponding Notice of Intent will be published in the **Federal Register**.

#### Dates, Times, and Locations (island and address) for Public Scoping Meetings

1. Hilo, HI — Wednesday, October 27, 2004, from 6–9 p.m. at the Naniloa Hotel, 93 Banyon DR, Hilo, HI 96720;

2. Kona, HI — Thursday, October 28, 2004, from 6–9 p.m. at the King Kamehameha Hotel, 75–5660 Palani Rd., Kona, HI 96740;

3. Oahu, HI — Monday, November 1, 2004, from 6–9 p.m. at the Ala Moana Hotel, 410 Atkinson Dr., Honolulu, HI 96815;

4. Kauai, HI — Tuesday, November 2, 2004, from 6–9 p.m. at the Chiefess Kamakahelei Middle School, 4431 Nuhou St., Lihue, HI 96766;

5. Maui, HI — Wednesday, November 3, 2004, from 6–9 p.m. at the Maui Beach Hotel, 170 Kaahumanu Ave., Kahului, HI 96732;

6. Saipan, CNMI — Wednesday, November 17, 2004, from 6–9 p.m. at the Pedro P. Tenorio Multipurpose Building, Susupe, CNMI 96950;

7. Hagatna, Guam — Thursday, November 18, 2004 from 6–9 p.m. at the Guam Fishermen's Cooperative, Perez Marina, Hagatna, Guam 96932; and

8. Pago Pago, American Samoa — Wednesday, December 8, 2004, from 7–9 p.m. at the Department of Marine Resources and Wildlife Conference Room, Pago Pago, American Samoa 96799.

#### Special Accommodations

These meetings are 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.

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

Dated: October 13, 2004.

**Alan D. Risenhoover,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*  
[FR Doc. 04–23280 Filed 10–15–04; 8:45 am]

**BILLING CODE 3510–22–S**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### Membership of the National Oceanic and Atmospheric Administration Performance Review Board

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

**ACTION:** Notice of membership of NOAA Performance Review Board.

**SUMMARY:** In accordance with 5 U.S.C. 4314(c)(4), NOAA announces the appointment of twenty-six members to serve on the NOAA Performance Review Board (PRB). The NOAA PRB is responsible for reviewing performance appraisals and ratings of Senior Executive Service (SES) members and making written recommendations to the appointing authority on SES retention and compensation matters, including performance-based pay adjustments, awarding of bonuses and reviewing recommendations for potential Presidential Rank Award nominees. The appointment of members to the NOAA PRB will be for a period of 24 months.

**EFFECTIVE DATE:** The effective date of service of the twenty-six appointees to the NOAA Performance Review Board is October 15, 2004.

#### FOR FURTHER INFORMATION CONTACT:

Claudia McMahan, Executive Resources Program Manager, Human Resources Management Office, Office of Finance and Administration, NOAA, 1305 East-West Highway, Silver Spring, MD 20910, (301) 713–0530 (ext. 204).

**SUPPLEMENTARY INFORMATION:** The names and position titles of the members of the NOAA PRB are set forth below (all are NOAA officials except Tyra Smith, Director, Human Resources, Bureau of the Census, Department of Commerce; Gerald R. Lucas, Director for Strategic Initiatives, Office of Human Resources Management, Department of Commerce; and Timothy J. Hauser, Deputy Under Secretary for International Trade, International Trade Administration, Department of Commerce:

John E. Jones, Jr., Deputy Assistant Administrator for Weather Services.

John E. Oliver, Jr., Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

Debra Larson, Director, Office of Legislative Affairs, Office of Legislative Affairs.

Louisa Koch, Deputy Assistant Administrator for Oceanic and Atmospheric Research, Office of Oceanic and Atmospheric Research.

Carl Staton, Chief Information Officer and Director for High Performance Computing and Communications, Office of the Deputy Under Secretary.

Alan Neuschatz, Associate Assistant Administrator for Management and Chief Financial Officer/Chief Administrative Officer, National Ocean Service.

Mary Glackin, Assistant Administrator for Program, Planning and Integration, Office of Planning and Program Integration.

Colleen Hartman, Deputy Assistant Administrator, National Environmental Satellite, Data and Information Service.

Tyra Smith, Director, Human Resources, Bureau of the Census.

David Kennedy, Director, Office of Response and Restoration, National Ocean Service.

Ron Baird, Director, National Sea Grant College Program, Office of Oceanic and Atmospheric Research.

Helen M. Hurcombe, Director, Acquisition and Grants Office, NOAA Finance and Administration.

Ants Leetmaa, Director, Geophysical Fluid Dynamics Laboratory, Office of Oceanic and Atmospheric Research.

Gregory Mandt, Director, Office of Climate, Water and Weather Services, National Weather Service.

Louis W. Uccellini, Director, National Centers for Environmental Prediction, National Weather Service.

Rebecca Lent, Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

Michael Sissenwine, Director of Scientific Programs and Chief Science Advisor, National Marine Fisheries Service.

William Broglie, Chief Administrative Officer, NOAA Finance and Administration.

William J. Brennan, Deputy Assistant Secretary for International Affairs, Office of International Affairs.

Martha Cuppy, Director, Central Administrative Support Center, NOAA Finance and Administration.

Kathleen Kelly, Director, Office of Satellite Operations, National Environmental Satellite, Data and Information Service.

Jordan P. St. John, Director, Office of Public and Constituent Affairs, Office of Public and Constituent Affairs, NOAA.

Timothy J. Hauser, Deputy Under Secretary for International Trade, International Trade Administration, Department of Commerce.

Bonnie Morehouse, Director, Program Analysis & Evaluation, Office of NOAA Finance and Administration.

Donald E. Hout, Director, Ocean and Coastal Resource Management, National Ocean Service.

Gerald R. Lucas, Director for Strategic Initiatives, Office of Human Resources Management, Department of Commerce.

Dated: October 8, 2004.

**Conrad C. Lautenbacher, Jr.,**

*Vice Admiral, U.S. Navy (Ret.), Under Secretary of Commerce, for Oceans and Atmosphere.*

[FR Doc. 04-23218 Filed 10-15-04; 8:45 am]

BILLING CODE 3510-12-M

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## CONSUMER PRODUCT SAFETY COMMISSION

### Pilot Programs Inviting Public Comment on Voluntary Standards Activities and Staff and Contractor Research Reports

**AGENCY:** Consumer Product Safety Commission.

**ACTION:** Notice of pilot programs and request for comments.

**SUMMARY:** The Consumer Product Safety Commission (CPSC or Commission) is launching two pilot programs that will open CPSC staff activities for public review and comment. The first pilot program will provide information on CPSC staff participation with respect to a cross-section of voluntary standards, including advance notice of proposed staff positions on issues to be considered by voluntary standards organizations. The second pilot program will provide public access to a set of research reports and an opportunity to submit comments to be considered by the staff before finalization.

The primary goals of both programs are to make the CPSC staff's activities more transparent and to obtain the benefit of public review and input before finalizing CPSC staff positions. The Commission believes that timely public input will strengthen the CPSC's efforts in these important areas. Comments received through these programs will be reviewed by staff to ensure each research report and staff recommendation on voluntary standards activities is based on the best scientific, economic, and technological information available. The Commission is hopeful that the two pilot programs will enhance the quality of the conclusions and recommendations drawn by CPSC staff without limiting its ability to make timely contributions to the ever-evolving voluntary standards development process or to complete its research work in a timely fashion.

The Commission will evaluate the two pilot programs after a period of six months. Should the pilot programs be deemed successful, the Commission will consider expanding them to include a broader cross-section of CPSC staff voluntary standards activities and research reports developed by CPSC staff and/or contractors. The two pilot programs are further described below.

**DATES:** The pilot programs described in this notice commence on publication of this notice and run through April 18, 2005.

#### Comments

Comments on a proposed staff recommendation concerning a voluntary standards activity selected for the pilot may be submitted through the CPSC Web site at <http://www.cpsc.gov/volstd/standards.html> and must be received not later than five (5) working days after the recommendation is posted on the Web site.

Comments on any research report that is the subject of the Research Reports Technical Review Pilot Program may be submitted via e-mail to the Commission's Office of the Secretary at [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov). Commenters who prefer may submit comments to the Office of the Secretary at the address shown below. Comments on a research report must be received not later than forty-five (45) days after the report is posted on CPSC's Web site.

General comments on whether to continue these programs beyond the pilot period and any suggestions for improving the programs may be submitted to the address below and must be received not later than May 18, 2005.

**ADDRESSES:** General comments on the pilot programs should be mailed to the Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207-0001; telephone (301) 504-7923, or delivered to the Office of the Secretary, Room 502, 4330 East-West Highway, Bethesda, Maryland 20814-4423. Comments should be captioned "Comments on Pilot Programs for Public Review and Comment on Voluntary Standards Activities and Draft Research Reports." Comments may also be filed by telefacsimile to (301) 504-0127, or by e-mail to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov).

**FOR FURTHER INFORMATION CONTACT:** For further information on the specific voluntary standards activities and draft technical reports that are the subject of the pilot programs contact:

Hugh McLaurin, Director, Directorate for Engineering Sciences, U.S. Consumer Product Safety Commission,

Washington, DC 20207, (301) 504-7531, e-mail: [hmclaurin@cpsc.gov](mailto:hmclaurin@cpsc.gov).

For general information on the pilot programs, contact: Lowell Martin, Assistant General Counsel for Regulatory Affairs, U.S. Consumer Product Safety Commission, Washington, DC 20207, (301) 504-7628, e-mail: [lmartin@cpsc.gov](mailto:lmartin@cpsc.gov).

#### SUPPLEMENTARY INFORMATION:

### A. CPSC Staff Voluntary Standards Activities Information and Opportunity for Comment

#### 1. Background

The Commission is actively engaged in the voluntary standards development process for a wide range of consumer products. The staff works with several different standards development organizations. All provide an open, deliberative process featuring a balance of interests and due process protections.

CPSC staff members participate, as non-voting members, in a number of steps in the voluntary standards development process. CPSC staff often provide expert advice, technical assistance, injury and death data and analysis, as well as supporting research. In addition, CPSC staff will commonly submit recommendations concerning new consumer product safety standards or modification of existing standards. These recommendations are often based on previous research conducted by the agency or a review of injury and death data associated with the product category at issue. From 1990 through 2002, CPSC staff has participated with other interested stakeholders in developing or revising 217 voluntary standards.

#### 2. Pilot Program

CPSC is initiating a pilot program to begin posting notice of CPSC staff activities and recommendations concerning voluntary standards development on its web site. At present, Commission staff is involved in over 60 consumer product voluntary standards development activities. For purposes of the pilot, CPSC has selected eight different voluntary standards activities to evaluate this system of sharing CPSC staff information with the public for review and comment.

The voluntary standards activities selected for the pilot are: (1) Smoke alarms; (2) arc fault circuit interrupters; (3) ground fault circuit interrupters; (4) pool and spa safety vacuum release systems; (5) bunk beds; (6) gasoline containers for child resistance; (7) portable generators (within the engine driven tools project); and (8) garage door and gate operators. For these voluntary

standards activities, we will make available on the CPSC Web site a wide range of technical information, including as appropriate: relevant CPSC safety alerts, press releases involving the product category, pertinent fact sheets, relevant incident and death data, letters with staff recommendations, correspondence, meeting notices, research reports, memoranda, and contractor reports. We will also provide appropriate contact information, both for CPSC staff and the voluntary standards organizations.

The information on these eight activities can be accessed by visiting the CPSC Web site at <http://www.cpsc.gov/volstd/standards.html>. In addition, the site will allow any member of the public to arrange to receive automatic electronic mail updates on any new CPSC staff activity and/or recommendations regarding voluntary standards activities.

This new area of the CPSC Web site will also provide the public with the opportunity to review and comment on newly developed staff materials/recommendations before they are submitted for consideration by the voluntary standards organization. During the pilot, the Commission staff will post proposed staff recommendations for the selected voluntary standards activities in the voluntary standards area of the CPSC Web site for a period of five (5) working days. Interested parties will be able to forward comments to CPSC staff through this web area. Following the five day public comment period, staff will provide due consideration to inputs received, inform the Assistant Executive Director for Hazard Identification and Reduction of any significant issues raised, and finalize the staff recommendation for the Director's review. Although public comments may affect the staff's proposed recommendations, the staff will not respond directly to comments.

The Commission would prefer to allow a longer period than five days for public input, but we lack control over the deadlines set by voluntary standards organizations. We are concerned that a more generous review period may leave the staff too little time for formulating a position and taking account of public comments. The Commission invites comments on this and other aspects of the pilot programs.

The pilot project will alert the public to eight current voluntary standards activities within the CPSC and enable them to access detailed information and analysis regarding the proposed approach and staff recommendations for new or revised standards. We believe it

is in the public interest to ensure all interested parties have the opportunity to review this information and make comments to staff for consideration prior to finalizing a recommendation to a voluntary standards organization. We have developed this pilot project to evaluate that hypothesis and to develop a better understanding of the practical implications of this new, more open process.

It is important to note that this pilot addresses only information pertaining directly to CPSC staff involvement in voluntary standards activities and is not intended to create a complete repository for all voluntary standards activities information. Each voluntary standards organization is responsible for maintaining such comprehensive information. Accordingly, for each activity in the pilot program, contact information for the appropriate voluntary standards organization and/or staff member will be included.

## **B. Research Reports Technical Review Pilot Program**

### *1. Background*

The CPSC conducts many research and study projects in furtherance of its activities to improve product safety and eliminate potential hazards associated with consumer products. The findings from such projects may be used by staff to develop and refine positions on voluntary and mandatory product safety standards. The staff also conducts research on new and emerging technologies to evaluate their potential for enhancing consumer product safety and reducing hazards. Each research project typically concludes with development of a final report outlining the hazard scenario or product safety issue that was researched, the scope of the project, methodology utilized, findings, and recommendations when appropriate. On occasion, the staff also engages outside contractors to perform research. In such cases, the final contractor report is usually transmitted to the Commission and the public with a cover memorandum from the staff addressing any issues presented by the report and/or making recommendations as appropriate.

### *2. Pilot Program*

The Research Reports Technical Review pilot program will give interested persons the opportunity to review and provide timely technical comments on CPSC staff and CPSC-sponsored research reports prior to their finalization. The reports will be located on the CPSC Web site at <http://www.cpsc.gov/volstd/research/>

[research.html](#). Each selected research report can be viewed by clicking on the link for that report. Interested parties can forward technical comments to CPSC staff via e-mail to [cpsc-os@cpsc.gov](mailto:cpsc-os@cpsc.gov) or, if access to e-mail is unavailable, by correspondence to the Office of the Secretary at the address shown above.

We have selected the following draft staff reports to initiate this pilot: (1) *Detection of Abnormal Operating Conditions in Electric Clothes Dryers*; (2) *A Review of the Sound Effectiveness of Residential Smoke Alarms*; (3) *An Evaluation of Finger Injuries Associated with Home Document (Paper) Shredder Machines*; and (4) *Fire Indicators Project Report*. In addition, we are including one final contractor report, namely, *Final Report on Development and Manufacturing Assessment of the Concentric-Ring Smooth-Top Range Sensor*. These research reports will be located on the Research Reports Technical Review Web page and will be available for comment for forty-five (45) days from the date of this notice, that is until December 2, 2004. Other research reports may be posted to the Web site during the pilot, and in such cases the Commission will allow 45 days for public comment.

CPSC staff will assess technical comments submitted through the Research Reports Technical Review Web site and will take account of such comments when finalizing staff reports or in the final staff assessment to accompany a contractor report. Staff will provide due consideration to inputs received, inform the Assistant Executive Director for Hazard Identification and Reduction of any significant issues that arise, and finalize the report in question for review by the Executive Director and transmittal to the Commission. Although the staff will take account of all comments received, the staff will not respond directly to the commenter.

## **C. Conclusion**

The Commission has launched these pilot programs in an effort to increase the transparency and openness of CPSC staff voluntary standards activities and CPSC staff and CPSC-sponsored research. The Commission is hopeful that the pilots will enhance the overall quality of the conclusions and recommendations drawn by CPSC staff with regard to voluntary standards development and our product safety research. It is important to note that while comments on specific positions and reports will be reviewed and assessed by CPSC staff member(s) as appropriate, CPSC staff will not prepare formal responses. Rather, the staff will

consider whether to modify its input to the voluntary standards organization or to revise a research report.

The pilots will commence upon publication of this notice in the **Federal Register** and will be completed by April 18, 2005.

The Commission also seeks comment on these pilot programs generally in order to inform its judgment about extending or modifying the programs. Such comments should be in writing and submitted to the Office of the Secretary at the address above no later than one (1) month after completion of the pilots, that is, not later than May 18, 2005.

Dated: October 12, 2004.

**Todd A. Stevenson,**

Secretary, Consumer Product Safety Commission.

[FR Doc. 04-23197 Filed 10-15-04; 8:45 am]

BILLING CODE 6355-01-P

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Dates:* Consideration will be given to all comments received by November 17, 2004.

*Title, Form, and OMB Number:* Registration for Scientific and Technical Information Services; DD Form 1540; OMB Control Number 0704-0264.

*Type of Request:* Reinstatement.

*Number of Respondents:* 7,979.

*Responses Per Respondent:* 1.

*Annual Responses:* 7,979.

*Average Burden Per Response:* 10 minutes.

*Annual Burden Hours:* 1,330.

*Needs and Uses:* The date that the Defense Technical Information Center handles is controlled, either because of distribution limitations, or security classification. For this reason, all potential users are required to register for service. DoD Instruction 3200.14, Principles and Operational Parameters of the DoD Scientific and Technical Information Program, mandates the registration procedure. Federal Government agencies and their contractors are required to complete the DD Form 1540, Registration for Scientific and Technical Information

Services. The contractor community completes a separate DD Form 1540 for each contract or grant, and registration is valid until the contract expires.

*Affected Public:* Business or other for-profit, not-for-profit institutions, Federal Government, and state, local or tribal government.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DoD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/ Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202-4326.

Dated: October 8, 2004.

**Patricia L. Toppings,**

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04-23245 Filed 10-15-04; 8:45 am]

BILLING CODE 5001-06-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Dates:* Consideration will be given to all comments received by November 17, 2004.

*Title, Form, and OMB Number:* Uniform Tender of Rates and/or Charges for Domestic Transportation Services (DoD/USCG Sponsored Household Goods); SDDC Form 43-R; OMB Control Number 0702-0018.

*Type of Request:* Reinstatement.

*Number of Respondents:* 1,580.

*Responses Per Respondent:* 4.

*Annual Responses:* 6,320.

*Average Burden Per Response:* 30 minutes.

*Annual Burden Hours:* 3,160.

*Needs and Uses:* The Department of Defense approved household goods

carriers files rate to engage in the movement of DoD and United States Coast Guard sponsored shipments within the continental United States. The Military Surface Deployment and Distribution Command evaluates the rates and awards the traffic to low rate responsible carriers whose rates are responsive and most advantageous to the Government.

*Affected Public:* Business or other for-profit.

*Frequency:* Semi-annually.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DoD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing WHS/ESCD/ Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202-4326.

Dated: October 8, 2004.

**Patricia L. Toppings,**

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 04-23246 Filed 10-15-04; 8:45 am]

BILLING CODE 5001-06-M

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### Submission for OMB Review; Comment Request

**ACTION:** Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

**DATES:** Consideration will be given to all comments received by November 17, 2004.

*Title, Form, and OMB Number:* Shipper's Export Declaration (SED) Program; ENG Form 7513; OMB Control Number 0710-0013.

*Type of Request:* Reinstatement.

*Number of Respondents:* 14,300.

*Responses per Respondent:* 6.8.

*Annual Responses:* 97,300.

*Average Burden per Response:* 11 minutes.

*Annual Burden Hours:* 17,600.

*Needs and Uses:* The Corps uses the data from the program to satisfy its mission. The Corps is responsible for the operation and maintenance of the nation's waterway system to ensure efficient and safe passage of commercial and recreational vessels. The support and management of economically sound navigation projects are dependent upon reliable navigation data as mandated by the River and Harbor Appropriations Act of September 22, 1922 (42 Stat. 1043), as amended and codified in 33 U.S.C. 555. The data collected on the form provides baseline, essential waterborne transportation information necessary for the corps to perform its mission.

*Affected Public:* Business or other for-profit.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain benefits.

*OMB Desk Officer:* Ms. Jacqueline Zeiher.

Written comments and recommendations on the proposed information collection should be sent to Ms. Zeiher at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

*DOD Clearance Officer:* Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/ESCD/ Information Management Division, 1225 South Clark Street, Suite 504, Arlington, VA 22202-4326.

Dated: October 8, 2004.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04-23247 Filed 10-15-04; 8:45 am]

**BILLING CODE 5001-06-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### National Security Education Board Meeting

**AGENCY:** National Defense University

**ACTION:** Notice of meeting.

**SUMMARY:** Pursuant to Public Law 92-463, notice is hereby given of a forthcoming meeting of the National Security Education Board. The purpose of the meeting is to review and make recommendations to the Secretary concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102-183, as amended.

**DATES:** October 29, 2004.

**ADDRESSES:** The Crystal City Marriott Hotel, 1999 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** Dr. Edmond J. Collier, Deputy Director for Programs, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn PO Box 20010, Arlington, VA 22209-2248; (703) 696-1991. Electronic mail address: [colliere@ndu.edu](mailto:colliere@ndu.edu).

**SUPPLEMENTARY INFORMATION:** The Board meeting is open to the public.

Dated: October 12, 2004.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04-23250 Filed 10-15-04; 8:45 am]

**BILLING CODE 5001-06-M**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

#### President's Information Technology Advisory Committee (PITAC)

**ACTION:** Notice of meeting.

**SUMMARY:** PITAC's Subcommittee on Computational Science will provide an update of its activities. PITAC will discuss the Subcommittee's presentation and provide guidance for use in the completion of its report on computational science. Public input will be solicited during a public comment period. A small fraction of the meeting time may be allocated for other PITAC updates at the discretion of the co-chairs and the designated Federal officer.

**DATES:** Thursday, November 4, 2004, 1:30-3:30 p.m. Eastern Time.

**ADDRESSES:** Via teleconference, the Internet, or at Noesis, Inc., 4100 North Fairfax Drive, Suite 800, Arlington, Virginia.

**SUPPLEMENTARY INFORMATION:** This meeting will be held primarily via a teleconference and the Internet (through the Webex application). In addition, the public is invited to participate in this meeting in-person at Noesis, Inc. in Arlington, Virginia. Detailed information about this meeting, including the agenda and details concerning registration for in-person or remote participation, will be posted at PITAC's Web site (<http://www.nitrd.gov/pitac>) no later than October 20th. Meeting information may also be obtained by calling 703-292-4873. Members of the public who wish to participate using the Internet (Webex) must register by Monday, November 1st.

## FOR FURTHER INFORMATION CONTACT:

Alan Inouye at the National Coordination Office for Information Technology Research and Development at 703-292-4873 or by email at [inouye@nitrd.gov](mailto:inouye@nitrd.gov).

Dated: October 12, 2004.

**L.M. Bynum,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04-23249 Filed 10-15-04; 8:45 am]

**BILLING CODE 5001-6-M**

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Proposed Collection; Comment Request

**AGENCY:** Department of the Army, DOD.

**ACTION:** Notice.

**SUMMARY:** In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

**DATES:** Consideration will be given to all comments received by December 17, 2004.

**ADDRESSES:** Written comments and recommendations on the proposed information collection should be sent to the Department of the Army, Institute for Water Resources, Corps of Engineers Waterborne Commerce Statistics Center, PO Box 61280 (ATTN: Jay Wieriman), New Orleans, LA 70161-1280.

**FOR FURTHER INFORMATION CONTACT:** To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports Clearance Officer at (703) 325-8433.

*Title, Associated Form, and OMB Number:* Description of Vessels, ENG Form 3931; Description Operation, ENG Form 3932; OMB Number 0710-0009.

*Needs and Uses:* The Corps of Engineers uses ENG Forms 3931 and 3932 as the basic instruments to collect vessel and operating descriptions for use in waterborne commerce statistics. These data constitute the sole source for domestic vessel characteristics and operating descriptions for domestic vessels operating on U.S. navigable waterways. These data are collected from vessel operating companies. These data are essential to plans for maintaining U.S. navigable waterways. These data are also critical to the enforcement of the "Harbor Maintenance Tax" authorized under section 1402 of Public Law 99-662.

*Affected Public:* Business or other for profit.

*Annual Burden Hours:* 2,048.

*Number of Respondents:* 3,058.

*Responses Per Respondent:* 1.

*Average Burden Per Response:* 40 minutes.

*Frequency:* Annually.

#### SUPPLEMENTARY INFORMATION:

##### Summary of Information Collection

The information collected is the basic data from which the Corps of Engineers compiles and published waterborne commerce statistics. The data is used not only to report to Congress, but also to perform cost benefit studies for new projects, rehabilitation projects, and O&M of existing projects. It is also used by other Federal agencies involved in transportation and security. This data collection program is the sole source for domestic navigation statistics.

Dated: October 12, 2004.

**Patricia L. Toppings,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 04-23248 Filed 10-15-04; 8:45 am]

BILLING CODE 5001-06-M

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Provisional Patent Application Concerning Small Molecule Inhibitors of Botulinum Toxin

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of the invention described in U.S. Provisional Patent Application Serial No. 60/501,243 entitled "Small Molecule Inhibitors of Botulinum Toxin," filed September 8, 2003. The United States

government, as represented by the Secretary of the Army, has rights in this invention.

**ADDRESSES:** Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR-JA-Z, 504 Scott Street, Fort Detrick, Frederick, MD 21702-5012.

**FOR FURTHER INFORMATION CONTACT:** For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619-7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619-6664, both at telefax (301) 619-5034.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 04-23231 Filed 10-15-04; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Availability of Non-Exclusive, Exclusive License or Partially Exclusive Licensing of U.S. Patent Concerning Conductive (Electrical, Ionic and Photoelectric) Membrane Articlars, and Method for Producing Same

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice.

**SUMMARY:** In accordance with 37 CFR part 404.6, announcement is made of the availability for licensing of U.S. Patent No. US 6,800,155 B2 entitled "Conductive (Electrical, Ionic and Photoelectric) Membrane Articlars, and Method For Producing Same" issued October 5, 2004. This patent has been assigned to the United States Government as represented by the Secretary of the Army.

**FOR FURTHER INFORMATION CONTACT:** Mr. Robert Rosenkrans at U.S. Army Soldier Systems Center, Kansas Street, Natick, MA 01760, Phone: (508) 233-4928 or E-mail:

*Robert.Rosenkrans@natick.army.mil.*

**SUPPLEMENTARY INFORMATION:** Any licenses granted shall comply with 35 U.S.C. 209 and 37 CFR Part 404.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 04-23232 Filed 10-15-04; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF DEFENSE

### Department of the Army

#### Board of Visitors, United States Military Academy (USMA)

**AGENCY:** Department of the Army, DoD.

**ACTION:** Notice of open meeting.

**SUMMARY:** In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

*Name of Committee:* Board of Visitors, United States Military Academy.

*Date:* Friday, November 5, 2004.

*Place of Meeting:* Superintendent's Conference Room, Taylor Hall, Building 600, 2nd floor, West Point, NY 10996.

*Start Time of Meeting:* Approximately 3 p.m.

#### FOR FURTHER INFORMATION CONTACT:

Lieutenant Colonel Shaun T. Wurzbach, United States Military Academy, West Point, NY 10996-5000, (845) 938-4200.

**SUPPLEMENTARY INFORMATION:** *Proposed Agenda:* Fall Annual Meeting of the Board of Visitors. Review of the Academic, Military and Physical Programs at the USMA. All proceedings are open.

**Brenda S. Bowen,**

*Army Federal Register Liaison Officer.*

[FR Doc. 04-23230 Filed 10-15-04; 8:45 am]

BILLING CODE 3710-08-M

## DEPARTMENT OF DEFENSE

### Department of the Army; Corps of Engineers

#### Coastal Engineering Research Board (CERB)

**AGENCY:** Department of Army, DoD.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

*Name of Committee:* Coastal Engineering Research Board (CERB).

*Date of Meeting:* November 3-4, 2004.

*Place:* Hilton Washington DC/Silver Spring, 8727 Colesville Road, Silver Spring, MD, 20910.

*Time:* 6:30 p.m. to 8:30 p.m.

(November 3, 2004); 8 a.m. to 5 p.m.

(November 3, 2004); 8 a.m. to 4:30 p.m.

(November 4, 2004).

#### FOR FURTHER INFORMATION CONTACT:

Inquiries and notice of intent to attend the meeting may be addressed to

Colonel James R. Rowan, Executive Secretary, Commander, U.S. Army Engineer Research and Development Center, Waterways Experiment Station, 3909 Halls Ferry Road, Vicksburg, MS 39180-6199.

**SUPPLEMENTARY INFORMATION: Proposed Agenda:** The theme of the meeting is "Ocean Agency Collaboration." On Tuesday evening, November 2, there will be an icebreaker. On Wednesday morning, November 3, there will be a presentation on the "U.S. Commission on Ocean Policy Report" and a panel to discuss "Possible Strategies for Implementing Ocean Policy Report Recommendations." The afternoon session will include a presentation entitled "Interagency Collaboration as Part of the Corps Coastal Watershed Activities" and a panel to discuss "The Integration of Ocean/Coastal Watershed Perspectives Approach." On Thursday morning, November 4, there will be a presentation entitled "Corps' Involvement in Interagency Shoreline Mapping and the Integrated Ocean Observing System" and a panel to discuss "Interagency Science and Technology Collaboration." During the afternoon, the members of the Board will meet in an Executive Session.

These meetings are open to the public; participation by the public is scheduled for 4 p.m. on November 3.

The entire meeting is open to the public but since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

**James R. Rowan,**

*Colonel, Corps of Engineers, Executive Secretary.*

[FR Doc. 04-23229 Filed 10-15-04; 8:45 am]

**BILLING CODE 3710-61-M**

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## DEPARTMENT OF ENERGY

### International Energy Agency Meetings

**AGENCY:** Department of Energy.

**ACTION:** Notice of meetings.

**SUMMARY:** The Industry Advisory Board (IAB) to the International Energy Agency (IEA) will meet during the week of October 25-29, 2004, at the headquarters of the IEA in Paris, France in connection with a Training Session for new Standing Group on Emergency Questions (SEQ) Participants and

Selected non-IEA Member Countries, a Non-Member Countries Disruption Simulation Exercise, a meeting of key participants in a Disruption Simulation Exercise (ERE3), ERE3, and a meeting of the SEQ.

**FOR FURTHER INFORMATION CONTACT:**

Samuel M. Bradley, Assistant General Counsel for International and National Security Programs, Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, 202-586-6738.

**SUPPLEMENTARY INFORMATION:** In accordance with section 252(c)(1)(A)(I) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(I)) (EPCA), the following notice of meetings is provided:

A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held at the headquarters of the IEA, 9 rue de la Fédération, Paris, France, commencing on October 25, 2004, at 2:15 p.m.. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at:

(1) The IEA's Training Session for New Standing Group on Emergency Questions (SEQ) Participants and Selected IEA Non-Member Countries to be held on October 25, 2004, commencing at 2:15 p.m. The purpose of the meeting is to educate new delegates to the IEA's SEQ and representatives of selected IEA non-Member countries about the IEA and its emergency response procedures.

(2) The IEA's Non-Member Countries Disruption Simulation Exercise to be held on October 26, 2004, beginning at 9 a.m. and concluding at 3 p.m. The purpose of this meeting is to familiarize and train delegates from countries that are not IEA Members in IEA emergency response procedures by reacting to a hypothetical oil supply disruption scenario.

(3) A meeting with key participants in the IEA's Disruption Simulation Exercise to be held on October 26, 2004, from approximately 4:30-6 p.m. The purpose of this preparatory meeting is to familiarize key participants in ERE3 with the IEA, the purpose and objectives of ERE3, and their roles in the exercise.

(4) The IEA's Disruption Simulation Exercise (ERE3) to be held on October 27-28, 2004, commencing at 9 a.m. on October 27 and again at 9 a.m. on October 28. The purpose of ERE3 is to train IEA government delegates in the use of IEA emergency response procedures by reacting to a hypothetical oil supply disruption scenario. The purpose of the IAB meeting is to collect the reactions and assessments of IAB

participants in ERE3, in preparation for the IAB Chairman's report on ERE3 to the IEA's SEQ meeting on October 29, 2004.

(5) A meeting of the IAB to be held on October 29, 2004, commencing at 9 a.m. The purpose of this notice is to permit attendance by representatives of U.S. company members of the IAB at a meeting of the IEA's SEQ at the same time and location.

### I. Training Session for New SEQ Participants and Selected IEA Non-Member Countries (Monday, October 25, 2004, 2:15 p.m.)

The Agenda for the meeting is under the control of the IEA. It is expected that the IEA will adopt the following Agenda:

1. Welcome to the IEA.
2. Opening Session Address.
3. Introduction to the IEA Emergency Policies and Objectives.
4. How the Global Oil Market Works.
5. IEA Energy Statistics and Oil Data Systems.
6. IEA Emergency System, Procedures and Measures.
7. The Role of Industry in the IEA Emergency Planning and Procedures.
8. The Emergency Response Oil Disruption Simulation Exercise.
9. Closing Remarks.

### II. IEA Non-Member Countries Disruption Simulation Exercise (Tuesday, October 26, 2004, 9 a.m.-3 p.m.)

The Agenda for the meeting is under the control of the IEA. While the meeting is anticipated to involve break-out sessions, the individual subgroups will not include multiple IAB or Reporting Company representatives. It is expected that the IEA will adopt the following Agenda:

1. Plenary Session I
  - Welcome Address by the IEA Deputy Executive Director.
  - Introduction by the SEQ Chairman.
  - Introduction of Simulation and Logistics of the Exercise by the Head of the IEA's Emergency Planning and Preparedness Division.
  - Rules are defined and simulation is initiated by the exercise Facilitator.
2. Break-Out Groups Session
  - Discuss specific questions on market analysis.
  - Role of governments during an oil supply disruption.
  - Discuss what actions, if any, should be taken.
3. Plenary Session II
  - Presentation of the Break-Out Group Discussions.

- Reactions from the IEA Experts on Fundamentals and Possible Media Reaction.

- Discussion of the Impacts of Actions taken by Governments on the Market.

- Facilitator's Summary of the Key Conclusions.

#### 4. Plenary Session III

- Open discussion—Critique and Conclusions Drawn from the Exercise.
- Chairman's Summary of the Exercise, Conclusions, and Recommendations.

### III. Meeting of Key Participants in ERE3 (Tuesday, October 26, 2004, approximately 4:30–6 p.m.)

The Agenda for the meeting is under the control of the IEA. It is anticipated that the Agenda will consist of a review of the ERE3 schedule and briefings on the anticipated roles to be played in the exercise by key participants, *e.g.*, those representing the media, producing countries, and the oil market.

#### IV.A IEA Industry Advisory Board Meeting (Thursday, October 28, 2004, following the conclusion of ERE3)

The Agenda for the IAB meeting is as follows:

1. Welcome, Review of Agenda, and Introductions.

2. Review of ERE3.

3. Update on Expiration of European Community Exemption for IAB Activities.

4. Closing and Review of Meetings of Interest to IAB Members.

- Strategic Petroleum Reserve (SPR) International Stockholding Conference, November 29–December 2, 2004, Houston, TX.

- SEQ and IAB Meeting, March 15–17, 2005, Paris.

- SEQ and IAB Meeting, June 21–22, 2005, Paris.

- SEQ and IAB Meeting, November 15–17, 2005, Paris.

#### IV.B IEA Disruption Simulation Exercise (ERE3) (Wednesday October 27, 2004–Thursday October 28, 2004)

The Agenda for ERE3 is under the control of the IEA. While ERE3 will involve break-out sessions, the individual subgroups will not include multiple IAB or Reporting Company representatives. It is expected that the IEA will adopt the following Agenda:

Stage 1. October 27 morning

##### 1. Plenary Session

- Welcome Address by the IEA Deputy Executive Director.
- Introduction by the SEQ Chairman.
- Introduction of the Logistics of the Exercise by the Head of the IEA's

Emergency Planning and Preparedness Division.

- Exercise Starts.

- Rules are defined by the exercise Facilitator.

- Stage 1 event is presented.

- Brief analysis of market impact by the IEA.

##### 2. Break-Out Groups Session

- Respond to specific questions on market analysis and IEA decision-making.

- Role of governments during an oil supply disruption.

- Discuss what actions, if any, should be taken.

##### 3. Plenary Session

- Presentation of the Break-Out Group Discussions.

- Presentation of team reports.

- Reactions of the Market Group, Producers Group, and Media Group.

- Discussion of the recommendations.

- Discussion of the impacts of actions taken by governments on the market.

- Facilitator's summary of Stage 1 session.

Stage 2. October 27 afternoon

##### 1. Plenary Session

- Introduction by the SEQ Chairman.

- Exercise initiated by the Facilitator.

- Stage 2 event is presented.

- Brief analysis of market impact by the IEA.

##### 2. Break-Out Groups Session

- Respond to specific questions on market analysis and IEA decision-making.

- Role of governments during an oil supply disruption.

- Discuss what actions, if any, should be taken.

##### 3. Plenary Session

- Presentation of the Break-Out Group Discussions.

- Presentation of team reports.

- Reactions of the Market Group, Producers Group, and Media Group.

- Discussion of the recommendations.

- Discussion of the impacts of actions taken by governments on the market.

- Facilitator's summary of Stage 2 session.

- SEQ Chairman's summary of the day.

Stage 3. October 28

##### 1. Plenary Session

- Introduction by the SEQ Chairman.

- Exercise initiated by the Facilitator.

- Stage 3 event is presented.

- Brief analysis of market impact by the IEA.

##### 2. Break-Out Groups Session.

- Respond to specific questions on market analysis and IEA decision-making.

- Role of governments during an oil supply disruption.

- Discuss what actions, if any, should be taken.

##### 3. Plenary Session

- Presentation of the Break-Out Group Discussions.

- Presentation of team reports.

- Reactions of the Market Group, Producers Group, and Media Group.

- Discussion of the recommendations.

- Discussion of the impacts of actions taken by governments on the market.

- Facilitator's summary of Stage 2 session.

##### 4. Plenary Session—Critique and Conclusions

- Presentation by the Facilitator of the initial assessments of the exercise.

- Initial conclusions by the Market Group, Producers Group, and Media Group.

- Discussion of the types and magnitudes of the recommended responses.

- Discussion of the decision-making process.

- Chairman's initial summary of the exercise and recommendations.

### V. Standing Group on Emergency Questions Meeting (Friday, October 29, 2004, 9 a.m.)

The Agenda of the meeting is under the control of the SEQ. It is expected that the SEQ will adopt the following agenda:

1. Adoption of the Agenda.

2. Approval of the Summary Record of the 111th Meeting.

3. Program of Work.

—The SEQ Program of Work for 2005–2006.

4. Update on Compliance with International Energy Program Stockholding Commitments.

—Reports by Non-Complying Member Countries.

5. The Current Oil Market Situation and Emergency Preparedness.

—Discussion of Present Oil Market and Emergency Preparedness.

6. Emergency Response Exercise 3.

—Results of the Exercise in Capitals.

—Summary and Preliminary Conclusions of the Third Emergency Response Simulation Exercise.

7. Report on Current Activities of the IAB.

8. Policy and Other Developments in Member Countries.

- Reporting Member Country Developments to the IA Secretariat.
- 9. Emergency Response Activities.
- Report on Preparations for the Upcoming MOS/JODI Meeting of Statisticians and Data Contacts.
- Progress Report on the Proposed MOS Addendum on Bilateral Stock Tickets.
- Oil Demand Restraint in the Transport Sector: An Analysis of Potential Fuel Savings.
- 10. Activities with Non-Member Countries and International Organizations.
- Participation of Non-Member Countries in ERE3 Training and Simulation Exercise.
- Report on ZORD Conference on Compulsory Oil Stocks.
- Situation and Developing Capabilities in Southeast Europe, Slovenia, Sept. 2004.
- Report on KZZZ Conference on Extended European Union-extended Security, Budapest, November 3–5, 2004.
- 11. Other Documents for Information.
- Emergency Reserve Situation of IEA Member Countries on July 1, 2004.
- Emergency Reserve Situation of IEA Candidate Countries on July 1, 2004.
- Monthly Oil Statistics: July 2004.
- Base Period Final Consumption: 3Q2003–2Q2004.
- Quarterly Oil Forecast.
- Update of Emergency Contacts List.
- 12. Other Business.
- ERE3 Exercise with Governing Board, December 7, 2004.
- Dates of Next Meetings.
- March 15–17, 2005.
- June 21–22, 2005.
- November 15–17, 2005.
- Changes in the Secretariat and Delegations.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act (42 U.S.C. 6272(c)(1)(A)(ii)), the meetings of the IAB are open to representatives of members of the IAB and their counsel; representatives of members of the IEA's SEQ; representatives of the Departments of Energy, Justice, and State, the Federal Trade Commission, the General Accounting Office, Committees of Congress, the IEA, and the European Commission; and invitees of the IAB, the SEQ, or the IEA.

Issued in Washington, DC, October 12, 2004.

**Samuel M. Bradley,**

*Assistant General Counsel for International and National Security Programs.*

[FR Doc. 04–23228 Filed 10–15–04; 8:45 am]

BILLING CODE 6450–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP04–468–001]

#### Algonquin Gas Transmission, LLC; Notice of Compliance Filing

October 7, 2004.

Take notice that on October 1, 2004, Algonquin Gas Transmission, LLC (Algonquin) submitted a compliance filing pursuant to the Commission's Order in *Algonquin Gas Transmission, LLC*, 108 FERC ¶61,275 (2004), issued on September 21, 2004, in Docket No. RP04–468–000.

Algonquin states that copies of the filing were served upon all affected customers of Algonquin and interested state commissions, as well as upon all parties on the Commission's official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4–2677 Filed 10–15–04; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. PL04–15–000, RM02–12–000, RM02–1–001, RM02–1–005]

#### Interconnection for Wind Energy and Other Alternative Technologies; Standardization of Small Generator Interconnection Agreements and Procedures; Standardizing Generator Interconnection Agreements and Procedures; Notice Regarding Post-Technical Conference Comments

October 7, 2004.

On September 24, 2004, the Commission held a technical conference in the above-referenced dockets regarding the issues raised by a petition for rulemaking submitted by the American Wind Energy Association (AWEA) related to the adoption of certain requirements for the interconnection of large wind generators. Specifically, the conference focused on the interconnection of wind energy and other alternative technologies, and considered the technical requirements for the interconnection of large and small wind generators and other alternative technologies, and the need for creating specific requirements for their interconnection to the grid. A transcript of the technical conference will be available in the near future from the Commission's Web site, <http://www.ferc.gov>.

At the technical conference, Staff stated that the Commission would allow interested parties to file post-technical conference comments. These comments must be filed with the Commission no later than 5 p.m. Eastern Standard Time (EST) on November 1, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2669 Filed 10–15–04; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP00–305–018]

#### CenterPoint Energy—Mississippi River Transmission Corporation; Notice of Negotiated Rate

October 7, 2004.

Take notice that on September 30, 2004, CenterPoint Energy—Mississippi River Transmission Corporation (MRT) tendered for filing and approval a

negotiated rate agreement between MRT and Trigen—St. Louis Energy Corporation. MRT states that it has entered into an agreement to provide service to this customer to be effective October 1, 2004.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2672 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

October 7, 2004.

Take notice that the following application has been filed with the

Commission and is available for public inspection:

a. *Application Type:* Non-Project Use Of Project Lands And Waters.

b. *Project No:* 2232-477.

c. *Date Filed:* September 14, 2004..

d. *Applicant:* Duke Power, a division of Duke Energy Corporation.

e. *Name of Project:* Catawba-Wateree Project.

f. *Location:* This project is located on the Catawba and Wateree Rivers, in nine counties in North Carolina (Burke, Alexander, McDowell, Iredell, Caldwell, Lincoln, Catawaba, Gaston, and Mecklenburg Counties) and five counties in South Carolina (York, Chester, Lancaster, Fairfield and Kershaw Counties). This project does not occupy any Tribal or federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a) 825(r) and §§ 799 and 801.

h. *Applicant Contact:* Mr. Joe Hall, Lake Management Representative; Duke Energy Corporation; P.O. Box 1006; Charlotte, NC; 28201-1006; 704-382-8576.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 502-6175 or by e-mail: [Brian.Romanek@ferc.gov](mailto:Brian.Romanek@ferc.gov).

j. *Deadline for filing comments and or motions:* November 8, 2004.

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington DC 20426. Please include the project number (P-2232-477) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the "e-Filing" link. The Commission strongly encourages e-filings.

k. *Description of Request:* Duke Power, licensee for the Catawba-Wateree Hydroelectric Project, has requested Commission authorization to allow R & N Marina, Inc. (R & N) to modify and expand the existing R&N Commercial/Residential marina facility on Lake Hickory, North Carolina. R & N proposes to construct two cluster docks that accommodate forty-six boats. R & N also proposes to add 6 jet boats slips to the end of an existing docking facility. The lease area for the marina would increase from 1.67 acres to 2.96 acres. Duke Power also requests re-classification of 157 feet of project shoreline at the marina location. The area should have been classified in its approved Shoreline Management Plan for

commercial/residential use as opposed to residential.

l. *Location of the Application:* 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 "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](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "RECOMMENDATIONS FOR TERMS AND CONDITIONS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. Agency Comments—Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2666 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission**

[Docket No. RP04-471-001]

**East Tennessee Natural Gas, LLC;  
Notice of Compliance Filing**

October 7, 2004.

Take notice that on October 1, 2004, East Tennessee Natural Gas, LLC (East Tennessee) submitted a compliance filing pursuant to the Commission's Order in *East Tennessee Natural Gas, LLC*, 108 FERC ¶61,271 (2004), issued on September 21, 2004, in Docket No. RP04-471-000.

East Tennessee states that copies of the filing were served upon all affected customers of East Tennessee and interested state commissions, as well as upon all parties on the Commission's official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2678 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission**

[Docket No. RP04-475-001]

**Egan Hub Storage, LLC; Notice of  
Compliance Filing**

October 7, 2004.

Take notice that on October 1, 2004, Egan Hub Storage, LLC (Egan Hub) tendered for filing a compliance filing pursuant to Egan Hub Storage, LLC, 108 FERC ¶61,263 (2004), issued on September 21, 2004, in Docket No. RP04-475-000.

Egan Hub states that copies of the filing were served upon all affected customers of Egan Hub and interested state commissions, as well as upon all parties on the Commission's official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2679 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission**

[Docket No. CP04-423-000]

**El Paso Natural Gas Company; Notice  
of Application**

October 8, 2004.

Take notice that El Paso Natural Gas Company (El Paso), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP04-423-000 on September 29, 2004, an application pursuant to section 7(b) of the Natural Gas Act (NGA) and the Commission's Regulations, for authorization to abandon in place and by removal, certain pipeline facilities, with appurtenances, located in Eddy County, New Mexico, and Culberson and Hudspeth Counties, Texas, that are no longer required in the operation of El Paso's interstate transmission system. Specifically, El Paso proposes to abandon approximately 87.7 miles of its Jal-El Paso "A" Line and 79.1 miles of its Jal-El Paso "B" Line (referred to as Line Nos. 1000 and 1001), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web 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, call (202) 502-8659 or TTY, (202) 208-3676.

Any questions regarding this application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, El Paso Natural Gas Company, PO Box 1087, Colorado Springs, Colorado 80944, at (719) 520-3788 or fax (719) 520-4318.

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. Unless filing electronically, a party must submit 14 copies of any paper filing made with the

Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.

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.

*Comment Date:* October 29, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-2684 Filed 10-15-04; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP04-423-000]

#### El Paso Natural Gas Company; Notice of Application

October 8, 2004.

Take notice that El Paso Natural Gas Company (El Paso), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP04-423-000 on September 29, 2004, an application pursuant to section 7(b) of the Natural Gas Act (NGA) and the Commission's Regulations, for authorization to abandon in place and by removal, certain pipeline facilities, with appurtenances, located in Eddy County, New Mexico, and Culberson and Hudspeth Counties, Texas, that are no longer required in the operation of El Paso's interstate transmission system. Specifically, El Paso proposes to abandon approximately 87.7 miles of its Jal-El Paso "A" Line and 79.1 miles of its Jal-El Paso "B" Line (referred to as Line Nos. 1000 and 1001), all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may be also viewed on the Web 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, call (202) 502-8659 or TTY, (202) 208-3676.

Any questions regarding this application should be directed to Robert T. Tomlinson, Director, Regulatory Affairs, El Paso Natural Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944, at (719) 520-3788 or fax (719) 520-4318.

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. Unless filing electronically, a party must submit 14 copies of any paper filing made with the

Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

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.

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.

*Comment Date:* October 29, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-2688 Filed 10-15-04; 8:45 am]

**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. RP00-157-014]

**Kern River Gas Transmission Company; Notice of Negotiated Rate**

October 7, 2004.

Take notice that on October 1, 2004, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Eighth Revised Sheet No. 495, to be effective November 1, 2004.

Kern River states that the purpose of this filing is to notify the Commission and other interested parties of a redetermination of certain charges under and in accordance with the negotiated rate transportation service agreement dated June 5, 2003, between Kern River and High Desert Power Trust (HDPT) and to update Kern River's tariff to reflect the redetermined charges.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC.

There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2671 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. RP04-274-003]

**Kern River Gas Transmission Company; Notice of Motion To Place Suspended Rates and Tariff Sheets Into Effect**

October 7, 2004.

Take notice that on October 1, 2004, Kern River Gas Transmission Company (Kern River) 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.

Kern River states that the purpose of this filing is: (1) to comply with the Commission's May 28, 2004 "Order Accepting and Suspending Tariff Sheets Subject to Refund, and Establishing Hearing Procedures" by revising the rates and the Park and Loan revenue sharing provisions proposed in Kern River's April 30, 2004 general rate filing; and (2) to move to place the revised rates into effect.

Kern River states that it has served a copy of this filing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at

<http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2675 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Docket No. RP04-274-004]

**Kern River Gas Transmission Company; Notice of Tariff Filing**

October 7, 2004.

Take notice that on October 4, 2004, Kern River Gas Transmission Company (Kern River) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, to be effective November 1, 2004:

Substitute Seventh Revised Sheet No. 71  
Substitute Fourth Revised Sheet No. 76  
Substitute First Revised Sheet No. 110-A.1

Kern River states that the purpose of this filing is to supplement Kern River's October 1, 2004 filing in this proceeding by submitting three tariff sheets that were inadvertently omitted. These sheets were originally submitted on April 30, 2004 and accepted to be effective November 1, 2004, however, minor ministerial changes were made to these sheets after the April 30 filing was submitted, so Kern River is submitting substitute sheets to reflect the changes that have occurred between April and November.

Kern River states that it has served a copy of this filing upon its customers and interested state regulatory commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2676 Filed 10-15-04; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP04-476-001]

#### Maritimes & Northeast Pipeline, L.L.C.; Notice of Compliance Filing

October 7, 2004.

Take notice that on October 1, 2004, Maritimes & Northeast Pipeline, L.L.C. (Maritimes) tendered for filing a compliance filing pursuant to Maritimes & Northeast Pipeline, L.L.C., 108 FERC ¶61,264 (2004), issued on September 21, 2004, in Docket No. RP04-476-000.

Maritimes states that copies of the filing were served upon all affected customers of Maritimes and interested state commissions, as well as upon all parties on the Commission's official service list in this proceeding.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR

385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2664 Filed 10-15-04; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. CP04-424-000]

#### Petal Gas Storage, L.L.C.; Notice of Application

October 7, 2004.

Take notice that on September 30, 2004, Petal Gas Storage, L.L.C. (Petal), Four Greenway Plaza, Houston, Texas 77046, filed an application in Docket No. CP04-424-000 pursuant to section 7(c) of the Natural Gas Act, requesting that the Commission issue an Order authorizing Petal to increase the capacity of its mainline pipeline, Line 100, without increasing its maximum allowable operating pressure and to uprate its Heidelberg Compressor Station to 9442 hp in order to increase the withdrawal and delivery capacity of downstream interconnects, from 700 MMcf/day to 1.3 Bcf/day, all as more fully set forth in the application which

is on file with the Commission and open to public inspection. The filing may also be viewed on the Web 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, call (202) 502-3676, or TTY, (202) 502-8659.

Any questions concerning this application may be directed to Richard W. Porter, Four Greenway Plaza, Houston, Texas 77046, (832) 676-3081 (phone), (832) 676-8811 (fax).

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). 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. Unless filing electronically, a party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

Persons who wish to comment only on the environmental review of this project, or in support of or in opposition to 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. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the applicant. 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.

The Commission may issue a preliminary determination on non-environmental issues prior to the completion of its review of the environmental aspects of the project. This preliminary determination typically considers such issues as the need for the project and its economic effect on existing customers of the applicant, on other pipelines in the area, and on landowners and communities. For example, the Commission considers the extent to which the applicant may need to exercise eminent domain to obtain rights-of-way for the proposed project and balances that against the non-environmental benefits to be provided by the project. Therefore, if a person has comments on community and landowner impacts from this proposal, it is important either to file comments or to intervene as early in the process as possible.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (<http://www.ferc.gov>) under the "e-Filing" link.

*Comment Date:* October 29, 2004.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-2665 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-437-002]

#### WestGas InterState, Inc.; Notice of Compliance Filing

October 7, 2004.

Take notice that on October 1, 2004, WestGas InterState, Inc. (WGI) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute Sixth Revised Sheet No. 92, with a proposed effective date of July 1, 2003.

WGI asserts that the purpose of this filing is to comply with the Letter Order issued in Docket No. RP03-437-001 on August 25, 2004. WGI states that the above tariff sheet has been revised to restore the headings (*i.e.*, Version 1.6, Recommendation R02002 and Recommendation R02002-2) that had been previously deleted and lists the associated standards under their respective headings.

WGI further states that copies of this filing have been mailed to WGI's

jurisdictional customers and interested state commissions.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, D.C. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-2674 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. RP03-323-004]

#### Williston Basin Interstate Pipeline Company; Notice of Filing

October 7, 2004.

Take notice that on September 30, 2004, Williston Basin Interstate Pipeline Company (Williston Basin or Company), tendered for filing with the Commission a negotiated Rate Schedule FT-1 service agreement. Williston Basin states that the proposed effective date of the service agreement is October 1, 2004.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of

Practice and Procedure (18 CFR 385.211). Protests to this filing 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. Such protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-2673 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. EC05-2-000, et al.]

#### American Electric Power Service Corporation, et al.; Electric Rate and Corporate Filings

October 8, 2004.

The following filings have been made with the Commission. The filings are listed in ascending order within each docket classification.

##### 1. American Electric Power Service Corporation

[Docket No. EC05-2-000]

Take notice that on October 7, 2004, American Electric Power Service Corporation, (AEP) on behalf of its electric utility subsidiary, AEP Texas Central Company, formerly known as Central Power and Light Company (TCC), submitted an application

pursuant to section 203 of the Federal Power Act for authorization of a disposition of jurisdictional facilities whereby TCC seeks authorization to transfer certain jurisdictional facilities associated with TCC's 25.2 percent undivided ownership interest in the 2,500 MW South Texas Project nuclear plant (TCC Interest). AEP states that TCC proposes to sell 13.2 percent of the TCC Interest to Texas Genco, L.P. and 12 percent of the TCC Interest to City of San Antonio acting by and through the City Public Service Board of San Antonio.

*Comment Date:* 5 p.m. Eastern Time on October 28, 2004.

## 2. Sheboygan Power, LLC

[Docket No. EG05-3-000]

Take notice that on October 6, 2004, Sheboygan Power, LLC (Sheboygan Power) filed an application for a determination that it is an exempt wholesale generator. Sheboygan Power states that it will construct and own a natural gas-fired generating facility, located in the County of Sheboygan, Wisconsin, consisting of three gas fired turbine generators to provide approximately 450 MW net electrical output, with only two turbine generators to be placed in service initially, and to provide approximately 300 MW net electrical output.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

## 3. Cargill-Alliant, LLC

[Docket No. ER97-4273-013]

Take notice that on October 6, 2004, Cargill-Alliance, LLC (Cargill-Alliant) Incorporated, submitted a compliance filing pursuant to the Commission's Letter Order issued August 17, 2004 in Docket No. ER97-4273-012.

*Comment Date:* 5 p.m. Eastern Time on October 27, 2004.

## 4. AES Huntington Beach, L.L.C.

[Docket No. ER98-2184-007]

Take notice that on October 5, 2004, AES Huntington Beach, L.L.C. (AES Huntington Beach) submitted for filing its triennial market power update in compliance with *Acadia Power Partners, LLC, et al.*, 107 FERC ¶ 61,168 (2004). As part of this triennial market power update, AES Huntington Beach also submitted for filing amendments to its market-based rate tariff implementing six (6) new market behavior rules adopted by the Commission in *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorization*, 105 FERC 61,218 (2003). AES Huntington Beach also submitted for approval its second

revision to FERC Electric Tariff, Original Volume No. 1, and its first revision to its Statement of Policy and Code of Conduct.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

## 5. AES Alamitos, L.L.C.

[Docket No. ER98-2185-007]

Take notice that on October 5, 2004, AES Alamitos (AES Alamitos) submitted for filing its triennial market power update in compliance with *Acadia Power Partners, LLC, et al.*, 107 FERC ¶ 61,168 (2004). As part of this triennial market power update, AES Alamitos also submitted for filing amendments to its market-based rate tariff implementing six (6) new market behavior rules adopted by the Commission in *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorization*, 105 FERC 61,218 (2003). AES Alamitos also submitted for approval its second revision to FERC Electric Tariff, Original Volume No. 1, and its first revision to its Statement of Policy and Code of Conduct.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

## 6. AES Redondo Beach, L.L.C.

[Docket No. ER98-2186-007]

Take notice that on October 5, 2004, AES Redondo Beach, L.L.C. (AES Redondo Beach) submitted for filing its triennial market power update in compliance with *Acadia Power Partners, LLC, et al.*, 107 FERC ¶ 61,168 (2004). As part of this triennial market power update, AES Redondo Beach also submitted for filing amendments to its market-based rate tariff implementing six (6) new market behavior rules adopted by the Commission in an order issued November 17, 2003, in Docket No. EL01-118-000, *Investigation of Terms and Conditions of Public Utility Market-Based Rate Authorization*, 105 FERC 61,218 (2003). AES Redondo Beach also submitted for approval its second revision to FERC Electric Tariff, Original Volume No. 1, and its first revision to its Statement of Policy and Code of Conduct.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

## 7. GWF Energy LLC

[Docket No. ER01-2233-003]

Take notice that, on October 4, 2004, GWF Energy LLC (GWF) amended its compliance filing submitted on July 19, 2004, pursuant to the Commission's letter order issued July 18, 2004 in *GWF Energy LLC*, Docket No. ER01-2233-000 and pursuant to *Investigation of Terms*

*and Conditions of Public Utility Market-Based Rate Authorizations*, 105 FERC ¶ 61,218 (2003). GWF states that the amendment to the compliance filing consists of a market share and pivotal supplier analysis in support of its updated market power analysis and updated tariff sheets.

GWF states that copies of the filing were served on parties on the official service list in the above-captioned proceeding.

*Comment Date:* 5 p.m. Eastern Time on October 25, 2004.

## 8. PJM Interconnection, L.L.C.

[Docket No. ER03-262-000]

Take notice that on October 4, 2004, PJM Interconnection, L.L.C. (PJM) submitted its compliance with the Commission's August 4, 2004 order in Docket No. ER02-262-002, *et al.*, 108 FERC ¶ 61,140, concerning the collection of Commission annual charges billed to PJM associated with loads in the Commonwealth Edison Company and American Electric Power East Operating Companies transmission zones.

PJM states that copies of the filing were served on all persons on the Commission's official service list for this proceeding.

*Comment Date:* 5 p.m. Eastern Time on October 25, 2004.

## 9. New York Independent System Operator, Inc.

[Docket No. ER04-449-004]

Take notice that on October 5, 2004, the New York Independent System Operator, Inc. (NYISO) and the New York Transmission Owners filed a joint Compliance Filing in connection with the Commission's August 6, 2004 Order in Docket No. ER04-449-000, *et al.*

NYISO states that it has served a copy of this filing on all parties in Docket No. ER04-449-000. The NYISO requests a waiver of the requirements of 18 CFR 385.2010 so as to permit it to electronically serve a copy of this filing on the official representatives of each of its customers, on each participant in its stakeholder committees, on the New York State Public Service Commission and on the electric utility regulatory agencies in New Jersey and Pennsylvania.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

## 10. Midwest Independent Transmission System Operator, Inc.

[Docket No. ER04-691-007 and EL04-104-000]

Take notice that on October 5, 2004, the Midwest Independent Transmission

System Operator, Inc. (Midwest ISO) submitted a compliance filing pursuant to the Commission's Order issued August 6, 2004, *Midwest Independent Transmission System Operator, Inc.*, 108 FERC ¶ 61,163 (2004).

Midwest ISO has also requested a waiver of the service requirements set forth in 18 CFR 385.210. The Midwest ISO has electronically served a copy of this filing, with its attachments, upon all Midwest ISO Members, Member representatives of Transmission Owners and Non-Transmission Owners, the Midwest ISO Advisory Committee participants, Policy Subcommittee participants, as well as all state commissions within the region. In addition, the filing has been electronically posted on the Midwest ISO's Web site at <http://www.midwestiso.org> under the heading "Filings to FERC" for other interested parties in this matter. The Midwest ISO will provide hard copies to any interested party upon request.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

#### 11. Vermont Electric Cooperative, Inc.

[Docket No. ER04-694-003]

Take notice that on October 6, 2004, Vermont Electric Cooperative, Inc. (VEC) submitted its refund compliance report pursuant to the Commission's September 7, 2004 Order Accepting Market-Based Tariff in the Docket No. ER04-694-000, *et al.*, *Vermont Electric Cooperative, Inc.*, 108 FERC ¶ 61,223 (2004).

*Comment Date:* 5 p.m. Eastern Time on October 27, 2004.

#### 12. The Detroit Edison Company, DTE East China, LLC, DTE River Rouge No. 1 LLC

[Docket No. ER04-948-002]

Take notice that on October 4, 2004, DTE East China, LLC, DTE River Rouge No. 1, LLC and the Detroit Edison Company (Applicants) submitted a compliance filing pursuant to a Commission order issued on July 16, 2004 in Docket No. ER04-948-000.

Applicants state that copy of the filing was served on parties on the official service list in the above-captioned proceeding.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

#### 13. PJM Interconnection, L.L.C.

[Docket No. ER04-1123-001]

Take notice that on October 5, 2004, PJM Interconnection, L.L.C. (PJM), amended its August 12, 2004 filing in Docket No. ER04-123-000 by submitting an amended executed

interim interconnection service agreement among PJM, Wind Park Bear Creek, L.L.C., and PPL Electric Utilities Corporation (Wind Park ISA) and to identify differences between the Wind Park ISA and the form of interim interconnection service agreement in Attachment O-1 and form of interconnection service agreement in Attachment O of the PJM Open Access Transmission Tariff as modified by tariff revisions accepted by the Commission in *PJM Interconnection, L.L.C.*, 108 FERC ¶ 61,025 (2004).

PJM states that copies of this filing were served upon the parties to the agreement and the state regulatory commissions within the PJM region, and all parties on the official service list compiled by the Secretary in this proceeding.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

#### 14. Consolidated Edison Energy, Inc.

[Docket No. ER04-1196-001]

Take notice that on October 1, 2004, Consolidated Edison Energy, Inc. (CEE), filed an amendment to its filing submitted on August 18, 2004 in Docket No. ER04-1196-000. First Revised Sheet No. 1 of CEE's Market-Based Rate Tariff, First Revised Volume No. 1, superceding Original Volume No. 1, as well as the red-lined version of that Tariff Sheet.

*Comment Date:* 5 p.m. Eastern Time on October 22, 2004.

#### 15. Boston Edison Company

[Docket No. ER05-15-000]

Take notice that on October 4, 2004, Boston Edison Company (Boston Edison) tendered for filing First Revised Rate Schedule FERC No. 179 (First Revised Rate Schedule) between Boston Edison and the Town of Braintree Electric Light Department (Braintree). Boston Edison requests an effective date of March 1, 2003.

Boston Edison states that copies of the filing were served upon Braintree and the Department of Telecommunications and Energy for the Commonwealth of Massachusetts.

*Comment Date:* 5 p.m. Eastern Time on October 25, 2004.

#### 16. American Transmission Systems, Incorporated

[Docket No. ER05-16-000]

Take notice that on October 4, 2004, American Transmission Systems, Incorporated (ATSI) tendered for filing a proposed Schedule 2.1—Revenue Requirement for Reactive Power. ATSI stated that Schedule 2.1, which allows collection of revenues associated with

the supply of Reactive Supply Service within the FirstEnergy Control Area by multiple generation suppliers and the distribution of all revenues collected in a fair and equitable manner, is being modified to accommodate a new revenue requirement for the supply of Reactive Supply Service by FirstEnergy Solutions Corp. ATSI requests an effective date of October 15, 2004.

*Comment Date:* 5 p.m. Eastern Time on October 25, 2004.

#### 17. Trans-Elect NTD Path 15, LLC

[Docket No. ER05-17-000]

Take notice that on October 4, 2004, Trans-Elect NTD Path 15 LLC (NTD Path 15) submits for filing the materials necessary under FPA section 205 to establish its transmission revenue requirement. In addition, NTD Path 15 submits its FERC TO Tariff as a participating transmission owner in California Independent System Operator Corporation. NTD Path 15 requests an effective date of December 4, 2004.

NTD Path 15 states that copies of this filing were served on all interested parties.

*Comment Date:* 5 p.m. Eastern Time on October 25, 2004.

#### 18. Appalachian Power Company

[Docket No. ER05-19-000]

Take notice that on October 5, 2004, Appalachian Power Company (APCo) tendered for filing with the Commission thirteen Notices of Cancellation, designated as indicated below, that cancel the Electric Service Agreements/Rate Schedules under which APCo currently provides service to the following wholesale customers:

#### NOTICE OF CANCELLATION

Customer	Rate schedule designation
Black Diamond Power Company (Elkhurst).	First Revised Rate Schedule—FERC No. 103
Black Diamond Power Company (East Hartland).	First Revised Rate Schedule—FERC No. 104
Black Diamond Power Company (Sophia).	First Revised Rate Schedule—FERC No. 105
Elk Power Company (Clay).	First Revised Rate Schedule—FERC No. 106
Elkhorn Public Service Company (Elkhorn).	First Revised Rate Schedule—FERC No. 107
Elkhorn Public Service Company (Crozier #4).	First Revised Rate Schedule—FERC No. 108
Kimball Light & Water Company.	First Revised Rate Schedule—FERC No. 109

## NOTICE OF CANCELLATION—Continued

Customer	Rate schedule designation
United Light & Power Company.	First Revised Rate Schedule—FERC No. 110
Union Power Company (Rhodell).	First Revised Rate Schedule—FERC No. 111
Union Power Company (Mullens and Pierpont).	First Revised Rate Schedule—FERC No. 112
War Light & Power Company.	First Revised Rate Schedule—FERC No. 113
Elk Power Company (Reed's Fork).	First Revised Rate Schedule—FERC No. 114

APCo requests that the Notices of Cancellation be made effective December 1, 2004.

APCo states that a copy of its filing was served upon the Public Service Commission of West Virginia and the customers set out above.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

**19. Florida Power & Light Company**

[Docket No. ER05–21–000]

Take notice that on October 5, 2004, Florida Power & Light Company (FPL) submitted Amendment No. 3 to the St. Lucie Nuclear Reliability Exchange Agreement between Florida Power & Light Company and Florida Municipal Power Agency. FPL states that the revisions set forth in Amendment No. 3 to the St. Lucie Nuclear Reliability Exchange Agreement between Florida Power & Light Company and Florida Municipal Power Agency reflect the clarification of the treatment of costs associated with pension benefits and post-retirement benefits other than pensions for the period 2003 and beyond.

FPL states that copies of the filing were served upon Florida Municipal Power Agency.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

**20. Florida Power & Light Company**

[Docket No. ER05–22–000]

Take notice that on October 5, 2004, Florida Power & Light Company (FPL) submitted Amendment No. 2 to the St. Lucie Nuclear Reliability Exchange Agreement between Florida Power & Light Company and Orlando Utilities Commission. FPL states that the revisions set forth in Amendment No. 2 to the St. Lucie Nuclear Reliability Exchange Agreement between Florida Power & Light Company and Orlando Utilities Commission reflect the

clarification of the treatment of costs associated with pension benefits and post-retirement benefits other than pensions for the period 2003 and beyond.

FPL states that the copies of the filing were served upon Orlando Utilities Commission.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

**21. AES Placerita, Inc.**

[Docket No. ER05–23–000 and ER00–33–005]

Take notice that on October 5, 2004, AES Placerita, Inc. (Placerita) submitted its triennial market power update pursuant to the Commission's Order in Docket No. ER0033–000 and *Acadia Power Partners, LLC, et al.*, 107 FERC ¶ 61,168 (2004). In addition, pursuant to section 205 of the Federal Power Act, Placerita submitted its third revision to FERC Electric Rate Schedule, Original Volume No. 1, and its second revision to its code of conduct reflecting new corporate affiliations.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

**22. Virginia Electric and Power Company**

[Docket No. ER05–24–000]

Take notice that on October 6, 2004, Virginia Electric and Power Company (Dominion) tendered for filing a new Appendix E–1 for the Service Agreement under its open access transmission tariff, FERC Electric Tariff Second Revised Volume No. 5. Dominion states that the service agreement is Dominion's Service Agreement for Network Integration Transmission Service and Network Operating Agreement with the North Carolina Electric Membership Corporation (NCEMC). Dominion also states that the revised service agreement adds charges to reimburse Dominion for costs associated with providing a new Aulander Delivery Point for Roanoke Electric Cooperative. Dominion requests an effective date of October 7, 2004.

Dominion states that copies of the filing were served upon the NCEMC, the North Carolina Utilities Commission and the Virginia State Corporation Commission.

*Comment Date:* 5 p.m. Eastern Time on October 26, 2004.

**23. Roger Agnelli**

[Docket No. ID–4167–000]

Take notice that on October 1, 2004, Roger Agnelli filed, tendered for filing an Application for Authority to Hold Interlocking Positions under section 305 (b) of the Federal Power Act, 16 U.S.C. 825d (b) (2000), and Part 45 of the Commission's Regulations.

*Comment Date:* 5 p.m. Eastern Time on November 1, 2004.

**Standard Paragraph**

Any person desiring to intervene or to protest this filing must file 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 notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all parties to this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the "eFiling" link at <http://www.ferc.gov>. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

This filing is accessible on-line at <http://www.ferc.gov>, using the "eLibrary" link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an "eSubscription" link on the web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4–2663 Filed 10–15–04; 8:45 am]

BILLING CODE 6717–01–P

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission**

[Project No. 2743–045]

**The Four Dam Pool Power Agency; Notice of Availability of Environmental Assessment**

October 8, 2004.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No.

486, 52 FR 47897), the Office of Energy Projects' staff has prepared an Environmental Assessment (EA) for an application for a non-capacity related amendment of the Terror Lake Project. The Terror Lake Project, FERC No. 2743, is located on the Terror and Kizhuyak Rivers in Kodiak, Alaska.

The EA contains the staff's analysis of the potential environmental impacts of the proposal and concludes that approval of the proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to an October 7, 2004 Order titled "Order Amending License and Approving Revised Exhibits," which is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "elibrary" link. Enter the docket number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

For further information, contact Rebecca Martin at (202) 502-6012.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2683 Filed 10-15-04; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 2743-045]

#### The Four Dam Pool Power Agency; Notice of Availability of Environmental Assessment

October 8, 2004.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects' staff has prepared an Environmental Assessment (EA) for an application for a non-capacity related amendment of the Terror Lake Project. The Terror Lake Project, FERC No. 2743, is located on the Terror and Kizhuyak Rivers in Kodiak, Alaska.

The EA contains the staff's analysis of the potential environmental impacts of

the proposal and concludes that approval of the proposal would not constitute a major Federal action significantly affecting the quality of the human environment.

A copy of the EA is attached to an October 7, 2004 Order titled "Order Amending License and Approving Revised Exhibits," which is available for review and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426. The EA may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "elibrary" link. Enter the docket number (prefaced by P-) and excluding the last three digits, in the docket number field to access the document. For assistance, contact FERC Online Support at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov) or toll-free at (866) 208-3676, or for TTY, contact (202) 502-8659.

For further information, contact Rebecca Martin at (202) 502-6012.

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2687 Filed 10-15-04; 8:45 am]  
BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PF04-14-000]

#### Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Hardy Storage Project and Virginia Looping Project and Request for Comments on Environmental Issues

October 8, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Columbia Gas Transmission Corporation's (Columbia) Hardy Storage Project located in Hardy and Hampshire Counties, West Virginia. The EA will also address Virginia Looping<sup>1</sup> Project which consists of constructing new sections of pipeline parallel to Columbia's existing pipeline in Shenandoah, Page, Rockingham, Greene, and Louisa Counties, Virginia. This notice announces the opening of

<sup>1</sup> A loop is a segment of pipeline installed adjacent to an existing pipeline and which connects to the existing pipeline at both ends of the loop. The loop allows more gas to be moved through the system.

the scoping process we will use to gather input from the public and interested agencies on the projects. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on November 22, 2004.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the public participation section of this notice. Public scoping meetings will be held in early November, and an additional public notice will be issued once the dates and locations are determined.

This notice is being sent to affected landowners; Federal, state, and local government representatives and agencies; environmental and public interest groups; other interested parties; and local libraries and newspapers in this proceeding. We encourage government representatives to notify their constituents of these planned projects and encourage them to comment on their areas of concern.

### Summary of the Proposed Projects

Columbia proposes to construct and operate a natural gas storage field and related facilities in Hardy and Hampshire Counties, West Virginia, and loop its existing pipeline in Shenandoah, Page, Rockingham, Greene, and Louisa Counties, Virginia. In addition to the facilities described below, both projects will also involve the construction of aboveground facilities such as valves, meters, meter stations, and pig launchers and receivers. The majority of the facilities proposed on these projects are located within or adjacent to existing cleared rights-of-way.

#### *Hardy Storage Project*

Columbia proposes to store natural gas in the Oriskany sandstone formation in Hardy and Hampshire Counties, West Virginia. The Oriskany is a depleted, self-contained, natural gas producing geologic formation that is located more than a mile underground. Natural gas existed in the Oriskany for millions of years until it was discovered and produced in the 1960s and early 1970s. Natural gas supplies from Appalachia, the Southwest, or other sources will be stored in the field when demand is low, then withdrawn as needed during periods of high demand.

Maps depicting Columbia's proposed storage project and related facilities in West Virginia are provided in Appendix

1.<sup>2</sup> Some of the facilities involved in this portion of the project include:

*Existing and new gas wells.*

Columbia's 15 existing production wells in Hardy and Hampshire Counties will be reconditioned and upgraded for storage purposes. Columbia may also drill 13 new wells in the storage field, some of which will be directionally drilled from existing well sites.

*Replacing pipelines.* Columbia will upgrade and replace the existing pipelines that connect with gas wells in the field to allow them to support the storage operation. Approximately 28 new storage lines of varying diameters and lengths and approximately 28 miles of transmission pipeline will be constructed.

*New compressor station.* Located in Hardy County, this 5,000-horsepower facility will use natural gas-fueled engines to inject (compress) gas into and withdraw it out of the storage field, as needed.

*Virginia Looping Project*

To transport natural gas from the Hardy Storage Project to markets, Columbia will construct new 24-inch-diameter sections of loop parallel to its existing pipelines in Virginia. This project involves looping approximately 31 miles of Columbia's Line WB-2-VA corridor in Shenandoah, Rockingham, Page, and Greene Counties, and approximately 2.5 miles of Columbia's existing VM-108 corridor in Louisa County. Maps depicting Columbia's proposed loops in Virginia are provided in Appendix 2.

Columbia plans to file a formal application for this project with the FERC in early 2005. They are requesting approval to begin construction in late 2005 or early 2006, with most of the construction to be completed by the end of the 2006. Storage field injections are proposed to begin in the spring of 2007.

**The EA Process**

Although no formal application for authorizing natural gas facilities has been filed, the FERC staff is initiating its NEPA review now. The purpose of the FERC's Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

<sup>2</sup>The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's website at the "eLibrary" link or from the Commission's Public Reference and Files Maintenance Branch, Room 2A or call (202) 502-8371. For instructions on connecting to "eLibrary" refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

The FERC will use the EA to consider the environmental impact that could result if it issues Columbia a Certificate of Public Convenience and Necessity.

This notice formally announces our preparation of the EA and the beginning of the process referred to as "scoping." We<sup>3</sup> are soliciting input from the public and interested agencies to help us focus the analysis in the EA on the potentially significant environmental issues related to the proposed actions.

Our independent analysis of the issues will be included in a EA that will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 30-day comment period will be allotted for review of the EA. We will consider all comments on the EA in any Commission Order that is issued for the project.

With this notice, we are asking these and other Federal, state, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

**Public Participation**

You can make a difference by providing use with your specific comments or concerns about the proposals. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative storage sites and pipeline routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please mail your comments so that they will be received in Washington, DC on or before November 22, 2004, and carefully follow these instructions:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, DG2E;
- Reference Docket No. PF04-14-000 on the original and both copies.

Please note that the Commission encourages electronic filing of

<sup>3</sup>"We," "us," and "our" refer to the environmental staff of the Office of Energy Projects.

comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at <http://www.ferc.gov> under the "eFiling" link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on "Login to File" and then "New User Account." You will be asked to select the type of filing you are making. This filing is considered a Comment on Filing.

When Columbia submits its application for authorization to construct and operate the storage facility, the Commission will publish a Notice of Application in the **Federal Register** and will establish a deadline for interested persons to intervene in the proceeding. Because the Commission's NEPA Pre-filing Process occurs before an application to begin a proceeding is officially filed, petitions to intervene during this process are premature and will not be accepted by the Commission.

**Environmental Mailing List**

If you wish to remain on our environmental mailing list, please return the Information Request Form included in Appendix 3. If you do not return this form, you will be removed from our mailing list.

**Availability of Additional Information**

Additional information about the project is available from the Commission's Office of External Affairs at 1-866-208-FERC (3372) or on the FERC Internet Web site (<http://www.ferc.gov>). Using the "eLibrary" link, select General Search from the "eLibrary" menu, enter the selected date range and Docket Number (*i.e.*, PF04-14), and follow the instructions. Searches may also be done using the phrase Hardy Storage Project in the Text Search field. For assistance with access to "eLibrary", the helpline can be reached at 1-866-208-3676, TTY (202) 502-8659, or at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). The "eLibrary" link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called "eSubscription" that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the

documents. To register for this service, go to <http://www.ferc.gov/esubscribenow.htm>.

Finally, Columbia has established an Internet Web site for its project at <http://www.columbiagastrans.com/newprojects>. The Web site includes a description of the project, overview map of the proposed sites, contact information for Columbia, and links to related documents.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2681 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket No. PF04-14-000]

#### **Columbia Gas Transmission Corporation; Notice of Intent To Prepare an Environmental Assessment for the Proposed Hardy Storage Project and Virginia Looping Project and Request for Comments on Environmental Issues**

October 8, 2004.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of Columbia Gas Transmission Corporation's (Columbia) Hardy Storage Project located in Hardy and Hampshire Counties, West Virginia. The EA will also address Virginia Looping<sup>1</sup> Project which consists of constructing new sections of pipeline parallel to Columbia's existing pipeline in Shenandoah, Page, Rockingham, Greene, and Louisa Counties, Virginia. This notice announces the opening of the scoping process we will use to gather input from the public and interested agencies on the projects. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on November 22, 2004.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the public participation section of this notice. Public scoping meetings will be held in early November, and an additional public

notice will be issued once the dates and locations are determined.

This notice is being sent to affected landowners; Federal, State, and local government representatives and agencies; environmental and public interest groups; other interested parties; and local libraries and newspapers in this proceeding. We encourage government representatives to notify their constituents of these planned projects and encourage them to comment on their areas of concern.

#### **Summary of the Proposed Projects**

Columbia proposes to construct and operate a natural gas storage field and related facilities in Hardy and Hampshire Counties, West Virginia, and loop its existing pipeline in Shenandoah, Page, Rockingham, Greene, and Louisa Counties, Virginia. In addition to the facilities described below, both projects will also involve the construction of aboveground facilities such as valves, meters, meter stations, and pig launchers and receivers. The majority of the facilities proposed on these projects are located within or adjacent to existing cleared rights-of-way.

#### *Hardy Storage Project*

Columbia proposes to store natural gas in the Oriskany sandstone formation in Hardy and Hampshire Counties, West Virginia. The Oriskany is a depleted, self-contained, natural gas producing geologic formation that is located more than a mile underground. Natural gas existed in the Oriskany for millions of years until it was discovered and produced in the 1960s and early 1970s. Natural gas supplies from Appalachia, the Southwest, or other sources will be stored in the field when demand is low, then withdrawn as needed during periods of high demand.

Maps depicting Columbia's proposed storage project and related facilities in West Virginia are provided in Appendix 1.<sup>2</sup> Some of the facilities involved in this portion of the project include:

#### *Existing and new gas wells.*

Columbia's 15 existing production wells in Hardy and Hampshire Counties will be reconditioned and upgraded for storage purposes. Columbia may also drill 13 new wells in the storage field, some of which will be directionally drilled from existing well sites.

<sup>2</sup> The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site at the "eLibrary" link or from the Commission's Public Reference and Files Maintenance Branch, Room 2A or call (202) 502-8371. For instructions on connecting to "eLibrary" refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

*Replacing pipelines.* Columbia will upgrade and replace the existing pipelines that connect with gas wells in the field to allow them to support the storage operation. Approximately 28 new storage lines of varying diameters and lengths and approximately 28 miles of transmission pipeline will be constructed.

*New compressor station.* Located in Hardy County, this 5,000-horsepower facility will use natural gas-fueled engines to inject (compress) gas into and withdraw it out of the storage field, as needed.

#### *Virginia Looping Project*

To transport natural gas from the Hardy Storage Project to markets, Columbia will construct new 24-inch-diameter sections of loop parallel to its existing pipelines in Virginia. This project involves looping approximately 31 miles of Columbia's Line WB-2-VA corridor in Shenandoah, Rockingham, Page, and Greene Counties, and approximately 2.5 miles of Columbia's existing VM-108 corridor in Louisa County. Maps depicting Columbia's proposed loops in Virginia are provided in Appendix 2.

Columbia plans to file a formal application for this project with the FERC in early 2005. They are requesting approval to begin construction in late 2005 or early 2006, with most of the construction to be completed by the end of 2006. Storage field injections are proposed to begin in the spring of 2007.

#### **The EA Process**

Although no formal application for authorizing natural gas facilities has been filed, the FERC staff is initiating its NEPA review now. The purpose of the FERC's Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

The FERC will use the EA to consider the environmental impact that could result if it issues Columbia a Certificate of Public Convenience and Necessity.

This notice formally announces our preparation of the EA and the beginning of the process referred to as "scoping." We<sup>3</sup> are soliciting input from the public and interested agencies to help us focus the analysis in the EA on the potentially significant environmental issues related to the proposed actions.

Our independent analysis of the issues will be included in a EA that will be mailed to Federal, State, and local government agencies; elected officials;

<sup>3</sup> "We," "us," and "our" refer to the environmental staff of the Office of Energy Projects.

<sup>1</sup> A loop is a segment of pipeline installed adjacent to an existing pipeline and which connects to the existing pipeline at both ends of the loop. The loop allows more gas to be moved through the system.

environmental and public interest groups; affected landowners; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 30-day comment period will be allotted for review of the EA. We will consider all comments on the EA in any Commission Order that is issued for the project.

With this notice, we are asking these and other Federal, State, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments provided below.

#### Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposals. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative storage sites and pipeline routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please mail your comments so that they will be received in Washington, DC on or before November 22, 2004, and carefully follow these instructions:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, DG2E;
- Reference Docket No. PF04-14-000 on the original and both copies.

Please note that the Commission encourages electronic filing of comments. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at <http://www.ferc.gov> under the "eFiling" link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on "Login to File" and then "New User Account." You will be asked to select the type of filing you are making. This filing is considered a Comment on Filing.

When Columbia submits its application for authorization to construct and operate the storage facility, the Commission will publish a

Notice of Application in the **Federal Register** and will establish a deadline for interested persons to intervene in the proceeding. Because the Commission's NEPA Pre-filing Process occurs before an application to begin a proceeding is officially filed, petitions to intervene during this process are premature and will not be accepted by the Commission.

#### Environmental Mailing List

If you wish to remain on our environmental mailing list, please return the Information Request Form included in Appendix 3. If you do not return this form, you will be removed from our mailing list.

#### Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1-866-208 FERC (3372) or on the FERC Internet Web site (<http://www.ferc.gov>). Using the "eLibrary" link, select General Search from the "eLibrary" menu, enter the selected date range and Docket Number (*i.e.*, PF04-14), and follow the instructions. Searches may also be done using the phrase Hardy Storage Project in the Text Search field. For assistance with access to "eLibrary", the helpline can be reached at 1-866-208-3676, TTY (202) 502-8659, or at [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov). The "eLibrary" link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called "eSubscription" that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to <http://www.ferc.gov/esubscribenow.htm>.

Finally, Columbia has established an Internet Web site for its project at <http://www.columbiagastrans.com/newprojects>. The Web site includes a description of the project, overview map of the proposed sites, contact information for Columbia, and links to related documents.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2685 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Project No. 487]

#### PPL Holtwood, LLC; Notice of Authorization for Continued Project Operation

October 7, 2004.

On September 25, 2002, PPL Holtwood, LLC, licensee for the Lake Wallenpaupack Project No. 487, filed an application for a new or subsequent license pursuant to the Federal Power Act (FPA) and the Commission's regulations thereunder. Project No. 487 is located on Wallenpaupack Creek and the Lackawaxen River in Wayne and Pike Counties, Pennsylvania.

The license for Project No. 487 was issued for a period ending September 30, 2004. Section 15(a)(1) of the FPA, 16 U.S.C. 808(a)(1), requires the Commission, at the expiration of a license term, to issue from year to year an annual license to the then licensee under the terms and conditions of the prior license until a new license is issued, or the project is otherwise disposed of as provided in section 15 or any other applicable section of the FPA. If the project's prior license waived the applicability of section 15 of the FPA, then, based on section 9(b) of the Administrative Procedure Act, 5 U.S.C. 558(c), and as set forth at 18 CFR 16.21(a), if the licensee of such project has filed an application for a subsequent license, the licensee may continue to operate the project in accordance with the terms and conditions of the license after the minor or minor part license expires, until the Commission acts on its application. If the licensee of such a project has not filed an application for a subsequent license, then it may be required, pursuant to 18 CFR 16.21(b), to continue project operations until the Commission issues someone else a license for the project or otherwise orders disposition of the project.

If the project is subject to section 15 of the FPA, notice is hereby given that an annual license for Project No. 487 is issued to PPL Holtwood, LLC for a period effective October 1, 2004 through September 30, 2005, or until the issuance of a new license for the project or other disposition under the FPA, whichever comes first. If issuance of a new license (or other disposition) does not take place on or before October 1, 2005, notice is hereby given that, pursuant to 18 CFR 16.18(c), an annual license under section 15(a)(1) of the FPA is renewed automatically without further order or notice by the

Commission, unless the Commission orders otherwise.

If the project is not subject to section 15 of the FPA, notice is hereby given that PPL Holtwood, LLC is authorized to continue operation of the Lake Wallenpaupack Project No. 487 until such time as the Commission acts on its application for subsequent license.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2667 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

October 8, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Application Type:* Amendment of License.
- b. *Project No.:* 2365-027.
- c. *Date Filed:* August 31, 2004.
- d. *Applicant:* Madison Paper Industries, Inc.
- e. *Name and Location of Project:* The Anson Hydroelectric Project is located on the Kennebec River in Somerset County, Maine.
- f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.
- g. *Applicant Contact:* Mr. Christopher C. Bean, Madison Paper Industries, Main Street, P.O. Box 129, Madison, ME 04950-0129, (207) 696-1195.
- h. *FERC Contact:* James Hunter at (202) 502-6086.
- i. *Deadline for filing comments, protests, or motions to intervene:* November 8, 2004.
- j. *Description of Request:* Madison Paper Industries, as licensee, has filed a license amendment application to include the 520-foot-long, 13.8-kilovolt transmission line connecting the Anson powerhouse to the licensee's paper mill. The licensee states that it became evident following issuance of the new license for the project that the point of interconnection with the local utility's distribution system is at the bus in the paper mill, where project power is transformed to 115 kilovolts for distribution to the utility when the power is not consumed within the mill. The application includes a revised exhibit G drawing showing the location of the transmission line.

k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-2365) in the docket number field to access the document. 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, call 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (g) above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. 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.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", OR "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

p. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2682 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

#### Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

October 8, 2004.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

- a. *Application Type:* Amendment of License.
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- h. *FERC Contact:* James Hunter at (202) 502-6086.
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k. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502-8371. This filing may also be viewed on the Commission's Web site at <http://www.ferc.gov> using the "eLibrary" link. Enter the docket number (P-2365) in the docket number field to access the document. You may also register online at <http://www.ferc.gov/docs-filing/esubscription.asp> to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1-866-208-3676 or e-mail [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov), for TTY, call (202) 502-8659. A copy is also available for inspection and reproduction at the address in item (g) above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. 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.

n. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title "COMMENTS", "PROTEST", or "MOTION TO INTERVENE", as applicable, and the Project Number of the particular application to which the filing refers. All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

o. Agency Comments—Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an

agency's comments must also be sent to the Applicant's representatives.

p. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at <http://www.ferc.gov> under the "e-Filing" link. The Commission strongly encourages electronic filings.

**Magalie R. Salas,**

*Secretary.*

[FR Doc. E4-2686 Filed 10-15-04; 8:45 am]

**BILLING CODE 6717-01-P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

[Docket Nos. PL04-14-000, et al.]

#### Connecticut Transmission Infrastructure, et al.; Supplemental Notice

October 7, 2004.

New England Power Pool and ISO New England, Inc.

[Docket No. ER03-1141-003]

Devon Power LLC, et al.

[Docket Nos. EL04-102-001, EL04-102-002, ER03-563-018, ER03-563-021, ER03-563-025, ER03-563-026, ER03-563-027, ER03-563-028, ER03-563-033, ER03-563-036, ER03-563-038, ER03-563-039, ER03-563-043, ER04-464-002, ER04-464-005, ER04-464-006]

Exelon New Boston LLC

[Docket No. ER04-344-001]

ISO New England Inc.

[Docket Nos. EL00-62-055, ER02-2463-003]

Mirant Kandall, LLC

[Docket Nos. ER03-998-001, ER03-998-002]

PPL Wallingford Energy LLC, et al.

[Docket Nos. ER03-421-007, ER03-421-008]

New England Power Pool Participants

[Docket No. ER03-345-003]

New England Power Pool

[Docket Nos. ER02-2330-009, ER02-2330-026, ER02-2330-027, ER02-2330-028, ER02-2330-029]

In a Notice of Technical Conference issued September 17, 2004, the Federal Energy Regulatory Commission announced that it would host a technical conference on Wednesday, October 13, 2004 to discuss infrastructure issues for the State of Connecticut and the surrounding region. The technical conference will be held in Room 2C of the Legislative Office Building, 300 Capitol Avenue, Hartford, Connecticut. The time for the technical conference has been changed. The technical conference was previously announced to begin at 10 a.m. and end at 3 p.m. The technical conference is now scheduled to begin at 9 a.m. (EST) and end at 4 p.m.

The goal of the technical conference is to provide a forum for discussion of issues affecting energy infrastructure in and around Connecticut. This discussion will take place between federal, state and regional leaders and industry representatives. The conference will explore proposals for new electric transmission, their impact on electric reliability for the region, implications for connectivity with the entire New England grid and its relation to neighboring regions, the costs of the proposals and possible allocation of those costs. The agenda for this meeting is included as Attachment A to this notice.

The conference is a technical discussion between policy leaders, which members of the public are welcome to attend. Registration is not required; however, in-person attendees are asked to register for the conference on-line by close of business on Monday, October 11, 2004 at <http://www.ferc.gov/whats-new/registration/infra-1013-form.asp>.

Transcripts of the conference will be immediately available from Ace Reporting Company (202-347-3700 or 1-800-336-6646) for a fee. They will be available for the public on the Commission's eLibrary system seven calendar days after FERC receives the transcript. Additionally, Capitol Connection offers the opportunity for remote listening of the conference via Real Audio or a Phone Bridge Connection for a fee. Persons interested in making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.org> and click on "FERC."

For more information about the conference, please contact Sarah McKinley at 202-502-8004, [sarah.mckinley@ferc.gov](mailto:sarah.mckinley@ferc.gov).

**Magalie R. Salas,**

*Secretary.*

#### Attachment A

##### *Agenda, Connecticut Infrastructure Meeting, Hartford, Connecticut*

##### 9 a.m. Introductions

Representative Terry Backer, Chair, Energy and Technology Committee, Connecticut Legislature  
 Donald W. Downes, Chairperson, Connecticut Department of Public Utility Control  
 Pat Wood, III, Chairman, Federal Energy Regulatory Commission  
 9:20 a.m. Infrastructure in Connecticut  
 John Schnagl, Office of Energy

Projects, FERC  
 Kevin Kirby, Vice President of Market Operations, ISO New England, Inc.  
 S. Derek Phelps, Executive Director, Connecticut Siting Council  
 David H. Boguslawski, Vice President, Transmission Business, Northeast Utilities Service Company  
 10:45 a.m. Pricing and Cost Allocation Issues  
 Stephen G. Whitley, Senior Vice President and Chief Operating Officer, ISO New England, Inc.  
 Mary J. Healey, Office of Consumer Counsel, State of Connecticut  
 Joseph F. Brennan, Senior Vice President, Connecticut Business & Industry Association  
 Joseph McGee, Vice President, Public Policy & Programs, SACIA, The Business Council of Fairfield County  
 Thomas L. Welch, Chairman, Maine Public Utilities Commission  
 12 p.m. Lunch Break  
 1 p.m. Safety Issues—EMF  
 Dr. Robert Goldberg, Director for EMF Activities and Editor of EMF Health Report, Philadelphia, Pennsylvania  
 1:30 p.m. Technology Options  
 Dennis Duffy, Senior Vice President, Energy Management, Inc., on behalf of The Competitive Power Coalition  
 Jeffrey A. Donohue, President and CEO, Transénergie U.S. Ltd.  
 Doug Johnson, Composite Conductor Program, 3M Specialty Materials Division  
 John B. Howe, Vice President, Electric Industry Affairs, American Superconductor  
 Steve Doyon, Vice President of Virtual Peaking Capacity (VPC) Development, Comverge, Inc.  
 2:45 p.m. Reliability Issues  
 Stephen G. Whitley, Senior Vice President and Chief Operating Officer, ISO New England, Inc.  
 Roger C. Zaklukiewicz, Vice President of Transmission Projects, Northeast Utilities System  
 Anthony Vallillo, President and Chief Operating Officer, United Illuminating Company  
 Lee Olivier, President and Chief Operating Officer, Connecticut Light & Power  
 4 p.m. Adjourn  
 [FR Doc. E4-2668 Filed 10-15-04; 8:45 am]  
**BILLING CODE 6717-01-P**

**DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****[Docket No. PR04-6-000]****Cranberry Pipeline Corporation; Notice of Technical Conference**

October 7, 2004.

Take notice that a technical conference will be held on Wednesday, October 13, 2004 at 10:30 a.m. (EST) at the Commission's Headquarters, 888 First Street, NE., Washington, DC 20426. Arrangements will be made for parties to participate in the technical conference by telephone, with a telephone number to be provided later.

The purpose of the conference is to address Cranberry Pipeline Corporation's (Cranberry) section 311 petition for rate approval filed on December 16, 2003. Cranberry should be prepared to discuss cost of service and rate design issues.

Questions about the conference and the telephone conference call arrangements should be directed to: Jerilyn Stanley, Office of the General Counsel—Markets, Tariffs and Rates, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502-8159, [jerilyn.stanley@ferc.gov](mailto:jerilyn.stanley@ferc.gov).

**Magalie R. Salas,**  
*Secretary.*

[FR Doc. E4-2670 Filed 10-15-04; 8:45 am]

**BILLING CODE 6717-01-P****DEPARTMENT OF ENERGY****Federal Energy Regulatory Commission****Notice of Hydro Licensing Status Workshop 2004**

October 7, 2004.

Hydro Licensing Status Workshop 2004—  
 [Docket No. AD04-014-000]

Avondale Mills, Inc.—[Project Nos. 5044-008,

Central Vermont Public Service Corporation—Project Nos. 2205-006, 11475-000 and 11478-000,

City of Escondido, California—Project No. 176-018,

Confederated Tribes of Warm Springs Reservation and Portland General Electric Company—Project No. 2030-036,

El Dorado Irrigation District—Project No. 184-065,

Enterprise Mill, LLC—Project No. 2935-015, Erie Boulevard Hydropower, LP—Project Nos. 2474-004 and 2539-003,

Flambeau Hydro, LLC—Project No. 2064-007,

Ford Motor Company—Project No. 362-004,

PPL Energy Maine Hydro, LLC—Project Nos. 2283-005,  
 Great Lakes Hydro American, LLC—Project No. 2634-007,  
 Green Mountain Power Corporation—Project No. 2090-003,  
 Gustavus Electric Company—Project No. 11659-002,  
 PacifiCorp—Project Nos. 2071-013, 2342-005, and 2659-011,  
 Pacific Gas & Electric Co.—Project 233-081,  
 PCA Hydro, Inc.—Project No. 2180-007,  
 PPL Great Works, LLC—Project No. 2312-014,  
 PPL Maine, LLC—Project No. 2721-013,  
 PUD No. 1 of Pend Oreille County—Project No. 2042-013,  
 Southern California Edison Company—Project Nos. 2086-03]

A one-day, Commissioner-led workshop will be held on Thursday, December 9, 2004, beginning at 10 a.m. (EST), in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC. The workshop will focus on the above-listed pending license applications filed at the Commission. The workshop is open to the public and all interested persons are invited to attend and participate.

The goals of the workshop are to: (1) Review and discuss the pending license applications; (2) identify unresolved issues; (3) determine next steps; (4) agree on who will take the next steps; and (5) focus on solutions. The workshop will concentrate on identifying the unresolved issues associated with each project, and determining the best course of action to resolve or remove obstacles to final action on each pending license application.

A transcript of the discussions will be placed in the public record for Docket No. AD04-014-000 and in the record for each of the pending license applications.

**Filing Requirements for Paper and Electronic Filings**

Comments, papers, or other documents related to this proceeding may be filed in paper format or electronically. Those filing electronically do not need to make a paper filing.

For paper filings, the original and 8 copies of the comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Paper filings should, at the top of the first page, refer to Docket No. AD04-014-000 and reference the specific project name(s) and project number(s) that the comments concern. The deadline to file comments is January 10, 2005.

Comments may be filed electronically via the internet in lieu of paper. The Commission strongly encourages electronic filings. Documents filed electronically via the internet may be prepared in MS Word or Portable Document Format. To file the document, access the Commission's Web site at [www.ferc.gov](http://www.ferc.gov), click on "e-Filing" and then follow the instructions on the screen. First-time users will have to establish a user name and password. The Commission will send an automatic acknowledgment to the sender's e-mail address upon receipt of comments. User assistance for electronic filing is available at 202-502-8258 or by e-mail to [efiling@ferc.gov](mailto:efiling@ferc.gov). Comments should not be submitted to the e-mail address.

All comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE., Washington DC 20426, during regular business hours. Additionally, all comments may be viewed on the Commission's Web site at [www.ferc.gov](http://www.ferc.gov) using the "eLibrary" link.

For assistance, call toll free 1-866-208-3676, or for TTY 202-502-8659, or by e-mail to [FERCOnlineSupport@ferc.gov](mailto:FERCOnlineSupport@ferc.gov).

**Opportunities for Listening, Participating, and Viewing the Workshop Offsite and Obtaining a Transcript**

The workshop will be transcribed. Those interested in transcripts immediately for a fee should contact Ace-Federal Reporters, Inc., at 202-347-3700, or 1-800-336-6646. Transcripts will be available free to the public on the Commission's e-library system about two weeks after the workshop.

For those involved in the specific projects being discussed, we believe the best way to achieve the goals of the workshop is for you and your staff to attend the workshop in person. However, we understand that budgetary and other constraints may limit travel to Washington, DC. Therefore, we have made alternative arrangements for you to listen, view, or participate in the

workshop through the internet, video conferencing, or teleconferencing.

The Capitol Connection offers the opportunity for remote listening and viewing of the conference. It is available for a fee, live over the Internet, by phone or via satellite. Persons interested in receiving the broadcast, or who need information on making arrangements should contact David Reininger or Julia Morelli at the Capitol Connection (703-993-3100) as soon as possible or visit the Capitol Connection Web site at <http://www.capitolconnection.org> and click on "FERC."

Anyone wishing to participate via teleconference should call or e-mail Ken Hogan at 202-502-8434 or [kenneth.hogan@ferc.gov](mailto:kenneth.hogan@ferc.gov) by December 1, 2004, to receive the toll free telephone number to join the teleconference.

Anyone interested in participating in the workshop via video teleconference from one of the Commission's regional offices should call or e-mail the following staff, by December 1, 2004, to make arrangements. Seating capacity is limited.

Regional office	Staff contact	Telephone number	E-mail address
Atlanta .....	Charles Wagner .....	770-452-3765	<a href="mailto:charles.wagner@ferc.gov">charles.wagner@ferc.gov</a>
Chicago .....	David Simon .....	312-596-4448	<a href="mailto:david.simon@ferc.gov">david.simon@ferc.gov</a>
New York .....	Chuck Goggins .....	212-273-5910	<a href="mailto:charles.goggins@ferc.gov">charles.goggins@ferc.gov</a>
Portland .....	Pat Regan .....	503-552-2741	<a href="mailto:patrick.regan@ferc.gov">patrick.regan@ferc.gov</a>
San Francisco .....	John Wiegel .....	415-369-3336	<a href="mailto:john.wiegel@ferc.gov">john.wiegel@ferc.gov</a>

By December 2, 2004, an agenda for the workshop and information about the pending license applications will be posted on the Commission's Web site under Hydro Licensing Status Workshop 2004. Anyone without access to the Commission's Web site, or who has questions should contact Alan Mitchnick at 202-502-6074, or e-mail [alan.mitchnick@ferc.gov](mailto:alan.mitchnick@ferc.gov). This meeting is posted on the Commission's calendar located at <http://www.ferc.gov/EventCalendar/EventsList.aspx> along with other related information.

**Magalie R. Salas,**  
Secretary.

[FR Doc. E4-2680 Filed 10-15-04; 8:45 am]

BILLING CODE 6717-01-P

**ENVIRONMENTAL PROTECTION AGENCY**

[FRL-7828-2]

**Board of Scientific Counselors, Endocrine Disrupting Chemicals Subcommittee Meetings**

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

**ACTION:** Notice of meetings.

**SUMMARY:** Pursuant to the Federal Advisory Committee Act, Public Law 92-463, the Environmental Protection Agency, Office of Research and Development (ORD), gives notice of four meetings of the Board of Scientific Counselors (BOSC) Endocrine Disrupting Chemicals (EDC) Subcommittee.

**DATES:** Three conference call meetings will be held on: (1) Tuesday, November 2, 2004 from 12 p.m. to 2 p.m., (2) Wednesday, December 1, 2004 from 12 p.m. to 2 p.m., and (3) Thursday, January 6, 2005 from 12 p.m. to 2 p.m. One face-to-face meeting will begin on Monday, December 13, 2004 (8:30 a.m. to 5:30 p.m.); continue on Tuesday,

December 14, 2004 (8:30 a.m. to 5:30 p.m.); and conclude on Wednesday, December 15, 2004 (8:30 a.m. to 1 p.m.). All times noted are eastern standard time. The meetings may adjourn early if all business is finished.

**ADDRESSES: Conference Calls:**

Participation in the conference calls will be by teleconference only—meeting rooms will not be used. Members of the public who wish to obtain the call-in number and access code to participate in a teleconference meeting may contact Dr. Neil Stiber, Designated Federal Officer, via telephone/voice mail at (202) 564-1573, via e-mail at [stiber.neil@epa.gov](mailto:stiber.neil@epa.gov), or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104-R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, by four work days prior to each conference call. **Face-to-Face Meeting:** The face-to-face meeting will be held at the U.S. EPA Research Triangle Park (RTP) Campus, in Room C-111C on December 13 and 14 and in Room C-111A on December 15, located at 109 T.W. Alexander Drive, Research Triangle Park, NC 27711.

## Document Availability

Any member of the public interested in receiving a draft agenda for, or making a presentation at, one of the conference calls or the face-to-face meeting, may contact Dr. Neil Stiber, Designated Federal Officer, via telephone/voice mail at (202) 564-1573, via e-mail at [stiber.neil@epa.gov](mailto:stiber.neil@epa.gov), or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104-R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

In general, each individual making an oral presentation will be limited to a total of three minutes. Requests for the draft agendas or for making oral presentations at the conference calls or the face-to-face meeting will be accepted up to 1 business day before each conference call/meeting date. The draft agendas can also be viewed through EDOCKET, as provided in Unit I.A. of the **SUPPLEMENTARY INFORMATION** section.

## Submitting Comments

Comments may be submitted electronically, by mail, or through hand delivery/courier. Follow the detailed instructions as provided in Unit I.B. of the **SUPPLEMENTARY INFORMATION** section. Written comments will be accepted up to 1 business day before the conference calls/meeting dates.

**FOR FURTHER INFORMATION CONTACT:** Dr. Neil Stiber, Designated Federal Officer, via telephone/voice mail at (202) 564-1573, via e-mail at [stiber.neil@epa.gov](mailto:stiber.neil@epa.gov), or by mail at Environmental Protection Agency, Office of Research and Development, Mail Code 8104-R, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

## SUPPLEMENTARY INFORMATION:

### I. General Information

Proposed agenda items for the conference calls include, but are not limited to: charge questions, objective of program reviews, background on the U.S. EPA's EDC research program, writing assignments, and planning for the face-to-face meeting. Proposed agenda items for the face-to-face meeting include, but are not limited to: presentations by key EPA principal investigators in the EDC research program, poster sessions on EPA's EDC research, writing the draft report, and presentation of the subcommittee's draft responses to the charge questions. The conference calls and face-to-face meeting are open to the public.

In general, Services for the Handicapped: Individuals requiring special accommodations at this meeting should contact Neil Stiber, Designated

Federal Officer, at (202) 564-1573 at least five business days prior to the meeting so that appropriate arrangements can be made to facilitate their participation.

### A. How Can I Get Copies of Related Information?

1. *Docket.* EPA has established an official public docket for this action under Docket ID No. ORD-2004-0020. The official public docket consists of the documents specifically referenced in this action, any public comments received, and other information related to this action. Documents in the official public docket are listed in the index in EPA's electronic public docket and comment system, EDOCKET. Documents may be available either electronically or in hard copy. Electronic documents may be viewed through EDOCKET. Hard copies of the draft agendas may be viewed at the Board of Scientific Counselors, Endocrine Disrupting Chemicals Meetings Docket in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the ORD Docket is (202) 566-1752.

2. *Electronic Access.* You may access this **Federal Register** document electronically through the EPA Internet under the "Federal Register" listings at <http://www.epa.gov/fedrgstr/>.

An 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.

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, confidential business information (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.

### B. 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.

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. To access EPA's electronic public docket from the EPA Internet Home Page, [www.epa.gov](http://www.epa.gov), select "Information Sources," "Dockets," and "EDOCKET." Once in the system, select "search," and then key in Docket ID No. ORD-2004-0020. 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-2004-0020. 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 I.B.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), Mailcode: 28221T, 1200 Pennsylvania Ave., NW., Washington, DC, 20460, Attention Docket ID No. ORD-2004-0020.

3. *By Hand Delivery or Courier*. Deliver your comments to: EPA Docket Center (EPA/DC), Room B102, EPA West Building, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID No. ORD-2004-0020. (**note:** this is not a mailing address). Such deliveries are only accepted during the docket's normal hours of operation as identified in Unit I.A.1.

Dated: October 12, 2004.

**Kevin Y. Teichman,**

*Director, Office of Science Policy.*

[FR Doc. 04-23262 Filed 10-15-04; 8:45 am]

BILLING CODE 6560-50-P

## ENVIRONMENTAL PROTECTION AGENCY

[FRL-7828-7]

### Public Water System Supervision Program Revisions for the State of Wisconsin

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

**ACTION:** Notice of tentative approval.

**SUMMARY:** Notice is hereby given that the State of Wisconsin is revising its approved Public Water System Supervision Program. Wisconsin has:

Revised its definition of "public water system"; revised its administrative penalty authority for public water systems; adopted the Consumer Confidence Report Rule for all community water systems; adopted the Interim Enhanced Surface Water Treatment Rule, which will help improve control of microbial pathogens in drinking water; and adopted the Stage 1 Disinfectants and Disinfection Byproducts Rule, which will set new requirements to limit the formation of chemical disinfection byproducts in drinking water.

EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve these program revisions.

All interested parties may request a public hearing. A request for a public hearing must be submitted by November 17, 2004, to the Acting Regional Administrator at the EPA Region 5 address shown below. Frivolous or insubstantial requests for a hearing may be denied by the Acting Regional Administrator. However, if a substantial request for a public hearing is made by November 17, 2004, a public hearing will be held.

If no timely and appropriate request for a hearing is received and the Acting Regional Administrator does not elect to hold a hearing on his own motion, this determination shall become final and effective on November 17, 2004. Any request for a public hearing shall include the following information:

The name, address, and telephone number of the individual, organization, or other entity requesting a hearing; a brief statement of the requesting person's interest in the Acting Regional Administrator's determination and a brief statement of the information that the requesting person intends to submit at such hearing; and the signature of the individual making the request, or, if the request is made on behalf of an organization or other entity, the signature of a responsible official of the organization or other entity.

**ADDRESSES:** All documents relating to this determination are available for inspection between the hours of 7:45 a.m. and 4:30 p.m., Monday through Friday, at the following offices: Wisconsin Department of Natural Resources, DG-2, 2nd Floor, 101 South Webster, P.O. Box 7921, Madison, Wisconsin 53707, and the United States Environmental Protection Agency, Region 5, Ground Water and Drinking Water Branch (WG-15J), 77 West Jackson Boulevard, Chicago, Illinois 60604.

**FOR FURTHER INFORMATION CONTACT:** Joe Janczy, EPA Region 5, Ground Water and Drinking Water Branch, at the address given above, by telephone at (608) 267-2763, or at [janczy.joseph@epa.gov](mailto:janczy.joseph@epa.gov).

**Authority:** (Sec. 1413 of the Safe Drinking Water Act, as amended, 42 U.S.C. 3006-2 (1996), and 40 CFR part 142 of the National Primary Drinking Water Regulations).

Dated: September 30, 2004.

**Bharat Mathur,**

*Acting Regional Administrator, Region 5.*

[FR Doc. 04-23266 Filed 10-15-04; 8:45 am]

BILLING CODE 6560-50-P

## FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02-278; DA 04-3185]

### Consumer & Governmental Affairs Bureau Seeks Comment on American Teleservices Association, Inc. Petition for Declaratory Ruling on Preemption of New Jersey Telemarketing Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document seeks comment on a petition for declaratory ruling filed by the American Teleservices Association (ATA), asking the Commission to preempt certain provisions of the New Jersey Consumer Fraud Act and New Jersey Administrative Code relating to telemarketing.

**DATES:** Comments are due November 17, 2004, and reply comments are due December 2, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418-2512.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Public Notice*, CG Docket No. 02-278, DA 04-3185, released October 4, 2004. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in this proceeding on or before November 17, 2004, and reply comments may be filed on or before December 2, 2004. When filing comments, please reference CG Docket No. 02-278. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking*

*Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capital Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554.

This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-

disclosed proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: <http://www.bcpiweb.com> or by calling 1 (800) 378-3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). The *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

#### Synopsis

On August 24, 2004, the ATA filed a petition for declaratory ruling, asking the Commission to preempt certain provisions of the New Jersey Consumer Fraud Act and New Jersey Administrative Code (New Jersey Rules) relating to telemarketing. ATA contends that the New Jersey Rules are more restrictive than the rules established by the Commission under the Telephone Consumer Protection Act (TCPA). More specifically, ATA argues that the New Jersey Rules are inconsistent with the Commission's "established business relationship" exemption, fail to provide a personal relationship exemption, and impose stricter identification requirements on telemarketers. Furthermore, ATA indicates that the New Jersey Rules are not limited to intrastate telemarketing, but apply to all telemarketing calls to New Jersey consumers regardless of where the calls originate. ATA therefore requests that the Commission preempt those provisions of the New Jersey Rules which are more restrictive than the Commission's rules as they relate to interstate telemarketing.

Federal Communications Commission.

#### Jay Keithley,

*Deputy Chief, Consumer & Governmental Affairs Bureau.*

[FR Doc. 04-23294 Filed 10-15-04; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02-278; DA 04-3187]

### Consumer & Governmental Affairs Bureau Seeks Comment on CCAdvertising Petition for Declaratory Ruling on Preemption of North Dakota Telemarketing Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document seeks comment on a petition for expedited declaratory ruling filed by FreeEats.com, Inc., dba ccAdvertising, asking the Commission to preempt certain provisions of North Dakota state law which restricts the use of autodialed, prerecorded message technology.

**DATES:** Comments are due November 8, 2004, and reply comments are due November 17, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

#### FOR FURTHER INFORMATION CONTACT:

Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418-2512.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Public Notice*, CG Docket No. 02-278, DA 04-3187, released October 4, 2004.

Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in this proceeding on or before November 8, 2004, and reply comments may be filed on or before November 17, 2004. When filing comments, please reference CG Docket No. 02-278. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capital Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554.

This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclosed proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site:

<http://www.bcpiweb.com> or by calling 1-800-378-3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). The *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

#### Synopsis

On September 13, 2004, FreeEats.com, Inc., dba ccAdvertising (Petitioner or ccAdvertising) filed a petition for expedited declaratory ruling, asking the Commission to preempt certain provisions of North Dakota state law. Petitioner explains that it is a Virginia-based company that uses prerecorded messages to conduct political polling, most of which involves interstate calls. According to Petitioner, the North Dakota attorney general's office has notified ccAdvertising that its use of autodialed, prerecorded message technology is regulated by the state's telemarketing statutes, and that the state intends to enforce against ccAdvertising section 51-28-02 of the North Dakota Century Code, which prohibits the use of prerecorded messages without authorization from the called party. Petitioner contends that North Dakota's law is inconsistent with the Telephone Consumer Protection Act (TCPA) and with the Commission's telemarketing rules, both of which permit political polling calls using prerecorded messages. Therefore, Advertising requests that the Commission preempt North Dakota's more restrictive regulation of interstate political polling calls.

Federal Communications Commission.

Jay Keithley,

Deputy Chief, Consumer & Governmental Affairs Bureau.

[FR Doc. 04-23293 Filed 10-15-04; 8:45 am]

BILLING CODE 6712-01-P

#### FEDERAL COMMUNICATIONS COMMISSION

[CG Docket No. 02-278; DA 04-3186]

#### Consumer & Governmental Affairs Bureau Seeks Comment on Express Consolidation, Inc. Petition for Declaratory Ruling on Preemption of Florida Telemarketing Rules

AGENCY: Federal Communications Commission.

ACTION: Notice.

**SUMMARY:** This document seeks comment on a petition for declaratory ruling filed by Express Consolidation, Inc., asking the Commission to preempt a Florida telemarketing law, Florida Statute, section 501.059 which restricts the making of certain telephonic sales calls to Florida citizens.

**DATES:** Comments are due November 17, 2004, and reply comments are due December 2, 2004.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Kelli Farmer, Consumer Policy Division, Consumer & Governmental Affairs Bureau, (202) 418-2512.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's *Public Notice*, CG Docket No. 02-278, DA 04-3186, released October 4, 2004. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments in this proceeding on or before November 17, 2004, and reply comments may be filed on or before December 2, 2004. When filing comments, please reference CG Docket No. 02-278. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See *Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24121, May 1, 1998. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send e-mail to [ecfs@fcc.gov](mailto:ecfs@fcc.gov), and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must send an original and four (4) copies of each filing. Filings can be sent by hand or messenger delivery, by electronic media, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). The Commission's contractor, Natek, Inc., will receive hand-delivered or messenger-delivered paper filings or electronic media for the Commission's Secretary at 236 Massachusetts Avenue,

NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial and electronic media sent by overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class mail, Express Mail, and Priority Mail should be addressed to 445 12th Street, SW., Washington, DC 20554. All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Room TW-B204, Washington, DC 20554.

This proceeding shall be treated as a "permit but disclose" proceeding in accordance with the Commission's *ex parte* rules, 47 CFR 1.1200. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substances of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. See 47 CFR 1.1206(b). Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclosed proceedings are set forth in § 1.1206(b) of the Commission's rules, 47 CFR 1.1206(b).

The full text of this document and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554, (202) 418-0270. This document may be purchased from the Commission's duplicating contractor, Best Copy and Printing (BCPI), Inc., Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact BCPI, Inc. at their Web site: [www.bcpiweb.com](http://www.bcpiweb.com) or by calling 1-800-378-3160.

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format) send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). The *Public Notice* can also be downloaded in Word or Portable Document Format (PDF) at <http://www.fcc.gov/cgb>.

## Synopsis

On July 28, 2004, Express Consolidation, Inc. (Express or Petitioner) filed a petition for declaratory ruling asking the Commission to preempt a Florida telemarketing law, Florida Statute, section 501.059 (Florida Statute). According to Petitioner, Express has been charged in a complaint by the Florida Department of Agriculture and Consumer Services with violating the Florida Statute, which restricts the making of telephonic sales calls to Florida citizens whose names appear on the state's quarterly "no sales solicitation calls listing." The Florida law also restricts the use of automatic dialing systems and artificial or prerecorded messages to make sales calls. Express contends that the Florida Statute is inconsistent with the Telephone Consumer Protection Act (TCPA) by placing more onerous restrictions on the making of interstate telephone calls by a tax-exempt nonprofit organization. Express indicates that, unlike the Florida Statute, the TCPA exempts calls made by tax-exempt nonprofit organizations from the restrictions on "telephone solicitations." Express further explains that the calls that are the basis of the state's enforcement action are made on behalf of Express, a nonprofit corporation with offices in Florida, by a California company. Express maintains that the TCPA authorizes a state to implement more restrictive regulations only with respect to intrastate calls; therefore, the state law should be preempted.

Federal Communications Commission.

### Jay Keithley,

*Deputy Chief, Consumer & Governmental Affairs Bureau.*

[FR Doc. 04-23295 Filed 10-15-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL COMMUNICATIONS COMMISSION

### Performance Review Board

As required by the Civil Service Reform Act of 1978 (Pub. L. 95-454), Chairman Michael K. Powell appointed the following executives to the Performance Review Board: Julius Knapp, Renee Licht, Mary Beth Richards, and David Solomon.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-23291 Filed 10-15-04; 8:45 am]

**BILLING CODE 6712-01-P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Sunshine Act; Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that, at 10:30 a.m. on Tuesday, October 12, 2004, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and liquidation activities.

In calling the meeting, the Board determined, on motion of Vice Chairman John M. Reich, seconded by Director Thomas J. Curry, concurred in by Director James E. Gilleran (Office of Thrift Supervision), Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donald E. Powell, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice of the meeting earlier than October 7, 2004, was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(9)(B) and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: October 12, 2004.

Federal Deposit Insurance Corporation.

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. E4-2689 Filed 10-15-04; 8:45 am]

**BILLING CODE 6714-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Agency for Healthcare Research and Quality

#### Agency Information Collection Activities: Proposed Collection; Comment Request

**AGENCY:** Agency for Healthcare Research and Quality, HHS.

**ACTION:** Notice.

**SUMMARY:** This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project:

“Questionnaire and Data Collection Testing, Evaluation, and Research for the Agency for Healthcare Research and Quality”. In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

This proposed information collection was previously published in the **Federal Register** on August 16th, 2004 and allowed 60 Days for public comment. No public comments were received. The purpose of this notice is to allow an additional 30 Days for public comment.

**DATES:** Comments on this notice must be received by November 17, 2004.

**ADDRESSES:** Written comments should be submitted to: John Kraemer, at the Office of Information and Regulatory Affairs, OMB at the email address [John\\_Kraemer@omb.eop.gov](mailto:John_Kraemer@omb.eop.gov) and the fax number is (202) 395–6974.

Copies of the proposed collection plans, data collection instruments, and specific details on the estimated burden can be obtained from the AHRQ Reports Clearance Officer.

**FOR FURTHER INFORMATION CONTACT:** Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 427–1651.

**SUPPLEMENTARY INFORMATION:**

**Proposed Project**

*“Questionnaire and Data Collection Testing, Evaluation, and Research for the Agency for Healthcare Research and Quality”*

AHRQ plans to employ the latest techniques to improve its current data collections by developing new surveys, and by revising existing surveys in anticipation of, or in response to, changes in the healthcare field, for a 3 year period. The clearance request is limited to testing research questionnaires, data collection methods, and related reports. Data collected under this clearance will be used to improve agency products and such data are not intended for direct use in the development of health policy. The final instruments will be used for subsequent data collections that may impact health policies. A generic clearance for his work will allow AHRQ to draft and test survey instruments more quickly and with greater lead time, thereby managing project time more efficiently and improving the quality of the data it collects.

It is envisioned that in some instances the ability to pretest/pilot-test survey-related instruments, in anticipation of work, or early in a project, may result in the decision not to proceed with particular survey activities, thereby saving both public and private resources

and effectively eliminating or reducing respondent burden.

The health care environment changes rapidly and requires a quick response from the agency to provide appropriately refined tools. A generic clearance for this methodological work will facilitate the agency’s timely development of survey tools suitable for use in changing conditions.

It is particularly important to refine AHRQ’s survey tools because many of the survey tools AHRQ develops are made widely available to users in the private sector. They are made available to help the private sector improve health care quality by enabling the gathering of useful data for analysis and for providing information about health care quality to consumers and purchasers so that they can use their marketplace choices to influence and improve health care quality.

**Methods of Collection**

Participation in survey testing will be fully voluntary and non-participation will have no effect on eligibility for, or receipt of, future AHRQ health services research support or on future opportunities to participate in research or to obtain informative research results. Specific estimation procedures, when used, will be described when we notify OMB as to actual studies conducted under the clearance.

Type of research activity	Number of respondents	Estimated time per respondent	Total burden hours
Face-to-Face Interviews .....	100	60 minutes .....	100
Field Tests (short) .....	2,400	20 minutes .....	800
Field Tests (long) .....	7,600	30 minutes .....	3,800
Lab Experiments .....	200	90 minutes .....	300
Focus Groups .....	100	60 minutes .....	100
Cognitive Interviews .....	100	60 minutes .....	100
Totals .....	10,500	Not Applicable ....	5,200

**Estimated Costs to the Federal Government**

Expenses for equipment, overhead, printing, and support staff will be incurred by AHRQ components as part of their normal operating budgets. No additional cost to the Federal Government is anticipated. Any deviation from these limits will be noted in reports made to OMB with respect to a particular study or studies conducted under the clearance.

**Request for Comments**

In accordance with the above-cited legislation, comments on the AHRQ information collection are requested with regard to any of the following: (a)

Whether the proposed collection of information is necessary for the proper performance of functions of AHRQ, including whether the information will have practical utility; (b) the accuracy of the AHRQ’s estimate of 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 upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB

approval of the proposed information collection. All comments will become a matter of public record.

Dated: October 4, 2004.

**Carolyn M. Clancy,**  
*Director.*

[FR Doc. 04–23234 Filed 10–15–04; 8:45 am]

**BILLING CODE 4160–90–M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[60Day-05-AC]

**Proposed Data Collections Submitted for Public Comment and Recommendations**

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 498-1210. CDC is requesting an emergency clearance for this data collection with a two week public comment period. CDC is requesting OMB approval of this

package 7 days after the end of the public comment period.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Send comments to Seleda M. Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS-D24, Atlanta, GA 30333 or send an e-mail to [omb@cdc.gov](mailto:omb@cdc.gov). Written comments should be received within 14 days of this notice.

**Proposed Project**

Severe Acute Respiratory Syndrome (SARS) Research—New—National Center for Infectious Diseases (NCID),

Centers for Disease Control and Prevention (CDC).

As part of the effort taken by CDC to learn more about the epidemiology and clinical dynamics of infection with Severe Acute Respiratory Syndrome (SARS) coronavirus, CDC's National Center for Infectious Diseases would like to collect information in the event of a re-emergence of SARS. Protocols have been developed for the study of SARS transmission, dynamics of infection and SARS infection during pregnancy. Information on symptoms of illness, activities during periods of contact with a SARS case or within a SARS-affected area and outcomes of illness will be requested from SARS case-patients, contacts of SARS case-patients, health care professionals and state and local public health providers. Data will be used for research to contribute to the global understanding of SARS illness and refine methods of SARS infection control. Expedited clearance is necessary so that data may be collected immediately in the event of SARS re-emergence this fall. There is no cost to the respondents.

Form	Respondents	No. of Respondents	Estimated No. of responses/respondent	Avg. burden per response (in hours)	Total burden (hours)
1. Transmission protocol: Clinical Baseline Questionnaire for SARS Cases.	Health departments, clinicians ...	100	1	1	100
2. Transmission protocol: Follow-up Questionnaire .....	SARS cases and contacts .....	500	5	10/60	417
3. Transmission protocol: Characterization of SARS Tool for Data Collection.	Health departments, clinicians ...	50	1	1	50
4. Transmission protocol: Baseline Questionnaire for Contacts ....	Health departments .....	300	1	15/60	75
5. Transmission protocol: Questionnaire for Household Information.	Health departments .....	300	1	10/60	50
6. Transmission protocol: Questionnaire for Close Household Contacts.	Health departments, clinicians ...	300	1	15/60	75
7. Transmission protocol: Questionnaire for Airline Contacts .....	Quarantine officers, health dept.	1,000	1	30/60	500
8. Transmission protocol: Questionnaire for Health Care Worker Contacts.	Health departments, clinicians ...	300	1	15/60	75
9. Pregnancy protocol: Pregnancy, Delivery and Follow-up Data Collection Tools.	Health departments, clinicians ...	50	1	40/60	33
Total .....	.....	2900			1375

Dated: October 8, 2004.

**Alvin Hall,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 04-23219 Filed 10-15-04; 8:45 am]

BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

[30Day-04-040W]

**Proposed Data Collections Submitted for Public Comment and Recommendations**

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and

Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 498-1210 or send an e-mail to [omb@cdc.gov](mailto:omb@cdc.gov). Send written comments to CDC Desk Officer, Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 or by fax to (202) 395-6974. Written comments should be received within 30 days of this notice.

**Proposed Project**

National Healthcare Safety Network (NHSN)—New—National Center for Infectious Disease (NCID), Centers for Disease Control and Prevention (CDC).

OMB first approved the information collection now known as the “National Nosocomial Infections Surveillance (NNIS) System” (OMB No.0920–0012) in 1970; it approved the “National Surveillance System for Healthcare Workers(NaSH)” (OMB 0920–0417) in 1997, and the “Surveillance for Bloodstream and Vascular Access Infections in Outpatient Hemodialysis Centers” (OMB No. 0920–0442) in 1999. These three data collections have been modified and are being merged to create

the NHSN. The NHSN will evolve with the addition of modules and participating healthcare institutions from a wide spectrum of settings.

The NHSN is a knowledge system for accumulating, exchanging, and integrating relevant information and resources among private and public stakeholders to support local and national efforts to protect patients and to promote healthcare safety. Specifically, the data will be used to determine the magnitude of various healthcare-associated adverse events and trends in the rates of these events among patients and healthcare workers with similar risks. They will be used to detect changes in the epidemiology of adverse events resulting from new and

current medical therapies and changing risks.

Healthcare institutions that participate in NHSN voluntarily report their data to the Division of Healthcare Quality Promotion in the National Center for Infectious Diseases at the Centers for Disease Control and Prevention through the National Electronic Disease Surveillance System that uses a web browser-based technology for data entry and data management. Data are collected by trained surveillance personnel using written standardized protocols. The table below shows the estimated annual burden in hours to collect and report data. The total burden hours are 65,817.

Title	No. of respondents	No. of responses/respondent	Burden per response (in hrs.)
Facility Contact Information .....	350	1	10/60
Patient Safety Component Facility Characteristics .....	350	1	30/60
Agreement To Participate and Consent .....	350	1	15/60
Group Contact Information .....	350	1	5/60
Patient Safety Monthly Reporting Plan .....	350	9	25/60
Healthcare Personnel Safety Reporting Plan .....	90	2	10/60
Patient Data* .....			
Primary Bloodstream Infection (BSI)** .....	200	36	25/60
Pneumonia (PNEU) .....	200	72	25/60
Urinary Tract Infection (UTI) .....	200	27	25/60
Surgical Site Infection (SSI) .....	200	27	25/60
Dialysis Incident (DI) .....	80	90	12/60
Custom Event (not reported to CDC) .....			
Antimicrobial Use and Resistance (AUR)—Microbiology Laboratory Data** .....	20	45	3
Antimicrobial Use and Resistance (AUR)—Pharmacy Data** .....	20	36	2
Denominators for Intensive Care Unit (ICU)/Other Locations (Not NICU or SCA) .....	245	18	5
Denominators for Specialty Care Area (SCA) .....	75	9	5
Denominators for Neonatal Intensive Care Unit (NICU) .....	100	9	4
Denominators for Procedure .....	200	540	5/60
Dialysis Log Form (Not reported to CDC) .....			
Denominators for Outpatient Dialysis .....	80	9	5/60
Patient Safety Component—Hemodialysis Center Practices Survey .....	80	1	1
List of Blood Isolates+ .....	350	1	1
Manual Categorization of Positive Blood Cultures+ .....	350	1	1
Exposures to Blood/Body Fluids .....	90	42	1
Healthcare Personnel Post Exposure Prophylaxis .....	90	6	15/60
Healthcare Personnel Demographic Data .....	90	42	10/60
Healthcare Personnel Vaccination History .....	90	42	15/60
Annual Facility Survey .....	90	1	5.5
Implementation of Engineering Controls .....	90	1	30/60
Healthcare Personnel Survey .....	90	10	10/60

\* Data on Patient Data Form are entered as part of an adverse event (AE), so the burden of these data are included under each AE form's burden estimate.

\*\* Burden will be eliminated when reporting these data once an HHSN institution implements electronic data capture.

+ Burden during Validation phase only, then eliminated.

Dated: October 12, 2004.

**Alvin Hall,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. 04-23220 Filed 10-15-04; 8:45 am]

BILLING CODE 4163-18-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Disease Control and Prevention**

**Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Occupational Health and Safety Research, Program Announcement (PA) 04038**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the Centers for Disease Control and Prevention (CDC) announces the following meeting:

*Name:* Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP): Occupational Health and Safety Research, Program Announcement (PA) 04038.

*Times and Dates:* 7 p.m.–7:30 p.m., November 4, 2004 (Open); 7:30 p.m.–9 p.m., November 4, 2004 (Closed); 8 a.m.–5 p.m., November 5, 2004 (Closed).

*Place:* Courtyard by Marriott Louisville Downtown, 100 South Second Street, Louisville, KY 40202, phone (502) 562-0200.

*Status:* Portions of the meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92-463.

*Matters To Be Discussed:* The meeting will include a site visit and the review, discussion, and evaluation of an application received in response to Program Announcement Number 04038.

*Contact Person for More Information:* Chuck Rafferty, Ph.D., Research Grants Program Officer, Office of Extramural Programs, National Institute for Occupational Safety and Health, CDC, 1600 Clifton Road, NE., MS-E74, Atlanta, GA 30333, Telephone (404) 498-2530.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: October 12, 2004.

**Alvin Hall,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).*

[FR Doc. 04-23221 Filed 10-15-04; 8:45 am]

BILLING CODE 4163-19-P

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

**Notice of Hearing: Reconsideration of Disapproval of California's Medicaid State Plan Amendment 03-028B**

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an administrative hearing on California's Medicaid State Plan Amendment (SPA) 03-28B to be held on December 2, 2004, 10 a.m., 75 Hawthorne Street, 4th Floor Conference Room, San Francisco, California 94105-3901 to reconsider our decision to disapprove SPA 03-028B.

*Closing Date:* Requests to participate in the hearing as a party must be received by the presiding officer by November 2, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Scully-Hayes, Presiding Officer, CMS, LB-23-20, Lord Baltimore Drive, Baltimore, Maryland 21244, Telephone: (410) 786-2055.

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider our decision to disapprove California's Medicaid State Plan Amendment (SPA) 03-28B.

California submitted SPA 03-28B on September 18, 2003. In this SPA, California proposed to provide targeted case management (TCM) services in several counties for two populations: persons on probation, and individuals with a public guardian. By letter dated July 6, 2004, the Centers for Medicare & Medicaid Services (CMS) disapproved the SPA.

At issue in this reconsideration is whether SPA 03-28B is consistent with the requirements contained in sections 1902(a)(10) and 1902(a)(23), of the Social Security Act (the Act), as described in more detail below. In general, CMS found that the SPA had three fundamental problems: (1) The proposed TCM services duplicate services that are integral components of the State's adult probation program and the State's public guardian program; (2) the amendment would result in charges to Medicaid for services available

without charge to individuals on probation; and (3) the provider qualifications limit providers of services for these groups to the probation officers employed by the county probation departments and to court-appointed guardians under county public guardian agencies.

More specifically, at issue is whether the SPA complies with the requirement in section 1902(a)(10) of the Act which authorizes State Medicaid plans to provide for "medical assistance." In the definition of that term, at section 1905(a)(19) of the Act, case management services are authorized "as defined in section 1915 (g)(2)." That section defines case management as services that assist beneficiaries in gaining access to needed services. The Congressional Conference committee report accompanying Pub. L. 99-272, which added section 1915(g) to the Act, emphasized that payment for case management services must not duplicate payments made to public agencies or private entities under other program authorities for the same purpose. CMS uses the term "duplication of required coverage to refer to this situation. In this instance, Medicaid payment for services provided by the adult probation program and the public guardian program would duplicate payments under other programs that are the responsibility of the State government. Because the congressional definition of Medicaid TCM excluded duplicate coverage, CMS determined that the proposed case management services are not within the scope of the definition of "medical assistance" that is authorized to be included in a State Medicaid plan by section 1902(a)(10).

The CMS' reading of the term "medical assistance" to exclude "duplication of required coverage" is also consistent with the language of section 8435 of Pub. L. 100-647, which states that the Medicaid case management benefit is not to be construed as to require the Secretary of Health and Human Services to make payment for case management services that are provided without charge to the users of such services. Approval of SPA 03-028B would be contrary to this provision, because the proposed adult population services are available without charge.

In addition, at issue is whether the proposed SPA is consistent with the requirements at section 1902(a)(23) of the Act that a state plan must provide that beneficiaries may obtain services from any qualified entity or person who undertakes to provide such services. The proposed SPA restricts providers of

services to the two target groups in question, to probation officers employed by the county probation department and to court-appointed guardians. While states are free to set qualifications for providers, states must comply with Medicaid laws and regulations concerning freedom-of-choice at section 1902(a)(23) of the Act and the implementing regulation at 42 CFR 431.51. The State did not establish why it is consistent with those requirements to restrict providers to probation officers or public guardians. The State did not show why those providers are uniquely qualified to assist the target population nor did the State explain how beneficiaries would have access to qualified providers who do not work as a probation officer or public guardian. As a result, CMS found that the State did not demonstrate compliance with the requirements of section 1902(a)(23) and its implementing regulation.

Section 1116 of the Act and 42 CFR part 430 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice to a state Medicaid agency that informs the agency of the time and place of the hearing and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants. Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved California SPA 03–28B.

The notice to California announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Stan Rosenstein,  
Deputy Director, Department of Health  
Services,  
MS 40900, P.O. Box 942732, Sacramento, CA  
94231–7320.

Dear Mr. Rosenstein:

I am responding to your request for reconsideration of the decision to disapprove California State Plan Amendment (SPA) 03–28B, which the State submitted on September 18, 2003. In this SPA, California proposed to provide targeted case management (TCM) services in several counties for two populations, persons on probation and individuals with a public guardian. The Centers for Medicare & Medicaid Services (CMS) reviewed this proposal, and for the reasons set forth below, was unable to approve SPA 03–28B as submitted.

At issue in this reconsideration is whether SPA 03–28B is consistent with the requirements contained in sections 1902(a)(10) and 1902(a)(23) of the Social Security Act (the Act), as described in more detail below. In general CMS found that the SPA has three fundamental problems: (1) The proposed TCM services duplicate services that are integral components of the State's adult probation program and the State's public guardian program; (2) the amendment would result in charges to Medicaid for services available without charge to individuals on probation; and (3) the provider qualifications limit providers of services for these groups to the probation officers employed by the county probation departments and to court-appointed guardians under county public guardian agencies.

Section 1902(a)(10) of the Act authorizes state Medicaid plans to provide for "medical assistance." In the definition of that term, at section 1905(a)(19) of the Act, case management services are authorized "as defined in section 1915(g)(2)." That section defines case management as services that assist beneficiaries in gaining access to needed services. The Congressional Conference committee report accompanying Pub. L. 99–272, which added section 1915(g) to the Act, emphasized that payment for case management services must not duplicate payments made to public agencies or private entities under other program authorities for the same purpose.

The CMS uses the term "duplication of required coverage" to refer to this situation, in order to distinguish it from circumstances in which two payments are actually made for the same claim. In this instance, Medicaid payment for services provided by the adult probation program and the public guardian program would duplicate payments under other programs that are the responsibility of the State government. Therefore, CMS determined that Medicaid funding is not available for case management for individuals in the adult probation or public guardian system because claiming such activities as Medicaid TCM would result in duplication of necessary coverage. Because the congressional definition of Medicaid TCM excluded duplicate coverage, CMS determined that the proposed case management services are not within the scope of the definition of "medical assistance" that is authorized to be included in a state Medicaid plan by section 1902(a)(10).

Congress further states in section 8435 of Pub. L. 100–647 that the Medicaid case management benefit was not to be construed

as to require the Secretary of Health and Human Services to make payment for case management services that are provided without charge to the users of such services. Approval of SPA 03–028B would be contrary to this provision. The activities in question are key service and/or administrative activities of the State's adult probation program. Thus, CMS determined that the SPA cannot be approved because the adult population services are available without charge.

The proposed SPA restricts providers of services to the two target groups in question, to probation officers employed by the county probation department and to court-appointed guardians. While states are free to set qualifications for providers, states must comply with Medicaid laws and regulations concerning freedom-of-choice at section 1902(a)(23) of the Act and the implementing regulation at 42 CFR 431.51. The State did not establish why it is consistent with those requirements to restrict providers to probation officers or public guardians. The State did not show why those providers are uniquely qualified to assist the target population in gaining access to medical, educational, social, and other services. Nor did the State explain how beneficiaries would have access to qualified providers who do not work as a probation officer or public guardian. As a result, the State did not demonstrate compliance with the requirements of section 1902(a)(23) and its implementing regulation.

Therefore, based on the reasoning set forth above, and after consultation with the Secretary as required under 42 CFR 430.15(c)(2), CMS disapproved California SPA 03–28B. This disapproval only applies to SPA 03–028B. The currently approved sections of the State Plan for these target groups will remain in effect. However, CMS would like to emphasize that providing Medicaid TCM to individuals in the adult probation or public guardian State systems is not consistent with CMS' interpretation of applicable laws, as noted above. To the extent that current plan provisions do so, CMS expects the State to revise its plan in order to come into compliance on this issue. Moreover, CMS may review State claims to determine if Federal Medicaid funding is appropriate when another program or entity is liable for payment.

I am scheduling a hearing on your request for reconsideration to be held December 2, 2004, at 10 a.m., 4th Floor Conference Room, 75 Hawthorne Street, San Francisco, California 94105–3901. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR, part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing. The presiding officer may be reached at (410) 786–2055.

Sincerely,

Mark B. McClellan, M.D., Ph.D.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR Section 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: October 6, 2004.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 04-23252 Filed 10-15-04; 8:45 am]

BILLING CODE 4120-03-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### Privacy Act of 1974; Report of Modified or Altered System

**AGENCY:** Department of Health and Human Services (HHS) Centers for Medicare & Medicaid Services (CMS)(formerly the Health Care Financing Administration).

**ACTION:** Notice of Modified or Altered System of Records (SOR).

**SUMMARY:** In accordance with the requirements of the Privacy Act of 1974, we are proposing to modify or alter an SOR, "Group Health Plan System," System No. 09-70-4001. We propose to broaden the scope of this system with the redesign of the electronic processing procedure used to process data currently from a Common Object Business Oriented Language (commonly referred to as COBOL) format resident on the CMS mainframe to Data Base 2 format (commonly known as DB2). To more accurately reflect the changes proposed for this system, we will modify the name to read: "Medicare Managed Care System (MMCS)." We propose to delete published routine use number 5 authorizing disclosures to contractors; published routine use number 6 authorizing disclosures to contractors; and published routine use number 7 authorizing disclosures to a Medicaid State Agency.

Proposed routine use number 1 for contractors and consultants makes material changes to published routine uses numbers 5 and 6. Routine uses 5 and 6 authorized release to contractors. They are being deleted because their meaning is unclear as to what data is being disclosed to what entity. Routine use number 7 is being deleted because disclosure to a State Medicaid Agency will now be made under proposed routine use number 2 that reads, "to

another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent."

CMS proposes to add new routine uses to permit release of information to: (1) Third parties where the contact has information relating to the individual's capacity to manage his or her own affairs; (2) other insurers, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (i.e., health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees to assist in the processing of individual insurance claims; and (3 & 4) combat fraud and abuse in certain health benefits programs.

The security classification previously reported as "None" will be modified to reflect that the data in this system are considered to be "Level Three Privacy Act Sensitive." We are modifying the language in the remaining routine uses to provide clarity and uniformity to CMS's intention to disclose individual-specific information contained in this system. The routine uses will then be prioritized and reordered according to their proposed usage. We will also take the opportunity to update any sections of the system that were affected by the recent reorganization and to update language in the administrative sections to correspond with language used in other CMS SORs.

The primary purpose of the SOR is to maintain a master file of Medicare Managed Care Organizations (MCO) plan members for accounting and payment control; expedite the exchange of data with MCOs; and control the posting of pro-rata amounts to the Part B deductible of currently enrolled MCO members. MMCS include the following entities: Health Maintenance Organizations (HMO), Competitive Medical Plans (CMP), Health Care Prepayment Plan (HCPP), and Medicare Choice Organizations (MCO). Information in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant, (2) support another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) provider and suppliers of service directly or dealing through contractors, fiscal intermediaries (FI) or

carriers for administration of Title XVIII; (4) provide information to third party contacts in situations where the contact has information relating to the individual's capacity to manage his or her affairs; (5) other insurers, third party administrators (TPA), and other groups providing protection for their enrollees to assist in the processing of individual insurance claims (6) facilitate research on the quality and effectiveness of care provided, as well as payment-related projects, (7) support constituent requests made to a congressional representative, (8) support litigation involving the Agency, and (9 & 10) combat fraud and abuse in certain health benefits programs.

**DATES:** CMS filed a modified or altered system report with the Chair of the House Committee on Government Reform and Oversight, the Chair of the Senate Committee on Governmental Affairs, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on August 19, 2004. To ensure that all parties have adequate time in which to comment, the modified or altered SOR, including routine uses, will become effective 40 days from the publication of the notice, or from the date it was submitted to OMB and the Congress, whichever is later, unless CMS receives comments that require alterations to this notice.

**ADDRESSES:** The public should address comments to: Director, Division of Privacy Compliance Data Development (DPCDD), CMS, Room N2-04-27, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. Comments received will be available for review at this location, by appointment, during regular business hours, Monday through Friday from 9 a.m.-3 p.m., Eastern daylight time.

**FOR FURTHER INFORMATION CONTACT:** Laquia Marks, Information Technology Specialist, Division of Managed Care Systems, Informational Services Modernization Group, OIS, CMS, Room N3-16-24, 7500 Security Boulevard, Baltimore, Maryland 21244-1850. The telephone number is 410-786-3312.

#### SUPPLEMENTARY INFORMATION:

##### I. Description of the Modified System

###### A. Statutory and Regulatory Basis for the SOR

In 1987, CMS established an SOR, "Group Health Plan System," System No. 09-70-4001, under the authority of §§ 1833(a)(1)(A), 1866, and 1876 of Title XVIII of the Social Security Act (the Act) (42 U.S.C. 1395 (a)(1)(A), 1395cc, and 1395mm). Notice of this system,

was published at 52 FR 13525 (Apr. 23, 1987) and a routine use for Medicaid state agencies added at 57 FR 60819 (Dec. 22, 1992). This information includes names and health insurance claims numbers of recipients of Medicare Hospital Insurance (Part A) and Medicare Medical Insurance (Part B) who are enrolled in a MMCS.

## II. Collection and Maintenance of Data in the System

### A. Scope of the Data Collected

The system includes the following information about a beneficiary's health insurance entitlement and supplementary medical benefits usage, including name, health insurance claims number (HICN), and social security number.

### B. Agency Policies, Procedures, and Restrictions on the Routine Use

The Privacy Act permits us to disclose information without an individual's consent if the information is to be used for a purpose that is compatible with the purpose(s) for which the information was collected. Any such disclosure of data is known as a "routine use." The government will only release MMCS information that can be associated with an individual as provided for under "Section III. Proposed Routine Use Disclosures of Data in the System." Both identifiable and non-identifiable data may be disclosed under a routine use.

We will only collect the minimum personal data necessary to achieve the purpose of MMCS. CMS has the following policies and procedures concerning disclosures of information that will be maintained in the system. Disclosure of information from the SOR will be approved only to the extent necessary to accomplish the purpose of the disclosure and only after CMS:

1. Determines that the use or disclosure is consistent with the reason data is being collected; *e.g.*, maintain a master file of MCO plan members for accounting and payment control; expedite the exchange of data with MCOs; and control the posting of pro-rata amounts to the Part B deductible of currently enrolled MCO members.

2. Determines that the purpose for which the disclosure is to be made can only be accomplished if the record is provided in individually identifiable form;

- a. The purpose for which the disclosure is to be made is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring; and

- b. There is a strong probability that the proposed use of the data would in fact accomplish the stated purpose(s).

3. Requires the information recipient to:

- a. Establish administrative, technical, and physical safeguards to prevent unauthorized use of disclosure of the record;

- b. Remove or destroy at the earliest time all patient-identifiable information; and

- c. Agree to not use or disclose the information for any purpose other than the stated purpose under which the information was disclosed.

4. Determines that the data are valid and reliable.

## III. Proposed Routine Use Disclosures of Data in the System

A. These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the MMCS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We are proposing to establish or modify the following routine use disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contractual or similar agreement with a third party to assist in accomplishing a CMS function relating to purposes for this system.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or consultant whatever information is necessary for the contractor or consultant to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or consultant from using or disclosing the information for any purpose other than that described in the contract and requires the contractor or consultant to return or destroy all information at the completion of the contract.

2. To support another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

- a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

- b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

- c. Assist Federal/state Medicaid programs within the state.

Other Federal or state agencies in their administration of a Federal health program may require MMCS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

In addition, other state agencies in their administration of a Federal health program may require MMCS information for the purposes of determining, evaluating and/or assessing cost, effectiveness, and /or the quality of health care services provided in the state.

Disclosure under this routine use shall be used by state Medicaid agencies pursuant to agreements with the HHS for determining Medicaid and Medicare eligibility, for quality control studies, for determining eligibility of recipients of assistance under Titles IV, XVIII, and XIX of the Social Security Act (the Act), and for the administration of the Medicaid program. Data will be released to the state only on those individuals who are patients under the services of a Medicaid program within the state or who are residents of that state.

We also contemplate disclosing information under this routine use in situations in which state auditing agencies require MMCS information for auditing state Medicaid eligibility considerations. CMS may enter into an agreement with state auditing agencies to assist in accomplishing functions relating to purposes for this system to providers and suppliers of services directly or through fiscal intermediaries (FIs) or carriers for the administration of Title XVIII of the Act.

3. To providers and suppliers of services directly or through fiscal intermediaries (FIs) or carriers for the administration of Title XVIII of the Act.

Providers and suppliers of services require MMCS information in order to establish the validity of evidence or to verify the accuracy of information presented by the individual, as it concerns the individual's entitlement to benefits under the Medicare program,

including proper reimbursement for services provided.

4. To provide information to third party contacts in situations where the party to be contacted has information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: The individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, a language barrier exist, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

Third parties contacts require MMCS information in order to provide support for the individual's entitlement to benefits under the Medicare program; to establish the validity of evidence or to verify the accuracy of information presented by the individual, and assist in the monitoring of Medicare claims information of beneficiaries, including proper reimbursement of services provided.

5. To insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (*i.e.*, health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed

shall be limited to Medicare entitlement data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access. Other insurers, TPAs, HMOs, and HCPPs may require MMCS information in order to support evaluations and monitoring of Medicare claims information of beneficiaries, including proper reimbursement for services provided.

6. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.

MMCS data will provide for research, evaluation, and epidemiological projects, a broader, longitudinal, national perspective of the status of Medicare beneficiaries. CMS anticipates that many researchers will have legitimate requests to use these data in projects that could ultimately improve the care provided to Medicare beneficiaries and the policy that governs the care.

7. To a Member of Congress or a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

Beneficiaries often request the help of a Member of Congress in resolving some issues relating to a matter before CMS. The Member of Congress then writes CMS, and CMS must be able to give sufficient information in response to the inquiry.

8. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

Whenever CMS is involved in litigation, or occasionally when another party is involved in litigation and CMS's

policies or operations could be affected by the outcome of the litigation, CMS would be able to disclose information to the DOJ, court, or adjudicatory body involved.

9. To a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

We contemplate disclosing information under this routine use only in situations in which CMS may enter into a contract or grant with a third party to assist in accomplishing CMS functions relating to the purpose of combating fraud and abuse.

CMS occasionally contracts out certain of its functions when doing so would contribute to effective and efficient operations. CMS must be able to give a contractor or grantee whatever information is necessary for the contractor or grantee to fulfill its duties. In these situations, safeguards are provided in the contract prohibiting the contractor or grantee from using or disclosing the information for any purpose other than that described in the contract and requiring the contractor or grantee to return or destroy all information.

10. To another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

Other agencies may require MMCS information for the purpose of combating fraud and abuse in such Federally funded programs.

#### *B. Additional Circumstances Affecting Routine Use Disclosures*

This system contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR Parts 160 and 164, 65 FR 82462 (12-28-00), Subparts A and E. Disclosures of Protected Health Information authorized by these routine

uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

#### IV. Safeguards

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: All pertinent NIST publications; the HHS Automated Information Systems Security Handbook and the CMS Information Security Handbook.

#### V. Effect of the Modified SOR on Individual Rights

CMS proposes to establish this system in accordance with the principles and requirements of the Privacy Act and will collect, use, and disseminate

information only as prescribed therein. Data in this system will be subject to the authorized releases in accordance with the routine uses identified in this system of records.

CMS will monitor the collection and reporting of MMCS data. MMCS information on individuals is completed by contractor personnel and submitted to CMS through standard systems located at different locations. CMS will utilize a variety of onsite and offsite edits and audits to increase the accuracy of MMCS data.

CMS will take precautionary measures (see item IV. above) to minimize the risks of unauthorized access to the records and the potential harm to individual privacy or other personal or property rights. CMS will collect only that information necessary to perform the system's functions. In addition, CMS will make disclosure of identifiable data from the modified system only with consent of the subject individual, or his/her legal representative, or in accordance with an applicable exception provision of the Privacy Act.

CMS, therefore, does not anticipate an unfavorable effect on individual privacy as a result of the disclosure of information relating to individuals.

Dated: August 19, 2004.

**Mark B. McClellan,**  
*Administrator.*

#### SYSTEM No. 09-70-4001

##### SYSTEM NAME:

"Medicare Managed Care System (MMCS)" HHS/CMS/CBC

##### SECURITY CLASSIFICATION:

Level Three Privacy Act Sensitive

##### SYSTEM LOCATION:

CMS Data Center, 7500 Security Boulevard, North Building, First Floor, Baltimore, Maryland 21244-1850.

##### CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Recipients of Medicare hospital insurance (Part A) and Medicare medical insurance (Part B) who are enrolled in a Medicare Managed Care Plan.

##### CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains information about a beneficiary's health insurance entitlement and medical insurance benefits usage.

##### AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Authority for maintenance of the system is given under the provisions of §§ 1833(a)(1)(A), 1866, and 1876 of Title XVIII of the Social Security Act (the

Act) (42 U.S.C. 1395(A)(1)(a), 1395cc, and 1395mm).

##### PURPOSE(S) OF THE SYSTEM:

The primary purpose of the SOR is to maintain a master file of Medicare Managed Care Organizations (MCO) plan members for accounting and payment control; expedite the exchange of data with MCOs; and control the posting of pro-rata amounts to the Part B deductible of currently enrolled MCO members. MMCS include the following entities: Health Maintenance Organizations (HMO), Competitive Medical Plans (CMP), Health Care Prepayment Plan (HCPP), and Medicare Choice Organizations (MCO). Information in this system will also be disclosed to: (1) Support regulatory, reimbursement, and policy functions performed within the Agency or by a contractor or consultant, (2) support another Federal and/or state agency, agency of a state government, an agency established by state law, or its fiscal agent; (3) provider and suppliers of service directly or dealing through contractors, fiscal intermediaries (FI) or carriers for administration of Title XVIII; (4) provide information to third party contacts in situations where the contact has information relating to the individual's capacity to manage his or her affairs; (5) other insurers, third party administrators (TPA), and other groups providing protection for their enrollees to assist in the processing of individual insurance claims (6) facilitate research on the quality and effectiveness of care provided, as well as payment-related projects, (7) support constituent requests made to a congressional representative, (8) support litigation involving the Agency, and (9 & 10) combat fraud and abuse in certain health benefits programs.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OR USERS AND THE PURPOSES OF SUCH USES:

A. These routine uses specify circumstances, in addition to those provided by statute in the Privacy Act of 1974, under which CMS may release information from the MMCS without the consent of the individual to whom such information pertains. Each proposed disclosure of information under these routine uses will be evaluated to ensure that the disclosure is legally permissible, including but not limited to ensuring that the purpose of the disclosure is compatible with the purpose for which the information was collected. We are proposing to establish or modify the following routine use disclosures of information maintained in the system:

1. To Agency contractors, or consultants who have been contracted by the Agency to assist in accomplishment of a CMS function relating to the purposes for this system and who need to have access to the records in order to assist CMS.

2. To support another Federal or state agency, agency of a state government, an agency established by state law, or its fiscal agent to:

a. Contribute to the accuracy of CMS's proper payment of Medicare benefits,

b. Enable such agency to administer a Federal health benefits program, or as necessary to enable such agency to fulfill a requirement of a Federal statute or regulation that implements a health benefits program funded in whole or in part with Federal funds, and/or

c. Assist Federal/state Medicaid programs within the state.

3. To providers and suppliers of services directly or through fiscal intermediaries (FIs) or carriers for the administration of Title XVIII of the Act.

4. To provide information to third party contacts in situations where the party to be contacted has information relating to the individual's capacity to manage his or her affairs or to his or her eligibility for, or an entitlement to, benefits under the Medicare program and,

a. The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exists: the individual is confined to a mental institution, a court of competent jurisdiction has appointed a guardian to manage the affairs of that individual, a court of competent jurisdiction has declared the individual to be mentally incompetent, or the individual's attending physician has certified that the individual is not sufficiently mentally competent to manage his or her own affairs or to provide the information being sought, the individual cannot read or write, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual), or

b. The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's entitlement to benefits under the Medicare program, the amount of reimbursement, and in cases in which the evidence is being reviewed as a result of suspected fraud and abuse, program integrity, quality appraisal, or evaluation and measurement of activities.

5. To insurance companies, third party administrators (TPA), employers, self-insurers, managed care organizations, other supplemental insurers, non-coordinating insurers, multiple employer trusts, group health plans (*i.e.*, health maintenance organizations (HMOs) or a competitive medical plan (CMP) with a Medicare contract, or a Medicare-approved health care prepayment plan (HCPP)), directly or through a contractor, and other groups providing protection for their enrollees. Information to be disclosed shall be limited to Medicare entitlement data. In order to receive the information, they must agree to:

a. Certify that the individual about whom the information is being provided is one of its insured or employees, or is insured and/or employed by another entity for whom they serve as a TPA;

b. Utilize the information solely for the purpose of processing the identified individual's insurance claims; and

c. Safeguard the confidentiality of the data and prevent unauthorized access.

6. To an individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, the restoration or maintenance of health, or payment-related projects.

7. To a Member of Congress or a congressional staff member in response to an inquiry of the congressional office made at the written request of the constituent about whom the record is maintained.

8. To the Department of Justice (DOJ), court or adjudicatory body when:

a. The Agency or any component thereof, or

b. Any employee of the Agency in his or her official capacity, or

c. Any employee of the Agency in his or her individual capacity where the DOJ has agreed to represent the employee, or

d. The United States Government, is a party to litigation or has an interest in such litigation, and by careful review, CMS determines that the records are both relevant and necessary to the litigation.

9. To a CMS contractor (including, but not limited to FIs and carriers) that assists in the administration of a CMS-administered health benefits program, or to a grantee of a CMS-administered grant program, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

10. To another Federal agency or to an instrumentality of any governmental

jurisdiction within or under the control of the United States (including any state or local governmental agency), that administers, or that has the authority to investigate potential fraud or abuse in, a health benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by CMS to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud or abuse in such programs.

#### **B. ADDITIONAL CIRCUMSTANCES AFFECTING ROUTINE USE DISCLOSURES**

This system contains Protected Health Information as defined by HHS regulation "Standards for Privacy of Individually Identifiable Health Information" (45 CFR Parts 160 and 164, 65 FR 82462 (12-28-00), Subparts A and E. Disclosures of Protected Health Information authorized by these routine uses may only be made if, and as, permitted or required by the "Standards for Privacy of Individually Identifiable Health Information."

In addition, our policy will be to prohibit release even of data not directly identifiable, except pursuant to one of the routine uses or if required by law, if we determine there is a possibility that an individual can be identified through implicit deduction based on small cell sizes (instances where the patient population is so small that individuals who are familiar with the enrollees could, because of the small size, use this information to deduce the identity of the beneficiary).

#### **POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

##### **STORAGE:**

Computer diskette and on magnetic storage media.

##### **RETRIEVABILITY:**

Information can be retrieved by name and health insurance claim number of the beneficiary.

##### **SAFEGUARDS:**

CMS has safeguards in place for authorized users and monitors such users to ensure against excessive or unauthorized use. Personnel having access to the system have been trained in the Privacy Act and information security requirements. Employees who maintain records in this system are instructed not to release data until the intended recipient agrees to implement appropriate management, operational and technical safeguards sufficient to protect the confidentiality, integrity and availability of the information and

information systems and to prevent unauthorized access.

This system will conform to all applicable Federal laws and regulations and Federal, HHS, and CMS policies and standards as they relate to information security and data privacy. These laws and regulations include but are not limited to: the Privacy Act of 1974; the Federal Information Security Management Act of 2002; the Computer Fraud and Abuse Act of 1986; the Health Insurance Portability and Accountability Act of 1996; the E-Government Act of 2002, the Clinger-Cohen Act of 1996; the Medicare Modernization Act of 2003, and the corresponding implementing regulations. OMB Circular A-130, Management Of Federal Resources, Appendix III, Security of Federal Automated Information Resources also applies. Federal, HHS, and CMS policies and standards include but are not limited to: all pertinent NIST publications; the HHS Automated Information Systems Security Handbook and the CMS Information Security Handbook.

#### RETENTION AND DISPOSAL:

Records are maintained in a secure storage area with identifiers. Disposal occurs three years from the last action on the hospital's cost report, and should be coordinated with disposal of the reports.

#### SYSTEM MANAGER AND ADDRESS:

Director, Division of Managed Care Operations, Information Services Modernization Group, Office of Information Services, CMS, 7500 Security Boulevard, N3-16-24, Baltimore, Maryland 21244-1850.

#### NOTIFICATION PROCEDURE:

For purpose of access, the subject individual should write to the systems manager who will require the system name, SSN, address, date of birth, sex, and for verification purposes, the subject individual's name (woman's maiden name, if applicable). Furnishing the SSN is voluntary, but it may make searching for a record easier and prevent delay.

#### RECORD ACCESS PROCEDURE:

For purpose of access, use the same procedures outlined in Notification Procedures above. Requestors should also reasonably specify the record

contents being sought. (These procedures are in accordance with Department regulation 45 CFR 5b.5(a)(2)).

#### CONTESTING RECORD PROCEDURES:

The subject individual should contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification. (These procedures are in accordance with Department regulation 45 CFR 5b.7).

#### RECORD SOURCE CATEGORIES:

Data for this system is collected from MCO (which obtained the data from the individuals concerned), Social Security Administration, and the Enrollment Database system of records.

#### SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 04-23251 Filed 10-15-04; 8:45 am]

BILLING CODE 4120-03-P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Proposed Information Collection Activity; Comment Request

##### Proposed Projects

*Title:* Building Strong Families Demonstration and Evaluation—Baseline Information.

*OMB No.:* New Collection.

*Description:* The proposed information collection activity is for baseline information during eligibility screening and enrollment in local programs participating in the Building Strong Families (BSF) evaluation. The BSF evaluation is an important opportunity to learn if well-designed interventions can help low-income couples develop the knowledge and relationship skills that research has shown are associated with healthy marriages. BSF programs will provide instruction and support to improve marriage and relationship skills and enhance couples' understanding of marriage. In addition, BSF programs will provide links to a variety of other services that could help couples sustain

a healthy relationship (e.g., employment assistance). The evaluation's goal is to include a maximum of six programs that will add a BSF component to existing services and enroll into the evaluation approximately 2,000 couples into each program, i.e., 1,000 couples randomly assigned to participate in BSF services and 1,000 couples in the control group, for a total of 12,000 couples (24,000 individuals). The evaluation will assess the net impact of the BSF interventions on these two groups.

*Respondents:* The respondents for the baseline data collection will be low-income, unmarried, expectant or recent parents who volunteer to participate in the evaluation. (Some couples may have been recently married since the conception of their child.) There will be four forms used in the baseline data collection: (1) The Mother/Father Eligibility Checklist; (2) the Consent to Participate in the BSF Study Form; (3) the Baseline Information Form; and (4) the Contact Information Form. The Mother/Father Eligibility Checklist will be used by program staff to determine if respondents meet the minimum requirements for participating in the BSF program. We estimate that about 25 percent of couples interviewed will meet the eligibility criteria for the program. The Consent to Participate in the BSF Study Form explains in detail the design of the evaluation, the process for selection, and the results of agreeing to participate in the study (e.g., being contacted for follow-up information). The Baseline Information Form collects basic demographic information about respondents, as well as brief information concerning pregnancies and births, family structure, employment and income, and emotional well-being, all of which is relevant for the study. The Contact Information Form gathers information on friends and relatives who can assist in locating respondents based on respondents' agreements to participate in follow-up surveys that will be conducted many months later. All forms will be administered to both members of the couples by BSF program staff members. The forms will be administered in a number of different settings, but we anticipate the two most common will be in hospitals, following the birth of children, and in the mother's/father's home shortly after births.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response participants + staff	Total burden hours
Mother/Father Eligibility Checklist .....	96,000	1	0.03 + 0.06	8,640
Consent Form .....	24,000	1	0.08 + 0.12	4,800
Baseline Info Form .....	24,000	1	0.25 + 0.33	13,920
Contact Info Form .....	24,000	1	0.03 + 0.06	2,160
Estimated Total Annual Burden Hours .....				29,520

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded 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, E-mail address: [grjohnson@acf.hhs.gov](mailto:grjohnson@acf.hhs.gov). All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: October 12, 2004.

**Robert Sargis,**

*Reports Clearance Officer.*

[FR Doc. 04-23233 Filed 10-15-04; 8:45 am]

**BILLING CODE 4184-01-M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Indian Health Service**

**List of Recipients of Indian Health Scholarships Under the Indian Health Scholarship Program**

The regulations governing Indian Health Care Improvement Act Programs (Pub. L. 94-437) provide at 42 CFR 136.334 that the Indian Health Service shall publish annually in the **Federal Register** a list of recipients of Indian Health Scholarships, including the name of each recipient, school and Tribal affiliation, if applicable. These scholarships were awarded under the authority of Sections 103 and 104 of the Indian Health Care Improvement Act, 25 U.S.C. 1613-1613a, as amended by the Indian Health Care Amendments of 1988, Public Law 100-713.

The following is a list of Indian Health Scholarship Recipients funded under sections 103 and 104 for Fiscal Year 2004:

- Abeita, Steven John, University of New Mexico, Pueblo of Isleta, New Mexico
- Adams-Moses, Cynthia Regina, Langston University, Muscogee (Creek) Nation, Oklahoma
- Adams, Melissa Lynn, Dr. William M. Scholl College of Podiatric Medicine, Cherokee Nation, Oklahoma
- Albers, Travis Alan, University of Maryland, Turtle Mountain Band of Chippewa Indians of North Dakota
- Alcorn, Winter Dawn, Rogers State College, Cherokee Nation, Oklahoma
- Alden-Diaz, Lorrie Elison, Rocky Mountain College, Crow Tribe of Montana
- Allery, Cynthia Ann, University of Mary, Turtle Mountain Band of Chippewa Indians of North Dakota
- Allery, Rhea Neachet, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Allick, Shannon Lynn, Minot State University, Turtle Mountain Band of Chippewa Indians of North Dakota

- Allison, Amanda, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Antonio, Amber, University of New Mexico, Pueblo of Acoma, New Mexico
- Antuna, Crystal Lynn, Bacone College, Apache Tribe of Oklahoma
- Arnold, Carly Ellen, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Ashley, Natalie Lynn, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
- Atene, Kathleen Cheryl, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Azure, Alissa Joy, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Bain, Edlin David, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Baker, Jennifer Lee, Oklahoma State University, Cherokee Nation, Oklahoma
- Baker, Valerie, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Baker-Dotson, Elizabeth Diane, Northeastern State University, Cherokee Nation, Oklahoma
- Barnes-Enloe, Rebecca Anne, Northeastern State University, Cherokee Nation, Oklahoma
- Barnett, Stephanie Deann, University of Tulsa, Cherokee Nation, Oklahoma
- Barse, Frances Erin, Lake Area Technical Institute, Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
- Battese, Kelly Joseph, University of Kansas, Miami Tribe of Oklahoma
- Beals, Bryan-James, University of North Dakota, Muscogee (Creek) Nation, Oklahoma
- Becenti, Elton, New Mexico State University, Navajo Nation, Arizona, New Mexico & Utah
- Begay, Grace Delcinia, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Begay, Leilana Camille, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah

- Begay, Mirielle Rose, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Begay, Tashina Nanabah Litanya, University of Portland, Navajo Nation, Arizona, New Mexico & Utah
- Begay, Velma Mae, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Bell, Sarah, University of North Dakota, Three Affiliated Tribes of the Fort Berthold Reservation
- Ben, Lynndella, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
- Bendure, Rodney D., Northeastern State University, Cherokee Nation, Oklahoma
- Berryman, Mykala Sara, University of Oklahoma, Choctaw Nation of Oklahoma
- Bigback, Jennifer Lee, Ohio State University, Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
- Bighorse, Amanda Nicole, Northeastern State University, Cherokee Nation, Oklahoma
- Bingham, Zachary Scott, University of New Mexico, Cherokee Nation, Oklahoma
- Black, Deborah Helen Pierce, Johns Hopkins University, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
- Blevins, Regina Kay, North Dakota State University, Choctaw Nation of Oklahoma
- Blindman, Charlene Sue, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
- Blue Arm, Noelle E., University of North Dakota, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Blue, Sheanoa Lynn, University of Mary, Turtle Mountain Band of Chippewa Indians of North Dakota
- Boatwright, Melinda Lea, University of Oklahoma, Choctaw Nation of Oklahoma
- Bowekaty, Althea, University of New Mexico, Zuni Tribe of the Zuni Reservation, New Mexico
- Bowles, Charles Justin, Oklahoma State University, Citizen Potawatomi Nation, Oklahoma
- Boyd, Cassandra Iva, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Bradfield, Lavone Glema, University of North Dakota, Standing Rock Sioux Tribe of North & South Dakota
- Brady, Meagan Leigh, University of Oklahoma, Comanche Nation, Oklahoma
- Branham-Williams, Jamie Kathleen, University of Iowa, Cherokee Nation, Oklahoma
- Bressman, Rebecca Rae, Portland Community College, Citizen Potawatomi Nation, Oklahoma
- Brewster, Sarah Kate, Oklahoma State University, Muscogee (Creek) Nation, Oklahoma
- Briggs, Misty Elaine, University of Oklahoma, Cherokee Nation, Oklahoma
- Brockelman, Cassandra May, Southwestern Oklahoma State University, Seminole Nation of Oklahoma
- Brooks, Lisa Michelle, University of Mary, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
- Brown, Amanda Susan, Montana State University, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
- Brown, Christina Ann, University of North Dakota, Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
- Brown, Tamara Danielle, University of Washington, Walker River Paiute Tribe of the Walker River Reservation, Nevada
- Bryant, Joseph Preston, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Burbank, Lenora Michele, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Burr-Selle, Kandi Kay, University of North Dakota, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
- Bushyhead, Ian Dow, Oklahoma State University, Cherokee Nation, Oklahoma
- Byrd, Alpheus Lee, Carl Albert State College, Cherokee Nation, Oklahoma
- Cain, Melanie Joy, Oklahoma State University, Pueblo of Santa Clara, New Mexico
- Calvin, Shawn Allen, University of Oklahoma, Choctaw Nation of Oklahoma
- Carlile, Amanda Lynn, University of Missouri-Columbia, Cherokee Nation, Oklahoma
- Carter, Nani Danielle, University of Oklahoma, Cherokee Nation, Oklahoma
- Carver, Sharon Kay, Rogers State College, Cherokee Nation, Oklahoma
- Cassutt, Robyn Amanda, Dakota Wesleyan College, Central Council of the Tlingit & Haida Indian Tribes
- Cavanaugh, Casey Lynne, Idaho State University, Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
- Chapman, Ashley Elizabeth, Nova Southeastern University, Mohegan Indian Tribe of Connecticut
- Charles, Vanessa Rae, Fort Lewis College, Navajo Nation, Arizona, New Mexico & Utah
- Chastain, Brian Gene, University of Oklahoma, Muscogee (Creek) Nation, Oklahoma
- Childress, Michelle Josett, University of Arkansas, Seminole Nation of Oklahoma
- Clark, Ernestine, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Clark, Jacqueline Renee, East Central University, Chickasaw Nation, Oklahoma
- Clark, Kari Rose, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
- Clarke, Alberta D., University of Phoenix, Navajo Nation, Arizona, New Mexico & Utah
- Clauschee, Susan Francine, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Clay, Rhonda Ann, Northland Pioneer College, White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
- Clement, Brenda Lea, University of Wyoming, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Clemons, Danielle Nicole, Northern Arizona University, Pueblo of Acoma, New Mexico
- Cliff, Leslie Ann, Montana State University, Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Coffman, Cara Lindsay, Oklahoma State University, Choctaw Nation of Oklahoma
- Cook, Elizabeth Jane, East Central University, Choctaw Nation of Oklahoma
- Cook, Lyle C, University of California, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Cook-Dickerson, Audrea Michelle, East Central Oklahoma State University, Chickasaw Nation, Oklahoma
- Corbin, Christopher Neal, University of Oklahoma, Cherokee Nation, Oklahoma
- Corcoran, Lauren Rae, University of Montana, Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
- Couch, Ashley Ariel, Northeastern State University, Cherokee Nation, Oklahoma
- Coulter, Daniel Lee, Creighton University, Citizen Potawatomi Nation, Oklahoma
- Cox, Elena Heath, University of Wisconsin, Stockbridge Munsee Community, Wisconsin
- Craig, Tonya, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Cremer, Paul Clay, Harvard University, Choctaw Nation of Oklahoma

- Croley, Amanda Jo, University of Oklahoma, Cherokee Nation, Oklahoma
- Cullen Carroll, Shanna Marie, Alliant International University, Osage Tribe, Oklahoma
- Curley, Marsha Jean, Dixie State College, Navajo Nation, Arizona, New Mexico & Utah
- Curry, Sarah Marie, Thomas Jefferson University, Eklutna Native Village
- Damon, Dezbaa Altaalkii, Arizona School of Dentistry, Navajo Nation, Arizona, New Mexico & Utah
- Davenport, Mary Charlene, University of Oklahoma, Navajo Nation, Arizona, New Mexico & Utah
- Davis, Alona, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Davis, Brandy Darlene, Western Carolina University, Eastern Band of Cherokee Indians of North Carolina
- Davis, Heather Rae, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Davis, Jason Russell, Oregon State University, Chickasaw Nation, Oklahoma
- Davis, Kristina Faye, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Day, Autumn Ann, Cornell University, Minnesota Chippewa Tribe, Minnesota
- Decker—Walks over Ice, Amber Victoria, Rocky Mountain College, Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
- Dedam, Jean-Paul Henri, Dartmouth Medical School, Aroostook Band of Micmac Indians of Maine
- Delgado, Jamael Theresa, University of North Dakota, Navajo Nation, Arizona, New Mexico & Utah
- Desautel, Alice June Lu, Wenatchee Valley College, Confederated Tribes of the Colville Reservation, Washington
- Dixon, Christian Brooke, University of Oklahoma, Cherokee Nation, Oklahoma
- Dominguez, Shonna Larae, Rocky Mountain College, Crow Tribe of Montana
- Duff, Christopher Michael, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Dugan, Carysa Malaret, Arizona School of Health Sciences, Nez Perce Tribe of Idaho
- Dunning, Kristen Nicole, Northeastern State University, Muscogee (Creek) Nation, Oklahoma
- Earley, Mary Margaret, University of Tulsa, Cherokee Nation, Oklahoma
- Edwards, Ralph Casey, University of Oklahoma, Cherokee Nation, Oklahoma
- Ekamrak, Joyce Anna, University of Alaska-Anchorage, Akiachak Native Community
- Elmore, Amber Dawn, Northeastern State University, Chickasaw Nation, Oklahoma
- Emerson, Karen, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Erickson, Janet Leigh, Montana State University, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
- Eschbacher, Sylvia Antoinette, University of Alaska-Anchorage, Native Village of Point Hope
- Etsitty, Marlene J., University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Evans, Amanda Lorna, Montana State University, Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
- Eversole, Maryn, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Fairbanks, Mary Elizabeth, University of Minnesota, Minnesota Chippewa Tribe, Minnesota
- Faulkenberry, Sommer LeeAnn, East Central University, Choctaw Nation of Oklahoma
- Ferris-Lane, Dana Faye, College of the Redwoods, Hoopa Valley Tribe, California
- Fisher, Joe Keith, University of New Mexico, Choctaw Nation of Oklahoma
- Fishinghawk, Bobbi Genevieve, University of Kansas, Cherokee Nation, Oklahoma
- Flint, Charles Michael, University of Oklahoma, Cherokee Nation, Oklahoma
- Foote, Brittnee Irene, Bismarck State College, Turtle Mountain Band of Chippewa Indians of North Dakota
- Foster, Melvin Dale, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Franklin, Richard Arnold, University of Missouri, Cherokee Nation, Oklahoma
- Frizzell, Felicia Yelena, Johns Hopkins University, Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
- Garrison, Kristen Bijiibaa, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Gerry, Jon Michael, Harvard Medical School, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Giles, Erin Ayn, Southern College of Optometry, Cherokee Nation, Oklahoma
- Gillies, Kenneth Jay, North Dakota State University, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
- Gishie, Elvintina Evonne, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Glasses, Devin Garrick, Arizona School of Health Sciences, Navajo Nation, Arizona, New Mexico & Utah
- Gobert, Rachel Rose, Salish Kootenai College, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
- Gonzales, Nicolle Lenn, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Gorman, Emmeline Paula, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Gourneau, Erica Renee, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Grey, Michael, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Groten, Eric Dartanium, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Guin, Heather Elaine, University of Tulsa, Muscogee (Creek) Nation, Oklahoma
- Gump, Trina Maxine, University of Alaska-Anchorage, Native Village of Hooper Bay
- Hall, Megan Sue, University of Oklahoma, Choctaw Nation of Oklahoma
- Hall, Sheila Marie, Loyola College, Minnesota Chippewa Tribe, Minnesota
- Hamby, Kenneth Jerome, Kirksville College of Osteopathic Medicine, Cherokee Nation, Oklahoma
- Harker, Erica Michelle, University of New Mexico, Zuni Tribe of the Zuni Reservation, New Mexico
- Harlan, Erica Sue, Oklahoma State University, Muscogee (Creek) Nation, Oklahoma
- Harris, Elizabeth Kate, Oklahoma State University, Cherokee Nation, Oklahoma
- Harrison, Geniel, University of North Dakota, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
- Hayes-Coons, Jennifer Lynn, Harbor Jones School of Nursing, Cherokee Nation, Oklahoma
- Headdress, Gale Crystal, Montana State University, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
- Henderson, Traci Nicole, University of Great Falls, Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
- Hicks, Tana Lee, Oklahoma Baptist University, Seminole Nation of Oklahoma
- Holman, Colin Justin, University of Oklahoma, Chickasaw Nation, Oklahoma

- Houle, Jay Powell, Montana State University, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
- Howell, Jesse Ray, University of Central Oklahoma, Choctaw Nation of Oklahoma
- Huerth, Benjamin Walter, University of Vermont, Winnebago Tribe of Nebraska
- Hulsey, Heidi Lynne, Pacific University, Lummi Tribe of the Lummi Reservation, Washington
- Humphreys, Christina Lilly, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Hyatt, Jacqueline Brooke, University of Oklahoma, Muscogee (Creek) Nation, Oklahoma
- Jackson, Candy Lou, Idaho State University, Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
- Jackson, Gillian Joseph, California State University, Pinoleville Rancheria of Pomo Indians of California
- James, Carissa Grayce, Grand Canyon University, Navajo Nation, Arizona, New Mexico & Utah
- James, Wendi Lee Ann, Southwestern Oklahoma State University, Choctaw Nation of Oklahoma
- Jemewouk-Pickett, Jeanne M., University of Alaska, Nome Eskimo Community
- Jim, Lawanda T., University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Joe, John, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Johnson, Beverly Mae, Gateway Community College, Emmonak Village
- Johnson, Brandon James, University of Minnesota, Minnesota Chippewa Tribe, Minnesota
- Jollie-Trottier, Tami Sue, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Jones, Jodi Michele, University of Oklahoma, Pawnee Nation of Oklahoma
- Joseph, Ruth, Arizona State University, Navajo Nation, Arizona, New Mexico & Utah
- Jumbo, Ronald Dean, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Juneau, Rose Ann, University of Great Falls, Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Karlin, Emilie Owens, Seattle Pacific University, Cherokee Nation, Oklahoma
- Keawphalouk, Michelle Dow, University of North Dakota, Muscogee (Creek) Nation, Oklahoma
- Keel, Andrea Lynn, University of Oklahoma, Chickasaw Nation, Oklahoma
- Keener, Brandy Michelle, Oklahoma State University, Cherokee Nation, Oklahoma
- Keepseagle, Richard Joseph, University of Mary, Standing Rock Sioux Tribe of North & South Dakota
- Kelliher, Allison Miranda, University of Washington, Nome Eskimo Community
- Keplin, Angela Ann, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- King, Robert Ryan, University of Oklahoma, Choctaw Nation of Oklahoma
- King, Taleah Rae, Langston University, Choctaw Nation of Oklahoma
- Kirk, Brant Evan, Oregon Institute of Technology, Klamath Indian Tribe of Oregon
- Knox, Stephen Foster, Oklahoma State University, Cherokee Nation, Oklahoma
- Kramer, Erin Lea, University of Oklahoma, Cherokee Nation, Oklahoma
- Landers, Joseph Henry, University of Oklahoma, Muscogee (Creek) Nation, Oklahoma
- Larocque, Angie Lynn, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Larson, Shelley Lynn, University of Alaska-Anchorage, Central Council of the Tlingit & Haida Indian Tribes
- Lashley, Nathan James, Dr. William M. Scholl College of Podiatric Medicine, Cherokee Nation, Oklahoma
- Laurence, Kami Lynn, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Lay, Pamela Christine, University of Phoenix, Muscogee (Creek) Nation, Oklahoma
- Leader Charge, Lila Rose, South Dakota State University, Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
- Lee, Calbert Aaron, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Lee, Collette Caroline, Heritage College, Confederated Tribes of the Colville Reservation, Washington
- Leemhuis, Stephanie Brook, University of Oklahoma, Cherokee Nation, Oklahoma
- Leisholmn, Jody Janiece, University of Washington, Metlakatla Indian Community, Annette Island Reserve
- Lemas, Dominick Joseph, University of Vermont, Citizen Potawatomi Nation, Oklahoma
- Lessert, Amanda Kaye, Creighton University, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
- Lewelling, Brian Lynn, Tulane University, Cherokee Nation, Oklahoma
- Litfin-Salt, Miriam Fae, Kansas State University, Navajo Nation, Arizona, New Mexico & Utah
- Livers, Leanne Danielle, Northeastern State University, Cherokee Nation, Oklahoma
- Long, Christina Marie, University of South Dakota, Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
- Longhurst, Claire Frances, University of North Dakota, Navajo Nation, Arizona, New Mexico & Utah
- Longie, Michelle Renee, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Looney, Joshua Carson, University of Oklahoma, Cherokee Nation, Oklahoma
- Lopez, Candace Erin, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Lopez, Matthew Adam, Arizona State University, Walker River Paiute Tribe of the Walker River Reservation, Nevada
- Luedecke, James Anthony, University of Arkansas, Cherokee Nation, Oklahoma
- Lujan, Erica Leanne, University of New Mexico, Pueblo of Isleta, New Mexico
- Lyons, Keri Diane, Bacone College, Cherokee Nation, Oklahoma
- Madden, Donna Rose, Florida Hospital College of Health Sciences, Choctaw Nation of Oklahoma
- Maloney, Violet Spring, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Mannila, Anthony Lee, College of St. Scholastica, Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
- Manning, Tessa Leigh, University of Texas Southwestern Medical School, Chickasaw Nation, Oklahoma
- Marshall, Kristian Evan, Northeastern State University, Cherokee Nation, Oklahoma
- Martinez, Kimberly Ann, Northeastern Oklahoma A&M College, Eastern Shawnee Tribe of Oklahoma
- Mason, Laquita Joy, University of Montana, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
- Mayes, Nicole Rachel, University of Oklahoma, Cherokee Nation, Oklahoma
- McCabe, Endreya Marie, Arizona State University, Delaware Nation, Oklahoma
- McCorkle, Cody W., University of Arkansas, Citizen Potawatomi Nation, Oklahoma

- McGeshick, Cole David, Montana State University, Sokaogon Chippewa Community, Wisconsin
- McGhee, Julie Lynette, University of Oklahoma, Poarch Band of Creek Indians of Alabama
- McKerry, Jason Amel, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- McLemore, Dustin James, University of Oklahoma, Caddo Nation of Oklahoma
- McNeal, Rebecca Lynne, University of Oklahoma, Choctaw Nation of Oklahoma
- Meeks, Alicia Ann, East Central University, Chickasaw Nation, Oklahoma
- Melkus, Edwina Mae, University of North Dakota, Crow Tribe of Montana
- Mellon, Travis James, University of the Health Sciences, Pueblo of Zia, New Mexico
- Miller, Carl Eugene, Dr. William M. Scholl College of Podiatric Medicine, Muscogee (Creek) Nation, Oklahoma
- Miller, Jacklyn Jean, University of North Dakota, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
- Miller, Michella Lynn, Connors State College, Cherokee Nation, Oklahoma
- Miller, Priscilla Jean, University of Alaska, Agdaagux Tribe of King Cove
- Monette, Eugene Louis, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Moore, Anna Roser, University of Alaska, Native Village of Elim
- Moran, Bradley Alan, University of Montana, Turtle Mountain Band of Chippewa Indians of North Dakota
- Morgan, Heidi Elizabeth, Arizona School of Health Sciences, Muscogee (Creek) Nation, Oklahoma
- Morin, Georgia Maria, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Morris, Gerald Wayne, Indiana University, Pokagon Band of Potawatomi Indians, Michigan and Indiana
- Morrison, Clint Justin, University of Oklahoma, Choctaw Nation of Oklahoma
- Moses, Gerald Henry, Harvard University, Alaska Native
- Murphy, Brandy Fay, University of Nevada, Houlton Band of Maliseet Indians of Maine
- Murray, Carl Arthur, University of Oklahoma, Choctaw Nation of Oklahoma
- Murray, Sara Emily, University of Oklahoma, Choctaw Nation of Oklahoma
- Nanez, Jennifer Sims, New Mexico Highland University, Pueblo of Acoma, New Mexico
- Natewa, Christy Renee, University of New Mexico, Zuni Tribe of the Zuni Reservation, New Mexico
- Nelson, Celeste Irene, Dartmouth Medical School, Ely Shoshone Tribe of Nevada
- Nidiffer-Shelor, Amber Lynn, University of Oklahoma, Cherokee Nation, Oklahoma
- Nilchee, Gregory Hashke Yitahoogal, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Nimsey, Dallas Micah, Southwestern Oklahoma State University, Kiowa Indian Tribe of Oklahoma
- Nix, Micah Douglass, Oklahoma State University, Cherokee Nation, Oklahoma
- O'Neal, Jaime Diane, Northern State University, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Odaye, Deena May, Grand Canyon College, Reno-Sparks Indian Colony, Nevada
- Old Elk, Georgianna W., Columbia Union College, Assiniboine & Sioux Tribes of the Fort Peck Indian Reservation, Montana
- Oldacre, Angela Marie, University of Oklahoma, Cherokee Nation, Oklahoma
- Oosahwe, Christen Brook, Bacone College, Cherokee Nation, Oklahoma
- Osborn, Kasie D., Southeastern Oklahoma State University, Cherokee Nation, Oklahoma
- Owens, Johnnie Louis, Kirksville College, Choctaw Nation of Oklahoma
- Oxford, Dustin Joseph, Northeastern State University, Cherokee Nation, Oklahoma
- Palacol, Christie Kahikuonalani, Touro University, Comanche Nation, Oklahoma
- Parker, Mahate Ann, East Central University, Comanche Nation, Oklahoma
- Peone-Haynes, Amanda Lee, American Health Information Management Association, Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
- Peratrovich, Valene Maria, Oregon State University, Alaska Native, Alaska
- Peterman, Sawyer, Dine College, Navajo Nation, Arizona, New Mexico & Utah
- Peters, Aaron Lee, University of Alaska-Anchorage, Native Village of Ruby
- Phillips, Crystal Lea, University of Oklahoma, Cherokee Nation, Oklahoma
- Pletnikoff, Elise Marie, Carroll College, Alaska Native
- Poitra, Shonda Lee, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Pond, Leland James, Arizona School of Dentistry, Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
- Power, Jacob Alan, Midwestern University, Cherokee Nation, Oklahoma
- Preston, Drew Alan, University of California, Navajo Nation, Arizona, New Mexico & Utah
- Proctor, Andrea Nicole, East Central University, Muscogee (Creek) Nation, Oklahoma
- Ratzlaff, Loyd Allen, Newman University, Kaw Nation, Oklahoma
- Razote, Antoinette Jo, Eastern Washington University, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
- Redcorn, Moira Ambrose, University of Oklahoma, Osage Tribe, Oklahoma
- Reising, Kotanee Tenas, Medical College of Wisconsin, Menominee Indian Tribe of Wisconsin
- Renfrow, Miranda Kirstin, Oklahoma State University, Choctaw Nation of Oklahoma
- Rice, Jennifer Clarice, Northeastern State University, Otoe-Missouria Tribe of Indians, Oklahoma
- Rice, Lily A., University of North Dakota, Prairie Band of Potawatomi Nation, Kansas
- Richan, Eilene Faye, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Richards, Spencer L., University of North Dakota, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
- Richardson, Charlene Martha, South Dakota State University, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
- Riffe, Evelyn Laura, Oregon State University, Native Village of Hooper Bay
- Riggs, Jaclyn Nichole, Southern Illinois University, Cheyenne-Arapaho Tribes of Oklahoma
- Ringer Knudson, Nicolette Jean, University of Minnesota, Sisseton-Wahpeton Oyate of the Lake Traverse Reservation, South Dakota
- Ritter, Tara Jean, Oklahoma Wesleyan University, Cherokee Nation, Oklahoma
- Robinson, Charlene, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Robison-Rivera, Kristie Marie, Southwestern Oklahoma State University, Apache Tribe of Oklahoma
- Rodriguez, Suzanne-Linette, Heritage College, Pueblo of Isleta, New Mexico
- Rogers, Brandon Scott, University of Oklahoma, Cherokee Nation, Oklahoma
- Romero, Tanya Sanky, Paradise Valley Community College, Tohono O'odham Nation of Arizona

- Romero, Teresa Beth, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Roselius, Kassi, Southern Nazarene University, Citizen Potawatomi Nation, Oklahoma
- Rucker, Amanda Anne, University of the Health Sciences, Osage Tribe, Oklahoma
- Ruleford, Miranda Louisa, University of Tulsa, Cherokee Nation, Oklahoma
- Sanders, Michael Shawn, University of Oklahoma, Cherokee Nation, Oklahoma
- Sanderson, Kendra Marie, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Schmidt, Erin Michelle, University of Oklahoma, Muscogee (Creek) Nation, Oklahoma
- Scott, Jessica Robin, University of Washington, Central Council of the Tlingit & Haida Indian Tribes
- Scott, Steven Ray, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Shangin, Nicole Danielle, Seattle Pacific University, Ivanoff Bay Village
- Shea-Walters, Tamara Renee, University of Alaska, Alaska Native
- Shepard, Cristopher Allan Joseph, University of Nevada, Las Vegas School of Dentistry, Santee Sioux Nation, Nebraska
- Shinn-Jones, Darcy Marie, Northeastern State University, Cherokee Nation, Oklahoma
- Shipley, Amanda Marie, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Show, Jennifer Aurice, Montana State University, Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Show, Michelle, University of Washington, Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Sieler, Sean Richard, South Dakota State University, Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
- Silvers, Kristin Gail, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Simmons, Jeremiah David, Stanford University, Yankton Sioux Tribe of South Dakota
- Singer, Cheryl A., Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Sixkiller, Cheryl Lynn, University of Oklahoma, Cherokee Nation, Oklahoma
- Small, Shiloh Nicole, University of North Dakota, Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
- Smith, Connie Jean, Connors State College, Chickasaw Nation, Oklahoma
- Smith, Jana Renee, University of Oklahoma, Cherokee Nation, Oklahoma
- Smith, Phyllis Marie, Montana State University, Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
- Smoke, Leah Ruth, Northern Arizona University, St. Regis Band of Mohawk Indians of New York
- Soliz, Narcisso, Southwestern Oklahoma State University, Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
- Southerland, Aaron Chase, University of Oklahoma, Choctaw Nation of Oklahoma
- Spencer, Amanda Stephanie, Bacone College, Cherokee Nation, Oklahoma
- Spencer, Anne P., San Juan College, Navajo Nation, Arizona, New Mexico & Utah
- Spoon, Shawna Francene, University of Oklahoma, Sac & Fox Nation, Oklahoma
- Stevens, Erika S., Central Washington University, Native Village of Eagle
- Still, Melissa Brook, University of Central Arkansas, Cherokee Nation, Oklahoma
- Stimson, Danielle Rain, Eastern Washington University, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
- Stone, Jennifer June, Northeastern State University, Choctaw Nation of Oklahoma
- Stone, Meghan Brooke, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Strong, Charles Joseph, University of Texas, Chickasaw Nation, Oklahoma
- Sweeney, Michael Aaron, Case Western Reserve Dental School, Choctaw Nation of Oklahoma
- Tabaha, Lashona Ann, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Tapaha, Sharon Jean, Brigham Young University, Navajo Nation, Arizona, New Mexico & Utah
- Tapp, Jamie Lynn, Southwestern Oklahoma State University, Chickasaw Nation, Oklahoma
- Taylor, Jennifer Elise, Portland State University, Pit River Tribe, California
- Taylor, Timothy Michael, Missouri Southern State College, Citizen Potawatomi Nation, Oklahoma
- Teller, Terry Lee, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Thomas, Jacob Frederick, Concordia College, Turtle Mountain Band of Chippewa Indians of North Dakota
- Thompson, Lorinda, Northern Arizona University, White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
- Thompson, Stacey Marie, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Thompson, Weston Dewey, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Toadlena, Evelyn, Western New Mexico University, Navajo Nation, Arizona, New Mexico & Utah
- Tom, Ardith Renee, New Mexico State University, Navajo Nation, Arizona, New Mexico & Utah
- Tom, Jennifer Michelle, Hunter College, Choctaw Nation of Oklahoma
- Tonasket, Joleen Michele, Eastern Washington University, Spokane Tribe of the Spokane Reservation, Washington
- Toppah, Teresa Ann, Texas Wesleyan University, Kiowa Indian Tribe of Oklahoma
- Tsethlikai, Tami-Denice, University of New Mexico, Zuni Tribe of the Zuni Reservation, New Mexico
- Tsosie, Carol Renee, Phoenix College, Navajo Nation, Arizona, New Mexico & Utah
- Tuley, Ryan Parker, Colorado State University, Muscogee (Creek) Nation, Oklahoma
- Turney, Jarett Brandon, Marquette University Dental School, Cherokee Nation, Oklahoma
- Tutt, Jaclyn Cindy, Phoenix College, Navajo Nation, Arizona, New Mexico & Utah
- Tveit, Adrienne Hilda, Washington State University, Central Council of the Tlingit & Haida Indian Tribes
- Two Bulls, Tanya Jollette, Ogalala Lakota College, Standing Rock Sioux Tribe of North & South Dakota
- Uhl, Sarah Elizabeth, Baylor University, Cherokee Nation, Oklahoma
- Ulmer, Chanda Gail, Humboldt State University, Yurok Tribe of the Yurok Reservation, California
- Utchin, Venus, University of Oklahoma, Muscogee (Creek) Nation, Oklahoma
- Vallie-Merrieffield, Pamela Lynn, University of North Dakota, Turtle Mountain Band of Chippewa Indians of North Dakota
- Vassau, Charlotte Rebecca, Medcenter One College of Nursing, Comanche Nation, Oklahoma
- Vaughn, Ashley Elizabeth, University of Oklahoma, Cherokee Nation, Oklahoma
- Velasquez, Mary Christina, Arizona School of Health Sciences, Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
- Vincent, Terence Justin, Dr. William M. Scholl College of Podiatric Medicine, Kiowa Indian Tribe of Oklahoma
- Vitz, Kelly Anne, George Washington University, Hopi Tribe of Arizona

- Wade, Lisa Jilene, Oklahoma Baptist University, Choctaw Nation of Oklahoma
- Wagner, John William, Montana State University, Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
- Walker, Jonathan Bayless, Oklahoma State University College of Osteopathic Medicine, Choctaw Nation of Oklahoma
- Walker, Lindsay Allison, University of North Carolina, Eastern Band of Cherokee Indians of North Carolina
- Walker, Marshall Austin, University of Oklahoma, Cherokee Nation, Oklahoma
- Walker, Patrick Robert, Southwestern Oklahoma State University, Cherokee Nation, Oklahoma
- Wallace, Becky Lee, College of St. Catherine, Winnebago Tribe of Nebraska
- Ward, Jennifer Elaine, Kirksville College of Osteopathic Medicine, Cherokee Nation, Oklahoma
- Ward, Micah N., Oklahoma City Community College, Citizen Potawatomi Nation, Oklahoma
- Ward, Rolanda Reason, University of Alaska, Egegik Village
- Washburn, Kendall Derek, University of Oklahoma, Kiowa Indian Tribe of Oklahoma
- Watson, Matthew Mendioro, Columbia University, Ottawa Tribe of Oklahoma
- Werner, Gwenlynn Laine, Arizona School of Dentistry, Navajo Nation, Arizona, New Mexico & Utah
- White, Karen Ann, Apollo College, Navajo Nation, Arizona, New Mexico & Utah
- Whitehair, Orlantha, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Whitehair, Robbie Gayle, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Whitehair, Rosalita Marie, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Whitehorse, Veronica Ann, San Diego State University, Navajo Nation, Arizona, New Mexico & Utah
- Whitsitt, Adam Douglas, Loyola University, Choctaw Nation of Oklahoma
- Wilbourn, Crystal Lea, Belmont University, Cherokee Nation, Oklahoma
- Wiley, Matthew Hallett, East Central University, Muscogee (Creek) Nation, Oklahoma
- Wilkerson, Thaddus Donavan, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Williams Burns, Amanda Kate, Southwestern Oklahoma State University, Muscogee (Creek) Nation, Oklahoma
- Williams, Clarrisa, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Williams, Scott Bradley, University of Iowa Dental School, Cherokee Nation, Oklahoma
- Willis, Wade Kennedy, University of Oklahoma, Cherokee Nation, Oklahoma
- Wilson, Ellen Lucille, University of North Dakota, Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
- Wilson, Kelli Rae Lee, University of New Mexico, Seminole Nation of Oklahoma
- Wilson, Sharon Jean, Northern Arizona University, Navajo Nation, Arizona, New Mexico & Utah
- Wilson, Winter Marie, University of North Dakota, Death Valley Timbi-Sha Shoshone Band of California
- Windham, Tera Beth, Central State University, Cherokee Nation, Oklahoma
- Winship, Venita Lynn, Eastern Oklahoma State College, Choctaw Nation of Oklahoma
- Winton, Lindsay Dallas, University of Oklahoma, Cherokee Nation, Oklahoma
- Woodard, David Rush, University of Missouri, Osage Tribe, Oklahoma
- Woods, Lacy Ann, University of Oklahoma, Chickasaw Nation, Oklahoma
- Wyczynski, Cheryl Leann, Labette Community College, Quapaw Tribe of Indians, Oklahoma
- Yazzie, Delvin, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Yazzie, Maria, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Yazzie, Nazhone Paul, University of Arizona, Navajo Nation, Arizona, New Mexico & Utah
- Yazzie, Olivia, University of Oklahoma, Navajo Nation, Arizona, New Mexico & Utah
- Yazzie, Shelia Rae, University of Utah, College of Social Work, Navajo Nation, Arizona, New Mexico & Utah
- Yellowhair, Ophelia Ann, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Yepa, Jason Charles, University of New Mexico, Navajo Nation, Arizona, New Mexico & Utah
- Young, Sawar Chalutch, University of Washington, Yurok Tribe of the Yurok Reservation, California
- Youngblood, Chase Culver, University of Oklahoma, Cherokee Nation, Oklahoma
- Zackery, Kathryn Sue, Oklahoma State University, Muscogee (Creek) Nation, Oklahoma
- Zah, Angela Marie, University of Colorado, Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota

**FOR FURTHER INFORMATION CONTACT:** The Indian Health Service Scholarship Branch, 801 Thompson Avenue, Suite 120, Rockville, Maryland, 20852, Telephone: (301) 443-6197, Fax: (301) 443-6048.

Dated: October 8, 2004.

**Charles W. Grim,**

*Assistant Surgeon General, Director, Indian Health Service.*

[FR Doc. 04-23296 Filed 10-15-04; 8:45 am]

**BILLING CODE 4160-16-U**

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **National Institutes of Health**

#### **National Cancer Institute; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, RFA: CA05-002, 003, 006 & 007.

*Date:* November 16-17, 2004.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

*Contact Person:* Sherwood Githens, PhD, Scientific Review Administrator, Special Review and Logistics Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8053, Bethesda, MD 20892, (301) 435-1822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 6, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04-23200 Filed 10-15-04; 8:45 am]

**BILLING CODE 4140-01-M**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**National Institutes of Health**

**National Cancer Institute; Notice of Closed Meeting**

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and/or contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Cancer Institute Special Emphasis Panel, RFA: CA05-004 and CA05-008.

*Date:* November 30, 2004.

*Time:* 8 a.m. to 5 p.m.

*Agenda:* To review and evaluate grant applications and/or proposals.

*Place:* National Institutes of Health, 6130 Executive Blvd., Rockville, MD 20852.

*Contact Person:* Sherwood Githens, PhD, Scientific Review Administrator, Special Review and Logistics Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 8053, Bethesda, MD 20892, (301) 435-1822.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and

Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: October 6, 2004.

**LaVerne Y. Stringfield,**

*Director, Office of Federal Advisory Committee Policy.*

[FR Doc. 04-23201 Filed 10-15-04; 8:45 am]

**BILLING CODE 4140-01-M**

**DEPARTMENT OF HOMELAND SECURITY**

**Customs and Border Protection**

**Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties**

**AGENCY:** Customs and Border Protection, Department of Homeland Security.

**ACTION:** General notice.

**SUMMARY:** This notice advises the public of the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties. For the calendar quarter beginning October 1, 2004, the interest rates for overpayments will be 4 percent for corporations and 5 percent for non-corporations, and the interest rate for underpayments will be 5 percent. This notice is published for the convenience of the importing public and Customs and Border Protection personnel.

**EFFECTIVE DATE:** October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Trong Quan, National Finance Center, Collections Section, 6026 Lakeside Boulevard, Indianapolis, Indiana 46278; telephone (317) 614-4516.

**SUPPLEMENTARY INFORMATION:**

**Background**

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85-93, published in

the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 was amended (at paragraph (a)(1)(B) by the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105-206, 112 Stat. 685) to provide different interest rates applicable to overpayments: one for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2004-92, the IRS determined the rates of interest for the calendar quarter beginning October 1, 2004, and ending December 31, 2004. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%). For corporate overpayments, the rate is the Federal short-term rate (2%) plus two percentage points (2%) for a total of four percent (4%). For overpayments made by non-corporations, the rate is the Federal short-term rate (2%) plus three percentage points (3%) for a total of five percent (5%). These interest rates are subject to change for the calendar quarter beginning January 1, 2005, and ending March 31, 2005.

For the convenience of the importing public and Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate Overpayments Eff. 1-1-99 (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	

Beginning date	Ending date	Underpayments (percent)	Overpayments (percent)	Corporate Overpayments Eff. 1-1-99 (percent)
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	123104	5	5	4

Dated: October 12, 2004.

**Robert C. Bonner,**

*Commissioner, Customs and Border Protection.*

[FR Doc. 04-23195 Filed 10-15-04; 8:45 am]

BILLING CODE 4820-02-P

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**Notice on Outer Continental Shelf (OCS) Oil and Gas Lease Sales**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** List of restricted joint bidders.

**SUMMARY:** Pursuant to the authority vested in the Director of the MMS by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at OCS oil and gas lease sales to be held during the bidding period November 1, 2004, through April 30, 2005. The List of Restricted Joint Bidders published April 6, 2004, in the **Federal Register** at 69 FR 18105 covered the period May 1, 2004, through October 31, 2004.

Group I. Exxon Mobil Corporation, ExxonMobil Exploration Company

Group II. Shell Oil Company, Shell Offshore Inc., SWEPI LP, Shell Frontier Oil and Gas Inc., Shell Consolidated Energy Resources Inc., Shell Land and Energy Company, Shell Onshore Ventures Inc., Shell Offshore Properties and Capital II, Inc., Shell Rocky Mountain Production LLC, Shell Gulf of Mexico Inc.

Group III. BP America Production Company, BP Exploration and Production Inc., BP Exploration (Alaska) Inc.

Group IV. TOTAL E&P USA, Inc.

Group V. ChevronTexaco Corporation, Chevron U.S.A. Inc., Texaco Inc., Texaco Exploration and Production Inc.

Group VI. ConocoPhillips Company

Group VII. Eni Petroleum Co. Inc., Eni Petroleum Exploration Co. Inc., Eni Deepwater LLC, Eni Oil USA LLC

Dated: September 24, 2004.

**Walter D. Cruickshank,**

*Deputy Director, Minerals Management Service.*

[FR Doc. 04-23267 Filed 10-15-04; 8:45 am]

BILLING CODE 4310-MR-P

**DEPARTMENT OF THE INTERIOR**

**Minerals Management Service**

**Outer Continental Shelf (OCS), Beaufort Sea Oil and Gas Lease Sale 195**

**AGENCY:** Minerals Management Service (MMS), Interior.

**ACTION:** Availability of the proposed notice of sale.

**SUMMARY:** Alaska OCS, Beaufort Sea; Notice of Availability of the proposed Notice of Sale for proposed Oil and Gas Lease Sale 195 in the Beaufort Sea. 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.

The proposed Notice of Sale for Sale 195 and a "Proposed Sale Notice Package" containing information essential to potential bidders may be obtained by mail from the Alaska OCS Region, Information Resource Center,

Minerals Management Service, 949 East 36th Avenue, Room 330, Anchorage, Alaska 99508-4302. Telephone: (907) 271-6070 or 1-800-764-2627. Certain documents may be viewed and downloaded from the MMS World Wide Web site at <http://www.mms.gov/alaska>.

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 March 30, 2005.

Dated: October 8, 2004.

**R.M. "Johnnie" Burton,**

*Director, Minerals Management Service.*

[FR Doc. 04-23269 Filed 10-15-04; 8:45 am]

**BILLING CODE 4310-MR-P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. AA1921-129 (Second Review)]

### Polychloroprene Rubber From Japan

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of Commission determination to conduct a full five-year review concerning the antidumping finding on polychloroprene rubber from Japan.

**SUMMARY:** The Commission hereby gives notice that it will proceed with a full review pursuant to section 751(c)(5) of the Tariff Act of 1930 (19 U.S.C. 1675(c)(5)) to determine whether revocation of the antidumping finding on polychloroprene rubber from Japan would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. A schedule for the review will be established and announced at a later date. For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207).

**EFFECTIVE DATE:** October 4, 2004.

**FOR FURTHER INFORMATION CONTACT:**

Mary Messer (202-205-3193), 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 review may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

**SUPPLEMENTARY INFORMATION:** On October 4, 2004, the Commission determined that it should proceed to a full review in the subject five-year review pursuant to section 751(c)(5) of the Act. The Commission found that the domestic interested party group response to its notice of institution (69 FR 39905, July 1, 2004) was adequate and that the respondent interested party group response to its notice of institution was inadequate. The Commission also found that other circumstances warranted conducting a full review.<sup>1</sup> A record of the Commissioners' votes, the Commission's statement on adequacy, and any individual Commissioner's statements will be available from the Office of the Secretary and at the Commission's Web site.

**Authority:** This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.62 of the Commission's rules.

Issued: October 12, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-23203 Filed 10-15-04; 8:45 am]

**BILLING CODE 7020-02-P**

## INTERNATIONAL TRADE COMMISSION

[USITC SE-04-027]

### Sunshine Act Meeting

**AGENCY HOLDING THE MEETING:** United States International Trade Commission.

**TIME AND DATE:** October 21, 2004 at 2 p.m.

**PLACE:** Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205-2000.

**STATUS:** Open to the public.

**MATTERS TO BE CONSIDERED:**

1. Agenda for future meetings: None.
2. Minutes
3. Ratification List
4. Inv. No. 731-TA-1088 (Preliminary) (Polyvinyl Alcohol from Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination to the Secretary of Commerce on or before

<sup>1</sup> Chairman Stephen Koplan dissenting.

October 22, 2004; Commissioners' opinions are currently scheduled to be transmitted to the Secretary of Commerce on or before October 29, 2004.)

5. Outstanding action jackets:

(1) Document No. GC-04-114 concerning proposed rulemaking and changes in Agency procedures.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: October 13, 2004.

By order of the Commission.

**Marilyn R. Abbott,**

*Secretary to the Commission.*

[FR Doc. 04-23359 Filed 10-14-04; 11:16 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

[AAG/A ORDER NO. 013-2004]

### Privacy Act of 1974; System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is given that the Criminal Division (CRM), Department of Justice, proposes to establish a new system of records entitled "Organized Crime Drug Enforcement Task Force Fusion Center System," Justice/CRM-028, which covers the records maintained by the Organized Crime Drug Enforcement Task Force Fusion Center, Executive Office for the Organized Crime Drug Enforcement Task Force, Criminal Division.

In accordance with 5 U.S.C. 552a (e)(4) and (11), the public is given a 30-day period in which to comment; the Office of Management and Budget (OMB), which has oversight responsibility of the Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by November 17, 2004. The public, OMB, and Congress are invited to submit comments to Mary Cahill, Management and Planning Staff, Justice Management Division, Department of Justice, Washington, DC 20530 (1400 National Place Building).

In accordance with 5 U.S.C. 552a (r), the Department has provided a report to OMB and Congress.

Dated: October 9, 2004.

**Paul R. Corts,**

*Assistant Attorney General for Administration.*

**JUSTICE/CRM-028**

**SYSTEM NAME:**

Organized Crime Drug Enforcement Task Force Fusion Center System.

**SECURITY CLASSIFICATION:**

Classified, sensitive.

**SYSTEM LOCATION:**

U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

1. Individuals, entities, and organizations charged with, convicted of, or known, suspected, or alleged to be involved with, illicit narcotic trafficking or other potentially related criminal activity, including but not limited to facilitating the transportation of narcotics proceeds, money laundering, firearms trafficking, alien smuggling, and terrorist activity. 2. Individuals, entities, and organizations with pertinent knowledge of some circumstances or aspect of a case or record subject, such as witnesses, associates of record subjects, informants, and law enforcement or intelligence personnel. 3. Individuals, entities, and organizations reasonably suspected of engaging in money laundering, other financial crimes, terrorism, and other criminal activity, including individuals, entities, and organizations referenced in information provided to the Financial Crimes Enforcement Network from financial institutions and other sources. 4. Individuals, entities, and organizations identified in or involved with the filing, evaluation, or investigation of reports under the Bank Secrecy Act and its implementing regulations.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

Records may contain investigative and intelligence information about the individuals in this system, including their identifying information, location, and activities, as well as other data which may assist the Organized Crime Drug Enforcement Task Force (OCDETF) Fusion Center in fulfilling its responsibilities. Information includes multi-source data that may assist law enforcement agencies, regulatory agencies, and agencies of the U.S. foreign intelligence community or military community in executing their responsibilities with respect to drug trafficking, money laundering, firearms

trafficking, alien smuggling, terrorism, and other enforcement efforts, including the identification, location, arrest and prosecution of suspects, and civil proceedings and other activities related to such enforcement activities. This system of records will not contain Federal tax returns and return information as defined by 26 U.S.C. 6103.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

Consolidated Appropriations Act, 2004, Pub. L. No. 108-199, 118 Stat. 3 (2004); Comprehensive Drug Abuse Prevention and Control Act of 1970, Pub. L. 91-513 (84 Stat. 1236); the Single Convention on Narcotic Drugs, 1961. Additional authority is derived from Treaties, Statutes, Executive Orders and Presidential Proclamations which the Department of Justice (DOJ) has been charged with administering.

**PURPOSE(S):**

The purpose of this system of records is to facilitate the mission of the OCDETF Program, which is to reduce the drug supply by identifying, disrupting and dismantling the most significant international and domestic drug supply and money laundering organizations and related criminal operations (e.g., arms traffickers, alien smugglers, terrorists). By establishing a central data warehouse for the compilation, fusion, storage, and comprehensive analysis of drug, financial, and related investigative information, OCDETF expects to produce a more complete picture of the activities of drug trafficking, money laundering, firearms trafficking, alien smuggling, terrorist, and other criminal organizations and their memberships than any one such agency can produce by itself. Specifically, the OCDETF Fusion Center will develop investigative leads, operational intelligence products and strategic intelligence assessments on new or evolving threats. The OCDETF Fusion Center intends to disseminate these analytical products, as appropriate, to Federal, State, local, tribal, territorial, and foreign law enforcement and regulatory agencies and to agencies of the U.S. foreign intelligence community and the military community, to assist them in enforcing criminal, civil, and regulatory laws related to drug trafficking, money laundering, firearms trafficking, alien smuggling, terrorism, and other crimes, including the identification, apprehension, and prosecution of individuals who threaten the United States' national and international security and interests through their involvement in such crimes.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Relevant information contained in this system of records may be disclosed as follows:

(a) To any criminal, civil, or regulatory law enforcement authority (whether Federal, State, local, territorial, tribal, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

(b) To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information for such purposes.

(c) To any person or entity in either the public or private sector, domestic or foreign, in the course of an investigation or other proceeding if deemed by the DOJ to be reasonably necessary in eliciting information or cooperation from the recipient for use by the DOJ in furthering its authorized functions related to this system.

(d) To the Department of State and components thereof to further the efforts of those agencies with respect to the national security and foreign affairs aspects of international drug trafficking, money laundering, firearms trafficking, alien smuggling, terrorism, and related crimes.

(e) To the Department of Defense and components thereof to support its role in the detection and monitoring of the transportation of illegal drugs and money laundering in the United States or such other roles in support of counter-drug and money laundering law enforcement, counter-firearms trafficking, counter-alien smuggling, and related crimes as may be permitted by law.

(f) To The United Nations and its employees to the extent that the information is relevant to the recipient's law enforcement or international security functions.

(g) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

(h) To the White House (the President, Vice-President, their staffs, and other entities of the Executive Office of the President), and, during Presidential transitions, to the President Elect and Vice-President Elect and for their designated transition team staff, for coordination of activities that relate to or have an effect upon the carrying out of the constitutional, statutory, or other official or ceremonial duties of the President, President Elect, Vice-President or Vice-President Elect.

(i) To complainants and/or victims to the extent necessary to provide such persons with information and explanations concerning the progress and/or results of the investigation or case arising from the matters of which they complained and/or of which they were a victim.

(j) In an appropriate proceeding before a court, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator holds the records to be relevant to the proceeding.

(k) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion on such matters as settlement, plea bargaining, or in informal discovery proceedings.

(l) To appropriate officials and employees of a Federal agency or entity which requires information relevant to a decision concerning the hiring, appointment, or retention of an employee; the issuance, renewal, suspension, or revocation of a security clearance; the execution of a security or suitability investigation; the letting of a contract, or the issuance of a grant or benefit.

(m) To designated officers and employees of State or local (including the District of Columbia), or tribal law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer or detention officer having direct contact with the public or with prisoners or detainees, to the extent that the information is relevant and necessary to the recipient agency's decision.

(n) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

(o) To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(p) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

(q) To the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

(r) The Department of Justice may also disclose relevant and necessary information to a former employee of the Department for purposes of: responding to an official inquiry by a Federal, State, or local government entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

**DISCLOSURE TO CONSUMER REPORTING AGENCIES:**

None.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computerized records are stored on hard disk, floppy diskettes, or compact disks. Some information, including investigative files and information incorporated into analytical products, may be retained in hard copy format and stored in individual file folders and file cabinets with controlled access, and/or other appropriate GSA-approved security containers.

**RETRIEVABILITY:**

Access to individual records is gained by use of data retrieval capabilities of computer software acquired and developed for processing of information in the OCDETF Fusion Center System. Data will be retrieved through a number of criteria, including personal identifying information such as name and social security number.

**SAFEGUARDS:**

These records are housed in a secure building restricted to DOJ employees and other authorized personnel, and those persons transacting business with the DOJ who are escorted by DOJ or other authorized personnel. Physical and electronic access to the System is safeguarded in accordance with DOJ rules and policies governing automated systems security and access, including the maintenance of technical equipment in restricted areas. The selection of containers or facilities is made in consideration of the sensitivity or National Security Classification as

appropriate, of the files. The System is contained in a room secured by intruder alarms and other appropriate physical and electronic security controls. Access to the System terminal(s) are further restricted to Justice Department, Treasury Department, and Homeland Security Department employees and individual contractors who have authorized access (including individual passwords and identification codes), appropriate security clearances, and a demonstrated and lawful need to know the information in order to perform assigned functions on behalf of the OCDETF Fusion Center. All OCDETF Fusion Center personnel capable of accessing the OCDETF Fusion Center System will have successfully passed a background investigation. Unauthorized access to the telecommunications terminals is precluded by a complex authentication procedure.

**RETENTION AND DISPOSAL:**

A schedule for the retention and disposal of these records is under development.

**SYSTEM MANAGER AND ADDRESS:**

Director, Executive Office for the Organized Crime Drug Enforcement Task Force, Criminal Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001.

**NOTIFICATION PROCEDURE:**

Inquires should be addressed to: OCDETF Fusion Center Privacy Act/ FOIA Unit, OCDETF Fusion Center, Executive Office for the Organized Crime Drug Enforcement Task Force, Criminal Division, U.S. Department of Justice, 950 Pennsylvania Avenue, NW., Washington, DC 20530-0001.

**RECORD ACCESS PROCEDURES:**

A request for access to a record from this system shall be made in writing to the System Manager, with the envelope and the letter clearly marked "Privacy Access Request." The request should include a general description of the records sought and must include the requester's full name, current address, and date and place of birth. The request must be signed and dated and either notarized or submitted under penalty of perjury. Some information may be exempt from access provisions as described in the section entitled "Exemptions Claimed for the System." An individual who is the subject of a record in this system may access those records that are not exempt from disclosure. A determination whether a record may be accessed will be made at the time a request is received.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their request according to the Record Access Procedures listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought. Some information is not subject to amendment, such as tax return information. Some information may be exempt from contesting record procedures as described in the section entitled "Exemptions Claimed for the System." An individual who is the subject of a record in this system may amend those records that are not exempt. A determination whether a record may be amended will be made at the time a request is received.

**RECORD SOURCE CATEGORIES:**

Information provided by Federal, State, local, tribal, territorial, and foreign law enforcement agencies; agencies of the U.S. foreign intelligence community and military community; and open sources, such as broadcast and print media and publicly-available data bases.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

The Attorney General has exempted this system from subsections (c)(3) and (4); (d)(1), (2), (3), and (4); (e)(1), (2), (3), (5), and (8); and (g) of the Privacy Act. The exemptions will be applied only to the extent that information in a record is subject to exemption pursuant to 5 U.S.C. 552a(j) and/or (k). A determination as to exemption shall be made at the time a request for access or amendment is received. Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and are published in today's **Federal Register**.

[FR Doc. 04-23244 Filed 10-15-04; 8:45 am]

BILLING CODE 4410-14-P

**DEPARTMENT OF LABOR****Office of the Secretary****Submission for OMB Review:  
Comment Request**

October 7, 2004.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. chapter 35). A copy of this ICR, with applicable supporting

documentation, may be obtained by contacting the Department of Labor (DOL). To obtain documentation, contact Darrin King on (202) 693-4129 (this is not a toll-free number) or e-mail: [king.darrin@dol.gov](mailto:king.darrin@dol.gov).

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Occupational Safety and Health Administration (OSHA), Office of Management and Budget, Room 10235, Washington, DC 20503, (202) 395-7316 (this is not a toll-free number), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

*Agency:* Occupational Safety and Health Administration.

*Type of Review:* Extension of currently approved collection.

*Title:* Crawler, Locomotive, and Truck Cranes (29 CFR 1926.550(b)(2)).

*OMB Number:* 1218-0232.

*Frequency:* Monthly.

*Type of Response:* Recordkeeping.

*Affected Public:* Business or other for-profit; Not-for-profit institutions; Federal Government; and State, Local, or Tribal Government.

*Number of Respondents:* 16,581.

*Number of Annual Responses:* 198,972.

*Estimated Time per Response:* 30 minutes.

*Total Burden Hours:* 99,486.

*Total Annualized capital/startup costs:* \$0.

*Total Annual Costs (operating/maintaining systems or purchasing services):* \$0.

*Description:* 29 CFR 1926.550(b)(2) requires an employer to prepare and maintain a certification record of an inspected crane as specified in ANSI

B30.5-1968, Safety Code for Crawler Locomotive, and Truck Cranes. These records inform employers and employees regarding potentially life-threatening equipment failures. In addition, the records provide the most efficient means for OSHA compliance officers to determine that an employer performed the required inspection and that the equipment is in safe operating condition.

**Ira L. Mills,**

*Departmental Clearance Officer.*

[FR Doc. 04-23223 Filed 10-15-04; 8:45 am]

BILLING CODE 4510-26-P

**DEPARTMENT OF LABOR****Employment and Training  
Administration**

[TA-W-55,205]

**The Boeing Company, Fabrication  
Division, Boeing-Oak Ridge, Inc., Oak  
Ridge, Tennessee; Notice of Revised  
Determination of Alternative Trade  
Adjustment Assistance on  
Reconsideration**

By letter dated September 27, 2004, a representative of the Tennessee AFL-CIO requested administrative reconsideration regarding Alternative Trade Adjustment Assistance (ATAA). The certification for Trade Adjustment Assistance was signed on August 27, 2004. The Notice of determination was published in the **Federal Register** on September 23, 2004 (69 FR 57095).

The initial investigation determined that subject worker group possess skills that are easily transferable.

The petitioner provided new information to show that the workers possess skills that are not easily transferable.

The initial investigation revealed that at least five percent of the workforce at the subject firm is at least fifty years of age and competitive conditions within the industry are adverse.

**Conclusion**

After careful review of the additional facts obtained on reconsideration, I conclude that the requirements of Section 246 of the Trade Act of 1974, as amended, have been met for workers at the subject firm.

In accordance with the provisions of the Act, I make the following certification:

All workers of The Boeing Company, Fabrication Division, Boeing-Oak Ridge, Inc., Oak Ridge, Tennessee, who became totally or partially separated from employment on or after April 23, 2004 through August 27, 2006,

are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under section 246 of the Trade Act of 1974.

Signed in Washington, DC, this 1st day of October 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2694 Filed 10-15-04; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-54,484]

#### **Cady Industries, Inc., Pearson, GA; Notice of Revised Determination on Reconsideration**

By letter postmarked June 8, 2004 (received July 7, 2004), a worker of Cady Industries, Inc., Pearson, Georgia requested administrative reconsideration regarding the Department's Negative Determination Regarding Eligibility to Apply for Worker Adjustment Assistance, applicable to the workers of the subject firm.

The initial investigation, initiated on March 12, 2004, resulted in a negative determination based on the finding that imports of bulk bag fabric, silt fences, leno fabric, leno bags, polypropylene fabric, and polypropylene tubing did not contribute importantly to worker separations at the subject plant and no shift of production to a foreign source occurred. The negative determination was issued on April 21, 2004. The Department's determination Notice was published in the **Federal Register** on June 2, 2004 (69 FR 31135).

The Department had previously processed a request for reconsideration for workers of the subject firm. The earlier request was filed on May 11, 2004, by a company official.

The May 11, 2004 request for reconsideration resulted in a dismissal of the application because no new information was presented that would bear importantly on Department's denial of the petition. The dismissal letter was signed on June 24, 2004. The Notice of Dismissal of Application for Reconsideration was issued on June 25, 2004 and published in the **Federal Register** on July 1, 2004 (69 FR 39968).

On July 7, 2004, the Department received the subsequent request for reconsideration (June 8, 2004 postmarked letter) and conducted another reconsideration investigation.

As part of the second reconsideration investigation, the Department further reviewed the initial investigation and engaged in a detailed re-evaluation of the customers' survey. The Department determined that a significant number of major declining customers contacted during the original investigation increased their imports of bulk bag fabric, silt fences, leno fabric, leno bags, polypropylene fabric, and polypropylene tubing in the relevant period. The imports accounted for a meaningful portion of the subject plant's lost sales and production.

Prior to the issuance of a determination certifying the subject worker group, however, the Department was informed that the petitioner had filed an appeal with the U.S. Court of International Trade (USCIT) on June 21, 2004. As a result of the filing, the Department suspended the issuance of the revised determination.

In its Motion for Voluntary Remand, the Department requested that it be permitted to render a revised determination for the subject worker group. On August 26, 2004, the USCIT granted the Department's motion.

In accordance with Section 246 the Trade Act of 1974 (26 U.S.C. 2813), as amended, the Department of Labor herein presents the results of its investigation regarding certification of eligibility to apply for alternative trade adjustment assistance (ATAA) for older workers.

In order for the Department to issue a certification of eligibility to apply for ATAA, the group eligibility requirements of Section 246 of the Trade Act must be met. The Department has determined in this case that the requirements of Section 246 have been met.

A significant number of workers at the firm are age 50 or over and possess skills that are not easily transferable. Competitive conditions within the industry are adverse.

#### **Conclusion**

After careful review of the complete administrative file, I conclude that increased imports of articles like or directly competitive with those produced at Cady Industries, Inc., Pearson, Georgia, contributed importantly to the declines in sales or production and to the total or partial separation of workers at the subject firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Cady Industries, Inc., Pearson, Georgia, who became totally or partially separated from employment on or after March 11, 2003 through two years from

the date of this certification, are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974, and are eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed in Washington, DC this 30th day of September 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2693 Filed 10-15-04; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,424]

#### **Degussa Corporation, Silanes Plant, Theodore, AL; Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on August 11, 2004 in response to a worker petition filed on behalf of workers at Degussa Corporation, Silanes Plant, Theodore, Alabama.

The petitioners have requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC this 30th day of September 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2695 Filed 10-15-04; 8:45 am]

**BILLING CODE 4510-30-P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,547]

#### **Eddie Labels & Accessories Corporation, City of Industry, CA; Notice of Termination of Investigation**

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 2, 2004 in response to a petition filed on behalf of workers at Eddie Labels & Accessories Corporation, City of Industry, California.

The Department has been unable to locate the company official for the subject group or to obtain the information necessary to reach a determination on worker group eligibility. Consequently, further investigation in this case would serve

no purpose, and the investigation has been terminated.

Signed at Washington, DC, this 29th day of September 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2696 Filed 10-15-04; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-50,368]

#### **The Flexaust Company, Inc., Appliance Division, Currently Known as Flexaust Appliance, Inc., El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued Amended Certification Regarding Eligibility to Apply for Worker Adjustment Assistance on February 21, 2003, applicable to workers of The Flexaust Company, Inc., Appliance Division, El Paso, Texas. The notice was published in the **Federal Register** on March 10, 2003 (68 FR 11410).

At the request of a company official, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of belts and hoses for vacuum cleaners.

New information shows that following a company name change, in January 2003, The Flexaust Company, Inc., Appliance Division is currently known as Flexaust Appliance, Inc. Workers separated from employment as the subject firm had their wages reported under a separated unemployment insurance (UI) tax account for Flexaust Appliance, Inc.

Accordingly, the Department is amending this certification to properly reflect this matter.

The intent of the Department's certification is to include all workers of The Flexaust Company, Inc., Appliance Division who were adversely affected by increased imports.

The amended notice applicable to TA-W-50,368 is hereby issued as follows:

All workers of The Flexaust Company, Inc., Appliance Division, currently known as Flexaust Appliance, Inc., El Paso, Texas, who became totally or partially separated from employment on or after December 7, 2001, through February 21, 2005, are eligible to

apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC this 30th day of September 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2692 Filed 10-15-04; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,680]

#### **Seneca Foods Corporation, Dayton, WA; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 24, 2004 in response to a petition filed by a company official on behalf of workers at Seneca Foods Corporation, Dayton, Washington.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed in Washington, DC, this 30th day of September 2004.

**Elliott S. Kushner,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2699 Filed 10-15-04; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,614]

#### **Technical Fabricators, Inc., Spartanburg, SC; Notice of Termination of Investigation**

Pursuant to Section 221 of the Trade Act of 1974, as amended, an investigation was initiated on September 16, 2004 in response to a petition filed by a company official on behalf of workers at Technical Fabricators, Inc., Spartanburg, South Carolina.

The petitioner has requested that the petition be withdrawn. Consequently, the investigation has been terminated.

Signed at Washington, DC, this 30th day of September 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2698 Filed 10-15-04; 8:45 am]

BILLING CODE 4510-30-P

## DEPARTMENT OF LABOR

### Employment and Training Administration

[TA-W-55,597A, TA-W-55,597B, TA-W-55,97C]

#### **VF Jeanswear Limited Partnership, Subsidiary of VF Corporation Faben Facility, Cutting and Parts Division, Fabens, Texas; VF Jeanswear Limited Partnership, Subsidiary of VF Corporation Rojas Facility, Administrative Division, El Paso, Texas; VF Jeanswear Limited Partnership, Subsidiary of VF Corporation Riverside Facility, Laundry and Finishing Division, El Paso, TX; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance**

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance on September 23, 2004, applicable to workers of VF Jeanswear Limited Partnership, subsidiary of VF Corporation, Cutting and Parts Division, Fabens, Texas, VF Jeanswear Limited Partnership, subsidiary of VF Corporation, Administrative Division, El Paso, Texas and VF Jeanswear Limited Partnership, subsidiary of VF Corporation, Laundry and Finishing Division, El Paso, Texas. The notice will be published soon in the **Federal Register**.

At the request of the State agency, the Department reviewed the certification for workers of the subject firm. The workers are engaged in the production of jeans for men; women and children provide administrative support services, and laundry and finishing of the jeans and are separately identifiable by location.

New findings show that there was a previous certification, TA-W-40,737 and TA-W-40,737A, issued on February 11, 2002, for workers of VF Jeanswear Limited Partnership, Fabens Facility, Fabens, Texas, Rojas Facility, El Paso, Texas and Riverside Facility, El Paso, Texas who were engaged in employment related to the production of jeans, administrative support services and laundry and finishing of the jeans. That certification expired February 11, 2004. To avoid an overlap in worker group coverage, the certification is being amended to change the impact date from September 10, 2003 to February 12, 2004, for workers of the subject firm.

The amended notice applicable to TA-W-55,597A, TA-W-55,597B and TA-W-55,597C are hereby issued as follows:

All workers of VF Jeanswear Limited Partnership, subsidiary of VF Corporation, Fabens Facility, Cutting and Parts Division, Fabens, Texas (TA-W-55,597A), VF Jeanswear Limited Partnership, subsidiary of VF Corporation, Rojas Facility, Administrative Division, El Paso, Texas (TA-W-55,597B), and VF Jeanswear Limited Partnership, subsidiary of VF Corporation, Riverside Facility, Laundry and Finishing Division, El Paso, Texas, who became totally or partially separated from employment on or after February 12, 2004, through September 23, 2006, are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974.

Signed at Washington, DC this 4th day of October 2004.

**Richard Church,**

*Certifying Officer, Division of Trade Adjustment Assistance.*

[FR Doc. E4-2697 Filed 10-15-04; 8:45 am]

**BILLING CODE**

## MEDICARE PAYMENT ADVISORY COMMISSION

### Commission Meeting

**AGENCY:** Medicare Payment Advisory Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** The Commission will hold its next public meeting on Thursday, October 28, 2004, and Friday, October 29, 2004, at the Ronald Reagan Building, International Trade Center, 1300 Pennsylvania Avenue, NW., Washington, DC. The meeting is tentative scheduled to begin at 10 a.m. on October 28, and at 9 a.m. on October 29.

Topics for discussion include findings on congressionally mandated studies including: specialty hospitals; certified registered nurse first assistants; physician practice expense; cardiothoracic surgeons, and direct access to physical therapy. Additional presentations will include hospital quality, initial findings on private plans' use of imaging services, and a panel on health information technology. The Commission will also begin discussion on payment adequacy for various Medicare providers.

Agendas will be e-mailed approximately one week prior to the meeting. The final agenda will be available on the Commission's Web site ([www.MedPAC.gov](http://www.MedPAC.gov)).

**ADDRESSES:** MedPAC's address is: 601 New Jersey Avenue, NW., Suite 9000, Washington, DC 20001. The telephone number is (202) 220-3700.

**FOR FURTHER INFORMATION CONTACT:** Diane Ellison, Office Manager, (202) 220-3700.

**Sarah S. Thomas,**

*Deputy Director.*

[FR Doc. 04-23205 Filed 10-15-04; 8:45 am]

**BILLING CODE 6820-BW-M**

## NATIONAL CREDIT UNION ADMINISTRATION

### Sunshine Act; Notice of Meeting

**TIME AND DATE:** 10 a.m., Thursday, October 21, 2004.

**PLACE:** Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314-3428.

**STATUS:** Open.

#### MATTERS TO BE CONSIDERED:

1. Quarterly Insurance Fund Report.
2. Final Rule: Section 701.14 of NCUA's Rules and Regulations, Change in Official or Senior Executive Officer in Credit Unions that are Newly Chartered or in Troubled Condition.
3. Final Rule: Part 723 of NCUA's Rules and Regulations, Member Business Loans.

**FOR FURTHER INFORMATION CONTACT:** Mary Rupp, Secretary of the Board, Telephone: (703) 518-6304.

**Mary Rupp,**

*Secretary of the Board.*

[FR Doc. 04-23406 Filed 10-14-04; 3:18 pm]

**BILLING CODE 7535-01-M**

## OFFICE OF NATIONAL DRUG CONTROL POLICY

### Appointment of Members of Senior Executive Services Performance Review Board

**AGENCY:** Office of National Drug Control Policy (ONDCP).

**ACTION:** Notice of appointments.

**SUMMARY:** The following persons have been appointed to the ONDCP Senior Executive Service Performance Review Board: Ms. Michele Marx, Mr. Joseph Keefe, Ms. Christine Morden and Mr. Robert Denniston.

**FOR FURTHER INFORMATION:** Please direct any questions to Linda V. Priebe, Assistant General Counsel, (202) 395-6622, Office of National Drug Control

Policy, Executive Office of the President, Washington, DC 20503.

**Linda V. Priebe,**

*Assistant General Counsel.*

[FR Doc. 04-23255 Filed 10-15-04; 8:45 am]

**BILLING CODE 3180-02-P**

## NATIONAL SCIENCE FOUNDATION

### Notice of Intent To Seek Approval To Extend a Current Information Collection

**AGENCY:** National Science Foundation.

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

**SUMMARY:** The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104-13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

**DATES:** Written comments on this notice must be received by December 17, 2004 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

**ADDRESSES:** Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to [splimpto@nsf.gov](mailto:splimpto@nsf.gov).

**FOR FURTHER INFORMATION CONTACT:** Contact Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292-7556; or send e-mail to [splimpto@nsf.gov](mailto:splimpto@nsf.gov). Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

#### SUPPLEMENTARY INFORMATION:

*Title of Collection:* Application for NATO Advanced Study Institutes Travel Award and NATO Advanced Study Institutes Travel Award Report Form.

*OMB Approval Number:* 3145-0001.

*Expiration Date of Approval:* February 28, 2005.

*Type of Request:* Intent to seek approval to extend a current information collection for three years.

*Abstract:* The North Atlantic Treaty Organization (NATO) initiated its Advanced Study Institutes Program in 1958 modeled after a small number of very successful summer science "courses" that were held in Europe and that sought to rebuild Europe's science strength following World War II. The goal was to bring together both students and researchers from the leading centers of research in highly targeted fields of science and engineering to promote the "American" approach to advanced learning, spirited give-and-take between students and teachers, that was clearly driving the rapid growth of U.S. research strength. Today the goal remains the same; but due to the expansion of NATO, each year an increasing number of ASIs are held in NATO Partner Countries along with those held in NATO Member Countries. In the spirit of cooperation with this important activity, the Foundation inaugurated in 1959 a small program of travel grants for advanced graduate students to assist with the major cost of such participation, that of transatlantic travel. It remains today a significant means for young scientists and engineers to develop contact with their peers throughout the world in their respective fields of specialization.

The Advanced Study Institutes (ASI) travel awards are offered to advanced graduate students, to attend one of the NATO's ASIs held in the NATO-member and partner countries of Europe. The NATO ASI program is targeted to those individuals nearing the completion of their doctoral studies in science, technology, engineering and mathematics (STEM) who can take advantage of opportunities to become familiar with progress in their respective fields of specialization in other countries.

The Division of Graduate Education (DGE) in the Education and Human Resources (EHR) Directorate administers the NATO ASI Travel Awards Program. The following describes the procedures for the administration of the Foundation's NATO Advanced study Institute (ASI) Travel Awards, which provide travel support for a number of U.S. graduate students to attend the ASIs scheduled for Europe.

#### **Advanced Study Institute Determination**

Once NATO has notified DGE that the schedule of institutes is final, and DGE has received the descriptions of each institute, DGE determines which institutes NSF will support. The ASI

travel award program supports those institutes that offer instruction in the STEM fields traditionally supported by NSF as published in *Guide to Programs*. The program will not support institutes that deal with clinical topics, biomedical topics, or topics that have disease-related goals. Examples of areas of research that will not be considered are epidemiology; toxicology; the development or testing of drugs or procedures for their use; diagnosis or treatment of physical or mental disease, abnormality, or malfunction in human beings or animals; and animal models of such conditions. However, the program does support institutes that involve research in bioengineering, with diagnosis or treatment-related goals that apply engineering principles to problems in biology and medicine while advancing engineering knowledge. The program also supports bioengineering topics that aid persons with disabilities. Program officers from other divisions in NSF will be contacted should scientific expertise outside of DGE be required in the determination process.

#### **Solicitation for Nominations**

Following the final determination as to which Advanced Study Institutes NSF will support, DGE contacts each institute director to ask for a list of up to 5 nominations to be considered for NSF travel support.

#### **DGE/EHR Contact With the Individual's Nominated**

Each individual who is nominated by a director will be sent the rules of eligibility, information about the amount of funding available, and the forms (NSF Form 1379, giving our Division of Financial Management (DFM) electronic banking information; NSF Form 1310 (already cleared), and NSF Form 192 (Application for International Travel Grant)) necessary for our application process.

#### **The Funding Process**

Once an applicant has been selected to receive NSF travel award support, his or her application is sent to DFM for funding. DFM electronically transfers the amount of \$1000 into the bank or other financial institution account identified by the awardee.

Our plan is to have the \$1000 directly deposited into the awardee's account prior to the purchase of their airline ticket. An electronic message to the awardee states that NSF is providing support in the amount of \$100 for transportation and miscellaneous expenses. The letter also states that the award is subject to the conditions in F.L. 27, *Attachment to International*

*Travel Grant*, which states the U.S. flag-carrier policy.

As a follow-up, each ASI director may be asked to verify whether all NSF awardees attended the institute. If an awardee is identified as not utilizing the funds as prescribed, we contact the awardee to retrieve the funds. However, if our efforts are not successful, we will forward the awardee's name to the Division of Grants and Agreements (DGA), which has procedures to deal with that situation.

We also ask the awardee to submit a final report on an NSF Form 250, which we provide as an attachment to the electronic award message.

#### **Selection of Awardees**

The criteria used to select NSF Advanced Study Institute travel awardees are as follows:

1. The applicant is an advanced graduate student.
  2. We shall generally follow the order of the nominations, listed by the director of the institute, within priority level.
  3. Those who have not attended an ASI in the past will have a higher priority than those who have.
  4. Nominees from different institutions and research groups have higher priority than those from the same institution or research group. (Typically, no more than one person is invited from a school or from a research group.)
- Use of the Information:* For NSA Form 192, information will be used in order to verify eligibility and qualifications for the award. For NSF Form 250, information will be used to verify attendance at Advanced Study Institute and will be included in Division annual report.

*Estimate of Burden:* Form 192—1.5 hours. Form 250—2 hours.

*Respondents:* Individuals.

*Estimated Number of Responses Per Award:* 150 responses, broken down as follows: For NSF Form 250, 75 respondents; for NSF Form 192, 75 respondents.

*Estimated Total Annual Burden on Respondents:* 262.5 hours, broken down by 150 hours for NSF Form 250 (2 hours per 75 respondents); and 112.5 hours for NSF Form 192 (1.5 hours per 75 respondents).

*Frequency of Responses:* Annually.

*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 of the proposed collection of information; (c) ways to

enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; or (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: October 12, 2004.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 04-23204 Filed 10-15-04; 8:45 am]

BILLING CODE 7555-01-M

## NUCLEAR REGULATORY COMMISSION

[Docket No. 70-7004; CLI-04-30]

### USEC, Inc. (American Centrifuge Plant); Notice of Receipt of Application for License; Notice of Availability of Applicant's Environmental Report; Notice of Consideration of Issuance of License; and Notice of Hearing and Commission Order

Commissioners: Nils J. Diaz, Chairman, Edward McGaffigan, Jr. and Jeffrey S. Merrifield.

#### I. Receipt of Application and Availability of Documents

Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC or the Commission) received on August 23, 2004, an application, safety analysis report, and environmental report from USEC, Inc. (hereinafter USEC), for a license to possess and use source, byproduct, and special nuclear material and to enrich natural uranium to a maximum of 10 percent U-235 by the gas centrifuge process. The plant, to be known as the American Centrifuge Plant, would be located in Piketon, Ohio. USEC, Inc. is a Delaware corporation.

Copies of USEC's application, safety analysis report, and environmental report (except for portions thereof subject to withholding from public inspection in accordance with 10 CFR 2.390, Availability of Public Records) are available for public inspection at the Commission's Public Document Room (PDR) at One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. These documents are also available for review and copying using any of the following methods: (1) Enter the NRC's Gas Centrifuge Enrichment Facility Licensing Web site at <http://www.nrc.gov/materials/fuel-cycle-fac/gas-centrifuge.html#correspondence>; (2) enter the NRC's Agency wide Document Access and Management System (ADAMS) at <http://www.nrc.gov/reading-rm/adams.html>, where the accession numbers for USEC's application (including USEC's safety analysis report and USEC's environmental report) is ML042800551 (3) contact the PDR by calling (800) 397-4209, faxing a request to (301) 415-3548, or sending a request by electronic mail to [pdr@nrc.gov](mailto:pdr@nrc.gov). Hard copies of the documents are available from the PDR for a fee.

The NRC has now accepted USEC's application for docketing and accordingly is providing this notice of hearing and notice of opportunity to intervene on USEC's application for a license to construct and operate a centrifuge enrichment facility. Pursuant to the Atomic Energy Act of 1954, as amended, (Act) the NRC staff will prepare a safety evaluation report (SER) after reviewing the application and making findings concerning the public health and safety and common defense and security. In addition, pursuant to the National Environmental Policy Act of 1969 (NEPA) and the Commission's regulations in 10 CFR part 51, NRC will complete an environmental evaluation and prepare an environmental impact statement (EIS) before the hearing on the issuance of a license is completed. The preparation of the EIS will be the subject of a separate notice in the **Federal Register**.

When available, the NRC staff's safety evaluation and its EIS (except for portions thereof subject to withholding from public inspection in accordance with 10 CFR 2.390) will also be placed in the PDR and in ADAMS. Copies of correspondence between the NRC and USEC, and transcripts of prehearing conferences and hearings (except for portions thereof subject to withholding from public inspection in accordance with 10 CFR 2.390) similarly will be made available to the public.

If following the hearing, the Commission is satisfied that USEC has complied with the Commission's regulations and the requirements of this Notice and Commission Order and the Commission finds that the application satisfies the applicable standards set forth in 10 CFR 30.33, 40.32, and 70.23, a single license will be issued authorizing (1) the receipt, possession, use, delivery, and transfer of byproduct (e.g., calibration sources), source and special nuclear material in the American Centrifuge Plant; and (2) the construction and operation of the American Centrifuge Plant. Prior to

commencement of operations of the American Centrifuge Plant, if it is licensed, in accordance with section 193(c) of the Act and 10 CFR 70.32(k), NRC will verify through inspection that the facility has been constructed in accordance with the requirements of the license for such construction and operation. The inspection findings will be published in the **Federal Register**.

#### II. Notice of Hearing

A. Pursuant to 10 CFR 70.23a and section 193 of the Act, as amended by the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990 (Pub. L. 101-575), a hearing will be conducted according to the rules of procedure in 10 CFR part 2, Subparts A, C, G, and to the extent that classified information becomes involved, Subpart I. The hearing will be held under the authority of sections 53, 63, 189, 191, and 193 of the Act. The applicant and NRC staff shall be parties to the proceeding.

B. Pursuant to 10 CFR part 2, subpart C, the hearing shall be conducted by an Atomic Safety and Licensing Board (Board) appointed by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel. Notice as to the membership of the Board will be published in the **Federal Register** at a later date.

C. The matters of fact and law to be considered are whether the application satisfies the standards set forth in this Notice and Commission Order and the applicable standards in 10 CFR 30.33, 40.32, and 70.23, and whether the requirements of 10 CFR part 51 have been met.

D. If this proceeding is not a contested proceeding, as defined by 10 CFR 2.4, the Board will determine the following, without conducting a de novo evaluation of the application: (1) Whether the application and record of the proceeding contain sufficient information and whether the NRC staff's review of the application has been adequate to support findings to be made by the Director of the Office of Nuclear Materials Safety and Safeguards, with respect to the matters set forth in paragraph C of this section, and (2) whether the review conducted by the NRC staff pursuant to 10 CFR part 51 has been adequate.

E. Regardless of whether the proceeding is contested or uncontested, the Board will, in its initial decision, in accordance with subpart A of 10 CFR part 51: Determine whether the requirements of sections 102(2)(A), (C), and (E) of NEPA and subpart A of 10 CFR part 51 have been complied with in the proceeding; independently consider

the final balance among conflicting factors contained in the record of proceeding with a view to determining the appropriate action to be taken; and determine whether a license should be issued, denied, or conditioned to protect the environment.

F. If the proceeding becomes a contested proceeding, the Board shall make findings of fact and conclusions of law on admitted contentions. With respect to matters set forth in paragraph C of this section but not covered by admitted contentions, the Board will make the determinations set forth in paragraph D without conducting a *de novo* evaluation of the application.

G. By December 17, 2004, any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Petitions for leave to intervene shall be filed in accordance with the provisions of 10 CFR 2.309. Interested persons should consult 10 CFR part 2, section 2.309, which is available at the NRC's PDR, located at One White Flint North, 11555 Rockville Pike (first floor), Rockville, MD (or call the PDR at (800) 397-4209 or (301) 415-4737). NRC regulations are also accessible electronically from the NRC's Electronic Reading Room on the NRC Web site at <http://www.nrc.gov>. If a petition for leave to intervene is filed by the above date, the Commission will issue an order determining standing and refer petitions from persons with the requisite standing to the Board for further processing in the proceeding.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition must provide the name, address, and telephone number of the petitioner and specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order that may be entered in the proceeding on the petitioner's interest.

A petition for leave to intervene must also include a specification of the contentions that the petitioner seeks to have litigated in the hearing. For each contention, the petitioner must provide a specific statement of the issue of law or fact to be raised or controverted, as well as a brief explanation of the basis for the contention. Additionally, the

petitioner must demonstrate that the issue raised by each contention is within the scope of the proceeding and is material to the findings the NRC must make to support the granting of a license in response to USEC's application. The petition must also include a concise statement of the alleged facts or expert opinions which support the position of the petitioner and on which the petitioner intends to rely at hearing, together with references to the specific sources and documents on which the petitioner intends to rely. Finally, the petition must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact, including references to specific portions of the application that the petitioner disputes and the supporting reasons for each dispute, or, if the petitioner believes that the application fails to contain information on a relevant matter as required by law, the identification of each failure and the supporting reasons for the petitioner's belief. Each contention must be one that, if proven, would entitle the petitioner to relief.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Board will set the time and place for any prehearing conferences and evidentiary hearings, and the respective notices will be published in the **Federal Register**.

A petition for leave to intervene and proffered contentions must be filed by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; (2) courier, express mail, and expedited delivery services: Office of the Secretary, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff; (3) e-mail addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, [HEARINGDOCKET@nrc.gov](mailto:HEARINGDOCKET@nrc.gov); or (4) facsimile transmission addressed to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC, Attention: Rulemaking and Adjudications Staff at (301) 415-1101, verification number is (301) 415-1966.

A copy of the petition for leave to intervene and proffered contentions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, and it is requested that copies be transmitted either by means of facsimile transmission to (301) 415-3725 or by e-mail to [OGCMailCenter@nrc.gov](mailto:OGCMailCenter@nrc.gov). A copy of the petition for leave to intervene and proffered contentions should also be sent to Donald J. Silverman, Esq., Morgan, Lewis & Bockius, 1111 Pennsylvania Avenue, NW., Washington, DC 20004, the attorney for the applicant.

Non-timely filings of petitions for leave to intervene, amended petitions, and supplemental petitions will not be entertained absent a determination by the Commission or the Board that the petition should be granted, based upon a balancing of the factors specified in 10 CFR 2.309(c)(1)(i)-(viii).

H. A State, county, municipality, federally-recognized Indian Tribe, or agencies thereof, may submit a petition to the Commission to participate as an interested entity under 10 CFR 2.309(d)(2). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by December 17, 2004. The petition must be filed in accordance with the filing instructions in paragraph G, above, for petitions submitted under 10 CFR 2.309, except that State and federally-recognized Indian tribes do not need to address the standing requirements in 10 CFR 2.309(d)(1) if the facility is located within its boundaries. The entities listed above could also seek to participate in a hearing as a nonparty pursuant to 10 CFR 2.315(c).

I. Any person who does not wish, or is not qualified, to become a party to this proceeding may request permission to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of position on the issues, but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to such limits and conditions as may be imposed by the Board. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by December 17, 2004.

### III. Commission Guidance

#### A. Presiding Officer Determination of Contentions

The presiding officer shall issue a decision on the admissibility of contentions no later than sixty (60) days after the petitions and contentions are referred to the Board.

#### B. Novel Legal Issues

If rulings on petitions, on admissibility of contentions or the admitted contentions themselves, raise novel legal or policy questions, the Commission will provide early guidance and direction on the treatment and resolution of such issues. Accordingly, the Commission directs the Board to promptly certify to the Commission in accordance with 10 CFR 2.319(l) and 2.323(f) all novel legal or policy issues that would benefit from early Commission consideration should such issues arise in this proceeding.

#### C. Discovery Management

(1) All parties, except the NRC staff, shall make the mandatory disclosures required by 10 CFR 2.704 within forty-five (45) days of the issuance of the order admitting that contention.

(2) The presiding officer, consistent with fairness to all parties, should narrow the issues requiring discovery and limit discovery to no more than one round for admitted contentions.

(3) All discovery against the Staff shall be governed by 10 CFR 2.336(b) and 2.709. The Staff shall comply with 10 CFR 2.336(b) no later than 30 days after the Board order admitting contentions and shall update the information at the same time as the issuance of the SER or the Final Environmental Impact Statement (FEIS). Discovery under 10 CFR 2.709 shall not commence until the issuance of the particular document, *i.e.*, SER or EIS,

unless the Board, in its discretion, finds that commencing discovery against the Staff on safety issues before the SER is issued, or on environmental issues before the FEIS is issued will expedite the hearing without adversely impacting the Staff's ability to complete its evaluation in a timely manner.

(4) No later than 30 days before the commencement of the hearing at which an issue is to be presented, all parties other than the Staff shall make the pretrial disclosures required by 10 CFR 2.704(c).

#### D. Hearing Schedule

In the interest of providing a fair hearing, avoiding unnecessary delays in NRC's review and hearing process, and producing an informed adjudicatory record that supports the licensing determination to be made in this proceeding, the Commission expects that both the Board and NRC staff, as well as the applicant and other parties to this proceeding, will follow the applicable requirements contained in 10 CFR part 2 and guidance in the Commission's Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, 48 NRC 18 (1998) [63 FR 41872 (August 5, 1998)] to the extent that such guidance is not inconsistent with specific guidance in this Order. The guidance in the Statement of Policy on Conduct of Adjudicatory Proceedings is intended to improve the management and the timely completion of the proceeding and addresses hearing schedules, parties' obligations, contentions and discovery management. In addition, the Commission is providing the following direction for this proceeding:

(1) The Commission directs the Board to set a schedule for the hearing in this proceeding consistent with this order that establishes as a goal the issuance of

a final Commission decision on the pending application within two-and-one-half years (30 months) from the date that the application was received. Formal discovery against the Staff shall be suspended until after the Staff completes its final SER and EIS in accordance with the direction provided in paragraph C.(3) above.

(2) The evidentiary hearing with respect to issues should commence promptly after completion of the final Staff documents (SER or EIS) unless the Board, in its discretion, finds that starting the hearing with respect to one or more safety issues prior to issuance of the final SER<sup>1</sup> (or one or more environmental contentions directed to the applicant's Environmental Report) will expedite the proceeding without adversely impacting the Staff's ability to complete its evaluations in a timely manner.

(3) The Commission also believes that issuing a decision on the pending application within about two-and-one-half years may be reasonably achieved under the rules of practice contained in 10 CFR part 2 and the enhancements directed by this order. We do not expect the Board to sacrifice fairness and sound decision-making to expedite any hearing granted on this application. We do expect the Board to use the techniques specified in this order and in the Commission's policy statement on the conduct of adjudicatory proceedings (CLI-98-12, *supra*) to ensure prompt and efficient resolution of contested issues. *See also* Statement of Policy on Conduct of Licensing Proceedings, CLI-81-8, 13 NRC 452 (1981).

(4) If this is a contested proceeding, the Board should adopt the following milestones, in developing a schedule, for conclusion of significant steps in the adjudicatory proceeding.<sup>2</sup>

Within 10 days of Commission's order determining standing .....	Persons found to have standing or entities participating under 10 CFR 2.309(d) may submit a motion for order reconsideration ( <i>see below</i> , at Section IV.B).*
Within 20 days of Commission's order determining standing .....	Persons found to have standing or entities participating under 10 CFR 2.309(d) may respond to any motion for reconsideration.
Within 60 days of Commission's order determining standing and referring petitions and contentions to the ASLB.	ASLB decision on admissibility of contentions.
Within 30 days of the ASLB decision determining admission of contentions.	Staff prepares hearing file.
Within 90 days of the ASLB decision determining admission of contentions.	Completion of discovery on admitted contentions, except against the Staff (including contentions on environmental issues arising under NEPA).

<sup>1</sup> The Commission believes that, in the appropriate circumstances, allowing discovery or an evidentiary hearing with respect to safety-related issues to proceed before the final SER is issued will serve to further the Commission's objective, as reflected in the Statement of Policy on Conduct of Adjudicatory Proceedings, CLI-98-12, *supra*, to ensure a fair, prompt, and efficient resolution of contested issues. For example, it may be

appropriate for the Board to permit discovery against the staff and/or the commencement of an evidentiary hearing with respect to safety issues prior to the issuance of the final SER in cases where the applicant has responded to the Staff's "open items" and there is an appreciable lag time until the issuance of the final SER, or in cases where the initial SER identifies only a few open items.

<sup>2</sup> This schedule assumes that the SER and FEIS are issued essentially at the same time. If these documents are not to be issued very close in time, the Board should adopt separate schedules but concurrently running for the safety and environmental reviews consistent with the timeframes herein for each document.

Within 110 days of the ASLB decision determining admission of contentions.	Deadline for summary disposition motions on admitted contentions.**
Within 150 days of the ASLB decision determining admission of contentions.	ASLB decision on summary disposition motions on admitted contentions.
Date of issuance of final SER/EIS .....	Staff updates hearing file.
Within 20 days of the issuance of the final SER/EIS .....	Motions to amend contentions; motions for late-filed contentions.
Within 40 days of the issuance of the final SER/EIS .....	Completion of answers and replies to motions for amended and late-filed contentions.
Within 50 days of the issuance of the final SER/EIS .....	ASLB decision on admissibility of late-filed contentions; deadline for summary disposition motions on remaining admitted contentions.***
Within 80 days of the issuance of the final SER/EIS .....	Completion of discovery on late-filed contentions; ASLB decision on summary disposition motions on remaining contentions.
Within 90 days of the issuance of the final SER/EIS .....	Direct testimony filed on remaining contentions and any amended or admitted late-filed contentions.
Within 100 days of the issuance of the final SER/EIS .....	Cross-examination plans filed on remaining contentions and any amended or admitted late-filed contentions.
Within 105 days of the issuance of the final SER/EIS .....	Evidentiary hearing begins on remaining contentions and any amended or admitted late-filed contentions.
Within 135 days of the issuance of the final SER/EIS .....	Completions of evidentiary hearing on remaining contentions and any amended or admitted late-filed of final contentions.
Within 180 days of the issuance of the final SER/EIS .....	Completion of findings and replies.
Within 240 days of the issuance of the final SER/EIS .....	ASLB's initial decision.

\* Motions for reconsideration do not stay this schedule.

\*\* The schedule presumes that a prehearing conference order would establish the deadline for filing of summary disposition motions 20 days after close of discovery, consistent with 10 CFR 2.710(a), answers to be filed 10 days after filing of any motion, replies to be filed 10 days after any answer, and the Board to issue a decision on any summary disposition motion 20 days thereafter.

\*\*\* No summary disposition motions on late-filed contentions are contemplated.

To meet these milestones, the Board should direct the participants to serve all filings by electronic mail (in order to be considered timely, such filings must be received by the Board and parties no later than midnight eastern time on the date due, unless otherwise designated by the Board), followed by conforming hard copies that may be sent by regular mail. If participants do not have access to electronic mail, the Board should adopt other expedited methods of service, such as express mail, which would ensure receipt on the due date ("in-hand"). If pleadings are filed by electronic mail, or other expedited methods of service which would ensure receipt on the due date, the additional period provided in our regulations for responding to filings served by first-class mail or express delivery shall not be applicable. See 10 CFR 2.306.

In addition, to avoid unnecessary delays in the proceeding, the Board should not grant requests for extensions of time absent unavoidable and extreme circumstances. Although summary disposition motions are included in the schedule above, the Board shall not entertain motions for summary disposition under 10 CFR 2.710, unless the Board finds that such motions are likely to expedite the proceeding. Unless otherwise justified, the Board shall provide for the simultaneous filing of answers to proposed contentions, responsive pleadings, proposed findings of fact, and other similar submittals.

(5) Parties are obligated in their filings before the Board and the Commission to ensure that their arguments and assertions are supported by appropriate

and accurate references to legal authority and factual basis, including, as appropriate, citation to the record. Failure to do so may result in material being stricken from the record or, in extreme circumstances, in a party being dismissed from the proceeding.

(6) The Commission directs the Board to inform the Commission promptly, in writing, if the Board determines that any single milestone could be missed by more than 30 days. The Board must include an explanation of why the milestone cannot be met and the measures the Board will take to mitigate the failure to achieve the milestone and restore the proceeding to the overall schedule.

#### E. Commission Oversight

As in any proceeding, the Commission retains its inherent supervisory authority over the proceeding to provide additional guidance to the Board and participants and to resolve any matter in controversy itself.

#### IV. Applicable Requirements

A. The Commission will license and regulate byproduct, source, and special nuclear material at the American Centrifuge Plant in accordance with the Atomic Energy Act of 1954, as amended. Section 274c.(1) of the Act was amended by Public Law 102-486 (October 24, 1992) to require the Commission to retain authority and responsibility for the regulation of uranium enrichment facilities. Therefore, in compliance with law, the Commission will be the sole licensing

and regulatory authority with respect to byproduct, source, and special nuclear material for the American Centrifuge Plant, and with respect to the control and use of any equipment or device in connection therewith.

Many rules and regulations in 10 CFR chapter I are applicable to the licensing of a person to receive, possess, use, transfer, deliver, and process byproduct, source and special nuclear material in the quantities that would be possessed at the American Centrifuge Plant. These include 10 CFR parts 19, 20, 21, 30, 40, 51, 70, 71, 73, 74, 95, 140, 170, and 171 for the licensing and regulation of byproduct, source, and special nuclear material, including requirements for notices to workers, reporting of defects, radiation protection, waste disposal, decommissioning funding, and insurance.

With respect to these regulations, the Commission notes that this is the third proceeding involving the licensing of an enrichment facility. The Commission issued a number of decisions in an earlier proceeding regarding a proposed site in Homer, Louisiana. These final decisions, *Louisiana Energy Services* (Clairborne Enrichment Center), CLI-92-7, 35 NRC 93 (1992); *Louisiana Energy Services* (Clairborne Enrichment Center), CLI-97-15, 46 NRC 294 (1997); and *Louisiana Energy Services* (Clairborne Enrichment Center), CLI-98-3, 47 NRC 77 (1998); resolve a number of issues concerning uranium enrichment licensing and may be relied upon as precedent.

Consistent with the Act, and the Commission's regulations, the

Commission is providing the following direction for licensing uranium enrichment facilities:

1. *Environmental Issues*

(a) General: 10 CFR part 51 governs the preparation of an environmental report and an EIS for a materials license. USEC's environmental report and the NRC staff's associated EIS are to include a statement on the alternatives to the proposed action, including a discussion of the no-action alternative.

(b) Treatment of depleted uranium hexafluoride tails: As to the treatment of the disposition of depleted uranium hexafluoride tails (depleted tails) in these environmental documents, unless USEC demonstrates a use for uranium in the depleted tails as a potential resource, the depleted tails will be considered waste. An approach for disposition of tails that is consistent with section 3113 of the USEC Privatization Act constitutes a "plausible strategy" for disposition of the USEC depleted tails. The Commission is considering matters of law applicable to disposition of tails which may be dispositive of matters arising in a USEC proceeding. See *Louisiana Energy Services* (National Enrichment Facility), CLI-04-25, slip op. at 5 (Aug. 18, 2004). The NRC staff may consider the DOE EIS in preparing the staff's EIS. Alternatives for the disposition of depleted uranium tails will need to be addressed in these documents. As part of the licensing process, USEC must also address the health, safety, and security issues associated with the storage of depleted uranium tails on site pending removal of the tails from the site for disposal or DOE dispositioning.

2. *Financial Qualifications*

Review of financial qualifications for enrichment facility license applications is governed by 10 CFR part 70. In *Louisiana Energy Services* (Clairborne Enrichment Center), CLI-97-15, 46 NRC 294, 309 (1997) the Commission held that the 10 CFR part 70 financial criteria, 10 CFR 70.22(a)(8) and 70.23(a)(5), could be met by conditioning the LES license to require funding commitments to be in place prior to construction and operation. The specific license condition approved in that proceeding, which addressed a minimum equity contribution of 30% from the parents and affiliates of LES partners prior to construction of the associated capacity and having in place long term enrichment contracts with prices sufficient to cover both construction and operating costs, including a return on investment, for the entire term of the contracts prior to constructing or operating the facility is

one way to satisfy the requirements of 10 CFR part 70.

3. *Antitrust Review*

The USEC enrichment facility is subject to sections 53 and 63 of the Act, and is not a production and utilization facility licensed under section 103. Consequently, the NRC does not have antitrust responsibilities for USEC similar to the antitrust responsibilities under section 105 of the Act. The NRC will not entertain or consider antitrust issues in connection with the USEC application in this proceeding.

4. *Foreign Ownership*

Section 193(f) of the Act addresses foreign ownership, control and domination of enrichment facilities with regard to USEC and its successors. The requirements of section 193(f) are incorporated in 10 CFR 70.40.

5. *Creditor Requirements*

Pursuant to section 184 of the Act, the creditor regulations in 10 CFR 50.81 shall apply to the creation of creditor interests in equipment, devices, or important parts thereof, capable of separating the isotopes of uranium or enriching uranium in the isotope U-235. In addition, the creditor regulations in 10 CFR 70.44 shall apply to the creation of creditor interests in special nuclear material. These creditor regulations may be augmented by license conditions as necessary to allow ownership arrangements (such as sale and leaseback) not covered by 10 CFR 50.81, provided it can be found that such arrangements are not inimical to the common defense and security of the United States.

6. *Classified Information*

All matters of classification of information related to the design, construction, operation, and safeguarding of the American Centrifuge Plant shall be governed by classification guidance in "DOE Classification Guide for Isotope Separation by the Gas Centrifuge Process (CG-IGC-1)" (June 2002) and any later versions. Any person producing such information must adhere to the criteria in CG-IGC-1. All decisions on questions of classification or declassification of information shall be made by appropriate classification officials in the NRC and are not subject to de novo review in this proceeding.

7. *Access to Classified Information*

Portions of USEC's application for a license are classified Restricted Data or National Security Information. Persons needing access to those portions of the application will be required to have the appropriate security clearance for the level of classified information to which access is required. Access requirements apply equally to intervenors, their

witnesses and counsel, employees of the applicant, its witnesses and counsel, NRC personnel, and others. Any person who believes that he or she will have a need for access to classified information for the purpose of this licensing proceeding, including the hearing, should immediately contact the NRC, Division of Fuel Cycle Safety and Safeguards, Washington, DC 20555, for information on the clearance process. Telephone calls may be made to Linda Marshall, Licensing Assistant, Special Projects Branch. Telephone: (301) 415-8129.

8. *Obtaining NRC Security Facility Approval and for Safeguarding Classified Information Received or Developed Pursuant to 10 CFR Part 95*

Any person who requires possession of classified information in connection with the licensing proceeding may process, store, reproduce, transmit, or handle classified information only in a location for which facility security approval has been obtained from the NRC's Division of Nuclear Security (NSIR), Washington, DC 20555. Telephone calls may be made to A. Lynn Silvius, Chief, Information Security Section. Telephone: (301) 415-2214.

B. *Reconsideration*

The above guidance does not foreclose the applicant, any person admitted as a party to the hearing, or an entity participating under 10 CFR 2.315(c) from litigating material factual issues necessary for resolution of contentions in this proceeding. Persons found by the Commission to have standing and entities participating under 10 CFR 2.315(c) as of the date of the Commission's order on standing may also move the Commission to reconsider any portion of Section IV of this Notice and Commission Order where there is no clear Commission precedent or unambiguously governing statutes or regulations. Any motion to reconsider must be filed within 10 days after the Commission's order on standing. The motion must contain all technical or other arguments to support the motion. Other persons granted standing and entities participating under 10 CFR 2.315(c), including the applicant and the NRC staff, may respond to motions for reconsideration within 20 days of the Commission's Order. Motions will be ruled upon by the Commission. A motion for reconsideration does not stay the schedule set out above in section III.D.(4). However, if the Commission grants a motion for reconsideration, it will, as necessary, provide direction on adjusting the hearing schedule.

## V. Pending Energy Legislation

The Energy Policy Act of 2003, H.R. 6, is currently pending in Congress. H.R. 6, as currently constituted, contains provisions that address the manner in which certain issues are to be dealt with and a schedule for overall Commission consideration of an application for licensing an uranium enrichment facility. In the event that H.R. 6 is enacted, the Commission may need to issue an additional order to conform guidance and schedules for the USEC application to any new statutory requirements.

## VI. Notice of Intent Regarding Classified Information

As noted above, a hearing on this application will be governed by 10 CFR part 2, subparts A, C, G, and to the extent classified material becomes involved, subpart I. Subpart I requires in accordance with 10 CFR 2.907 that the NRC staff file a notice of intent if, at the time of publication of Notice of Hearing, it appears that it will be impracticable for the staff to avoid the introduction of Restricted Data or National Security Information into a proceeding. The applicant has submitted portions of its application that are classified. The Commission notes that, since the entire application becomes part of the record of the proceeding, the NRC staff has found it impracticable for it to avoid the introduction of Restricted Data of National Security Information into the proceeding.

*It is so ordered.*

Dated at Rockville, Maryland, this 7th day of October, 2004.

For the Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 04-23238 Filed 10-15-04; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Procedures for Meetings

#### Background

This notice describes procedures to be followed with respect to meetings conducted pursuant to the Federal Advisory Committee Act by the Nuclear Regulatory Commission's (NRC's) Advisory Committee on Nuclear Waste (ACNW). These procedures are set forth so that they may be incorporated by reference in future notices for individual meetings.

The ACNW advises the NRC on technical issues related to nuclear

materials and waste management. The bases of ACNW reviews include 10 CFR parts 20, 60, 61, 63, 70, 71, and 72 and other applicable regulations and legislative mandates, such as the Nuclear Waste Policy Act as amended, the Low-Level Radioactive Waste Policy Act and amendments, and the Uranium Mill Tailings Radiation Control Act, as amended. The Committee's reports become a part of the public record.

The ACNW meetings are normally open to the public and provide opportunities for oral or written statements from members of the public to be considered as part of the Committee's information gathering process. The meetings are not adjudicatory hearings such as those conducted by the NRC's Atomic Safety and Licensing Board Panel as part of the Commission's licensing process. ACNW meetings are conducted in accordance with the Federal Advisory Committee Act.

#### General Rules Regarding ACNW Full Committee Meetings

An agenda will be published in the **Federal Register** for each full Committee meeting and is available on the Internet at <http://www.nrc.gov/reading-rm/doc-collections/> (ACRS & ACNW Mtg schedules/agendas). There may be a need to make changes to the agenda to facilitate the conduct of the meeting. The Chairman of the Committee is empowered to conduct the meeting in a manner that, in his/her judgment, will facilitate the orderly conduct of business, including making provisions to continue the discussion of matters not completed on the scheduled day during another meeting. Persons planning to attend a meeting may contact the Designated Federal Official (DFO) specified in the individual **Federal Register** Notice prior to the meeting to be advised of any changes to the agenda that may have occurred.

The following requirements shall apply to public participation in ACNW meetings:

(a) Persons who plan to make oral statements and/or submit written comments at the meeting should provide 35 copies to the DFO at the beginning of the meeting. Persons who cannot attend the meeting but wishing to submit written comments regarding the agenda items may do so by sending a readily reproducible copy addressed to the DFO specified in the **Federal Register** Notice for the individual meeting in care of the Advisory Committee on Nuclear Waste, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Comments should be in the possession

of the DFO five days prior to the meeting to allow time for reproduction and distribution. Comments should be limited to topics being considered by the Committee.

(b) Persons desiring to make oral statements at the meeting should make a request to do so to the DFO. If possible, the request should be made five days before the meeting, identifying the topics to be discussed and the amount of time needed for presentation so that orderly arrangements can be made. The Committee will hear oral statements on topics being reviewed at an appropriate time during the meeting as scheduled by the Chairman.

(c) Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained by contacting the DFO specified in the individual **Federal Register** Notice.

(d) The use of still, motion picture, and television cameras will be permitted at the discretion of the Chairman and subject to the condition that the use of such equipment will not interfere with the conduct of the meeting. The DFO will have to be notified prior to the meeting and will authorize the use of such equipment after consultation with the Chairman. The use of such equipment will be restricted as is necessary to protect proprietary or privileged information that may be in documents, folders, etc., in the meeting room. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

(e) A transcript will be kept for certain open portions of the meeting and will be available in the NRC Public Document Room (PDR), One White Flint North, Room O-1F21, 11555 Rockville Pike, Rockville, MD 20852-2738. A copy of the certified minutes of the meeting will be available at the same location three months following the meeting. Copies may be obtained upon payment of appropriate reproduction charges. ACNW meeting agenda, transcripts, and letter reports are available through the NRC Public Document Room at [pdr@nrc.gov](mailto:pdr@nrc.gov), by calling the PDR at 1-800-394-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or <http://www.nrc.gov/reading-rm/doc-collections/> (ACRS & ACNW Mtg schedules/agendas).

(f) Video teleconferencing service is available for observing open sessions of some ACNW meetings. Those wishing

to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audio Visual Technician, (301-415-8066) between 7:30 a.m. and 3:45 p.m. Eastern Time at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

#### ACNW Working Group Meetings

From time to time the ACNW may sponsor an in-depth meeting on a specific technical issue to understand staff expectations and review work in progress. Such meetings are called Working Group meetings. These Working Group meetings will also be conducted in accordance with the procedures noted above for the ACNW full Committee meetings, as appropriate. When Working Group meetings are held at locations other than at NRC facilities, reproduction facilities may not be available at a reasonable cost. Accordingly, 25 additional copies (total of 50 copies) of the materials to be used during the meeting should be provided for distribution at such meetings.

#### Special Provisions When Proprietary Sessions are to be Held

If it is necessary to hold closed sessions for the purpose of discussing matters involving proprietary information, persons with agreements permitting access to such information may attend those portions of the ACNW meetings where this material is being discussed upon confirmation that such agreements are effective and related to the material being discussed.

The DFO should be informed of such an agreement at least five working days prior to the meeting so that it can be confirmed, and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. The minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to the DFO prior to the beginning of the meeting for admittance to the closed session.

Dated: October 12, 2004.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 04-23236 Filed 10-15-04; 8:45 am]

**BILLING CODE 7590-01-P**

### NUCLEAR REGULATORY COMMISSION

[Docket No. 030-31898]

#### Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment for Shaw Environmental, Inc.'s Facility in Lawrenceville, New Jersey

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability.

#### FOR FURTHER INFORMATION CONTACT:

Jenny M. Johansen, Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I, 475 Allendale Road, King of Prussia, Pennsylvania 19406, telephone (610) 337-5071, fax (610) 337-5269; or by e-mail: [jmj@nrc.gov](mailto:jmj@nrc.gov).

#### SUPPLEMENTARY INFORMATION:

##### I. Introduction

The Nuclear Regulatory Commission (NRC) is issuing a license amendment to Shaw Environmental, Inc. for Materials License No. 29-28575-01, to authorize release of its facility in Lawrenceville, New Jersey for unrestricted use. NRC has prepared an Environmental Assessment (EA) in support of this action in accordance with the requirements of 10 CFR part 51. Based on the EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate. The amendment will be issued following the publication of this Notice.

##### II. EA Summary

The purpose of the action is to authorize the release of the licensee's Lawrenceville, New Jersey facility for unrestricted use. Shaw Environmental, Inc. (Shaw) was authorized by NRC from August 14, 2003 to use radioactive materials for research and development purposes at the site. Shaw assumed responsibility for License 29-28575-01 from Envirogen, Inc., who was authorized by the NRC from January 29, 1991 to use radioactive materials for research and development purposes at the site until its assets were acquired and the license transferred to Shaw on August 14, 2003, by Amendment No. 8 of the license. On July 12, 2004, Shaw requested that NRC release the facility

for unrestricted use. Shaw has conducted surveys of the facility and provided information to the NRC to demonstrate that the site meets the license termination criteria in subpart E of 10 CFR part 20 for unrestricted release. Shaw will continue licensed activities at another location, as authorized by the license.

The NRC staff has prepared an EA in support of the license amendment. The facility was remediated and surveyed prior to the licensee requesting the license amendment. The NRC staff has reviewed the information and final status survey submitted by Shaw. Based on its reviews, the staff has determined that there are no additional remediation activities necessary to complete the proposed action. Therefore, the staff considered the impact of the residual radioactivity at the facility and concluded that since the residual radioactivity meets the requirements in subpart E of 10 CFR part 20, a Finding of No Significant Impact is appropriate.

##### III. Finding of No Significant Impact

The staff has prepared the EA (summarized above) in support of the license amendment to release the facility for unrestricted use. The NRC staff has evaluated Shaw Environmental, Inc.'s request and the results of the surveys and has concluded that the completed action complies with the criteria in subpart E of 10 CFR part 20. The staff has found that the environmental impacts from the action are bounded by the impacts evaluated by NUREG-1496, Volumes 1-3, "Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Facilities" (ML042310492, ML042320379, and ML042330385). On the basis of the EA, the NRC has concluded that the environmental impacts from the action are expected to be insignificant and has determined not to prepare an environmental impact statement for the action.

##### IV. Further Information

Documents related to this action, including the application for the license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at <http://www.nrc.gov/reading-rm/adams.html>. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession numbers for the documents related to

this Notice are: The Environmental Assessment (ML042520538), and Letter dated July 12, 2004 transmitting Final Status Survey Report (ML041970459). Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR Reference staff by telephone at (800) 397-4209 or (301) 415-4737, or by e-mail to [pdr@nrc.gov](mailto:pdr@nrc.gov).

These documents may be viewed electronically at the NRC Public Document Room (PDR), O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. The PDR is open from 7:45 a.m. to 4:15 p.m., Monday through Friday, except on Federal holidays.

Dated at King of Prussia, Pennsylvania this 5th day of October, 2004.

For the Nuclear Regulatory Commission.

**John D. Kinneman,**

*Chief, Nuclear Materials Safety Branch 2, Division of Nuclear Materials Safety, Region I.*

[FR Doc. 04-23239 Filed 10-15-04; 8:45 am]

BILLING CODE 7590-01-P

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 154th meeting on October 19-21, 2004, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland. The Working Group Meeting scheduled for October 19, 2004 will be held in the NRC Auditorium.

The Working Group Chairman will state the Working Group Meeting (WGM) objectives and provide a technical session overview. Invited experts will also be introduced at this time. The purposes of the WGM are: (1) To develop the information necessary to provide a letter report to the Commission; (2) to understand the technical bases for the draft June 2004 ICRP recommendations; (3) to review these recommendations against current NRC regulations and practice; and (4) to identify aspects of the ICRP recommendations that may warrant further study.

The schedule for this meeting is as follows:

#### Tuesday, October 19, 2004—NRC Auditorium

*8:30 a.m.–8:40 a.m.: Opening Statement (Open)*—The ACNW

Chairman will open the meeting with brief opening remarks.

*8:40 a.m.–9:10 a.m.: NRC Staff Overview of June 2004 ICRP Recommendations (Open)*—The Committee will hear a presentation and hold a discussion with a representative of the NRC staff regarding an overview of the June 2004 draft ICRP recommendations.

*9:10 a.m.–10 a.m.: Biological Aspects of Radiation Protection (Open)*—The Committee will hear a presentation and hold a discussion with an expert familiar with the radiation biology foundations of the ICRP recommendations. The emphasis of this presentation is on the extension of previous knowledge based on ongoing studies of radiation exposure cohorts.

*10:15 a.m.–11:15 a.m.: Update on ICRP Recommendations regarding Quantities Used in Radiation Protection (Open)*—The Committee will hear a presentation and hold a discussion with a representative of ORNL regarding radiation and tissue weighting factors and applications of factors for external exposure. The focus of this presentation will be on the new values derived and what has changed significantly since 1990.

*11:15 a.m.–11:45 a.m.: Public Comments (Open)*—Attendees to be provided an opportunity to make comments relevant to the purposes and objectives of the Working Group.

*1 p.m.–3:30 p.m.: Individual Protection (Selection of Constraints) (Open)*—The Committee will hear presentations and hold discussions with the panel of representatives from the NRC staff, EPA, CRCPD and the Mayo Clinic focused on the draft ICRP recommendations regarding limits and constraints. This technical session will focus on selection of constraints and limits and how such selections have been implemented and developed in the radiation protection practices in the United States. The thrust of this panel will be a discussion as to whether the 2004 draft recommendations imply significant change.

*3 p.m.–3:30 p.m.: Public Comments (Open)*—Attendees to be provided an opportunity to make relevant comments consistent with the purposes and objectives of the Working Group.

*3:45 p.m.–5 p.m.: Optimization of Protection (Open)*—The Committee will hear presentations and hold discussions with a representative of the NRC staff and a member of the ACRS regarding the optimization of protection in the June 2004 draft ICRP recommendations and how these principles are related to the current practices of ALARA in NRC regulated activities.

*5 p.m.–5:30 p.m.: Public Comments (Open)*—Attendees to be provided an opportunity to make comments relevant to the purposes and objectives of the Working Group.

*5:30 p.m.–5:45 p.m.: Closing Comments (Open)*—The Working Group Chairman will summarize the results of the Working Group and discuss possible follow-up activities.

#### Wednesday, October 20, 2004

*10 a.m.–10:05 a.m.: Opening Statement (Open)*—The ACNW Chairman will make opening remarks regarding the conduct of today's sessions.

*10:05 a.m.–11:30 a.m.: Update on the Status of the License Termination Rule (LTR) (Open)*—The Committee will receive an update by a representative of the NRC staff on the status of activities involving the LTR.

*1 p.m.–2:30 p.m.: Consolidated Issue Resolution Status Report (Open)*—The Committee will receive an update from a representative of the NRC staff on the current status of the Consolidated Issue Resolution Status Report.

*2:30 p.m.–4:30 p.m.: ACNW 2005 Action Plan (Open)*—The ACNW Committee will continue its discussion of potential topics for inclusion in the 2005 Action Plan.

#### Thursday, October 21, 2004

*8:30 a.m.–8:35 a.m.: Opening Remarks by the ACNW Chairman (Open)*—The Chairman will make opening remarks regarding the conduct of today's sessions.

*8:35 a.m.–11:45 a.m.: Preparation of ACNW Reports (Open)*—The Committee will discuss potential ACNW reports on matters discussed during this meeting. It may also discuss possible reports on matters discussed during prior meetings.

*11:45 a.m.–12 Noon: Miscellaneous (Open)*—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on October 16, 2003 (68 FR 59643). In accordance with these procedures, oral or written statements may be presented by members of the public. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Persons desiring to make oral statements should notify Mr. Howard J. Larson, (Telephone 301-415-6805), between 7:30 a.m. and 4 p.m. e.t., as far in advance as

practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the ACNW office prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Mr. Howard J. Larson as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted, therefore can be obtained by contacting Mr. Howard J. Larson.

ACNW meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at [pdr@nrc.gov](mailto:pdr@nrc.gov), or by calling the PDR at 1-800-397-4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> or [http://www.nrc.gov/reading-rm/doc-collections/ACRS & ACNW Mtg schedules/agendas](http://www.nrc.gov/reading-rm/doc-collections/ACRS&ACNW_Mtg_schedules/agendas).

Video Teleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301-415-8066), between 7:30 a.m. and 3:45 p.m. e.t., at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the video teleconferencing link. The availability of video teleconferencing services is not guaranteed.

Dated: October 12, 2004.

**Andrew L. Bates,**

*Advisory Committee Management Officer.*

[FR Doc. 04-23235 Filed 10-15-04; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

### Advisory Committee on Nuclear Waste Meeting on Planning and Procedures; Notice of Meeting

The ACNW will hold a Planning and Procedures meeting on October 20, 2004, Room T-2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance, with the exception of a portion that may be closed pursuant to 5 U.S.C. 552b(c) (2) and (6) to discuss organizational and personnel matters that relate solely to internal personnel rules and practices of ACNW, and information the release of which would constitute a clearly unwarranted invasion of personal privacy.

The agenda for the subject meeting shall be as follows:

**Wednesday, October 20, 2004—8:30 a.m.—9:30 a.m.**

The Committee will discuss proposed ACNW activities and related matters. The purpose of this meeting is to gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official, Mr. Howard J. Larson (Telephone: 301/415-6805) between 7:30 a.m. and 4:15 p.m. (ET) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Electronic recordings will be permitted only during those portions of the meeting that are open to the public.

Further information regarding this meeting can be obtained by contacting the Designated Federal Official between 7:30 a.m. and 4:15 p.m. (ET). Persons planning to attend this meeting are urged to contact the above named individual at least two working days prior to the meeting to be advised of any potential changes in the agenda.

Dated: October 8, 2004.

**John H. Flack,**

*Acting Associate Director for Technical Support, ACRS/ACNW.*

[FR Doc. 04-23237 Filed 10-15-04; 8:45 am]

**BILLING CODE 7590-01-P**

## NUCLEAR REGULATORY COMMISSION

[NUREG/CR-6850]

### EPRI/NRC-RES Fire PRA Methodology for Nuclear Power Facilities, Draft for Comment

**AGENCY:** Nuclear Regulatory Commission (NRC).

**ACTION:** Notice of availability of "EPRI/NRC-RES Fire PRA Methodology for Nuclear Power Facilities, Draft Report for Comment," and request for public comment.

**SUMMARY:** The Nuclear Regulatory Commission (NRC) is announcing the availability of NUREG/CR-6850, "EPRI/NRC-RES Fire PRA Methodology for Nuclear Power Facilities Volume 1 and 2, Draft for Public Comment."

**DATES:** Comments on this document should be submitted by December 17, 2004. Comments received after that date will be considered to the extent practicable. To ensure efficient and complete comment resolution, comments should include references to the section, page, and line numbers of the document to which the comment applies, if possible.

**ADDRESSES:** Members of the public are invited and encouraged to submit written comments to Michael Lesar, Chief, Rules and Directives Branch, Office of Administration, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001. Hand-deliver comments attention to Michael Lesar, 11545 Rockville Pike, Rockville, MD, between 7:30 a.m. and 4:15 p.m. on Federal workdays. Comments may also be sent electronically to [NRCREP@nrc.gov](mailto:NRCREP@nrc.gov).

This document is available at the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site at <http://www.nrc.gov/reading-rm/adams.html> under Accession No. ML042800183 and ML042800196; on the NRC Web site at <http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment.html>; and at the NRC Public Document Room, 11555 Rockville Pike, Rockville, MD. The PDR's mailing address is USNRC PDR, Washington, DC 20555; telephone (301) 415-4737 or (800) 397-4205; fax (301) 415-3548; e-mail [PDR@NRC.GOV](mailto:PDR@NRC.GOV).

**FOR FURTHER INFORMATION, CONTACT:** J.S. Hyslop, Probability Risk Assessment Branch, Office of Nuclear Regulatory Research, telephone (301) 415-6354, e-mail [jsh2@nrc.gov](mailto:jsh2@nrc.gov), or Mark H. Salley, Probability Risk Assessment Branch,

Office of Nuclear Regulatory Research, telephone (301) 415-2840, e-mail [mxs3@nrc.gov](mailto:mxs3@nrc.gov).

**SUPPLEMENTARY INFORMATION:**

**Draft NUREG/CR-6850, "EPRI/NRC-RES Fire PRA Methodology for Nuclear Power Facilities"**

The purpose of EPRI/NRC-RES Fire PRA Methodology for Nuclear Power Facilities Draft Report for Comment (NUREG/CR-6850) is to provide state-of-the-art methods, tools, and data for the conduct of fire Probabilistic Risk Assessment (PRA). This methodology was developed under the program, the Fire Risk Requantification Study, which was conducted as a joint activity between EPRI and RES under the terms of an EPRI/RES Memorandum of Understanding on Cooperative Nuclear Safety Research and accompanying Fire Risk Addendum. Licensee applications and U.S. NRC review guidance with respect to many regulatory activities such as the risk-informed, performance-based fire protection rule (endorsing NFPA 805) will benefit for more robust methods. This research addresses the full breadth of FRA technical issues for power operations, and includes consideration of large early release frequency. The current scope excludes low power/shutdown operations, spent fuel pool accidents, sabotage, and PRA level 3 estimates of consequence. While the primary objective of the project was to consolidate existing research from EPRI and NRC in state-of-the-art methods, the newly documented methods represent a significant advancement in many areas over previously documented methods.

The NRC is seeking public comment in order to receive feedback from the widest range of interested parties and to ensure that all information relevant to developing this document is available to the NRC staff. This document is issued for comment only and is not intended for interim use. The NRC will review public comments received on the document, incorporate suggested changes as necessary, and issue the final NUREG/CR-6850 for use.

Dated at Rockville, MD, this 8th day of October 2004.

For the Nuclear Regulatory Commission.

**Mark A. Cunningham,**

*Acting Deputy Director, Division of Risk Analysis and Applications, Office of Nuclear Regulatory Research.*

[FR Doc. 04-23240 Filed 10-15-04; 8:45 am]

**BILLING CODE 7590-01-P**

**POSTAL RATE COMMISSION**

**Facility Tours**

**AGENCY:** Postal Rate Commission.

**ACTION:** Notice of Commission visit.

**SUMMARY:** Postal Rate Commissioners and staff members will tour mail preparation facilities located in the vicinity of East Hartford, Connecticut on November 4 and 5, 2004. The purpose is to familiarize attendees with various postal-related operations, including those related to barcoding and sorting First-Class Mail.

**DATES:** 1. November 4, 2004 (afternoon): PSI presentation/facility tour. 2. November 5, 2004 (morning): Pitney Bowes Tech Center tour; (afternoon): Pitney Bowes Management Services Mail Recovery Center tour.

**FOR FURTHER INFORMATION CONTACT:** Stephen L. Sharfman, General Counsel, 202-789-6818.

**Steven W. Williams,**  
*Secretary.*

[FR Doc. 04-23241 Filed 10-15-04; 8:45 am]

**BILLING CODE 7710-FW-M**

**SECURITIES AND EXCHANGE COMMISSION**

**Submission for OMB Review; Comment Request**

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

**Extension:**

Rule 53, SEC File No. 270-376, OMB Control No. 3235-0426; Rule 57 and Form U-33-S, SEC File No. 270-376, OMB Control No. 3235-0429.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collections of information discussed below.

Sections 32 and 33 of the Public Utility Holding Company Act of 1935, as amended ("Act"), and rules 53, 54, and 57(b) under the Act, permit, among other things, utility holding companies registered under the Act to make direct or indirect investments in exempt wholesale generators ("EWGs") and foreign utility companies ("FUCOs"), as defined in sections 32 and 33 of the Act, respectively, without the prior approval of the Commission, if certain conditions

are met. Rules 53 and 54 do not create a reporting burden for respondents. These rules do, however, contain recordkeeping and retention requirements. As required by Congress, the Commission mandates the maintenance of certain books and records identifying investments in and earnings from all subsidiary EWGs or FUCOs in order to measure their financial effect on the registered systems.

The Commission estimates that the total annual recordkeeping and record retention burden under rules 53 will be a total of 290 hours (10 hours per respondent x 29 respondents = 290 burden hours). It is estimated that there will be no burden hours associated with rule 54.

Under rule 57(b) there is an annual requirement for any public utility company that owns one or more FUCOs to file Form U-33-S. The information contained in Form U-33-S allows the Commission to monitor overseas investments by public utility companies.

The Commission estimates that the total annual reporting burden under rule 57(b) will be 18 hours (3 hours per respondent x 6 filings = 18 hours).

These estimates of average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules and forms.

Rules 53, 54, 57(b) each impose a mandatory recordkeeping requirement of this information collection. It is mandatory that qualifying companies provide the information required by rules 53, 54 and 57(b). There is no requirement to keep the information confidential because it is public information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or e-mail to: [David\\_Rostker@omb.eop.gov](mailto:David_Rostker@omb.eop.gov); and (ii) R. Corey Booth, Director/Chief Information Officer, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 8, 2004.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. E4-2662 Filed 10-15-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50511; File No. SR-Amex-2004-83]

### Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change Relating to Revisions to Amex Rules 1000 and 1000A

October 8, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on October 7, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and to approve the proposal, on an accelerated basis.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 1000, Commentary .03 and Amex Rule 1000A, Commentary .02.

Proposed new language is *italicized*; proposed deletions are in [brackets].

#### Rule 1000

##### Portfolio Depositary Receipts

(a)-(b) No change

\* \* \* Commentary

.01—.02 No change

.03 The Exchange may approve a series of Portfolio Depositary Receipts for listing and trading pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 provided each of the following criteria is satisfied:

(a) No change

(b) Index Methodology and Calculation. (i) The index underlying a series of Portfolio Depositary Receipts will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology; (ii) If the index is

maintained by a broker-dealer, the broker-dealer shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer, and (iii) The current index value will be disseminated every 15 seconds over the *consolidated tape* [Consolidated Tape Association's Network B].

(c)-(h) No change

.04—.08 No change

#### Rule 1000A

##### Index Fund Shares

(a)-(b) No change

\* \* \* Commentary

.01 No change

.02 The Exchange may approve a series of Index Fund Shares for listing pursuant to Rule 19b-4(e) under the Securities Exchange Act of 1934 provided each of the following criteria is satisfied:

(a) No change

(b) Index Methodology and Calculation. (i) The index underlying a series of Index Fund Shares will be calculated based on either the market capitalization, modified market capitalization, price, equal-dollar or modified equal-dollar weighting methodology; (ii) If the index is maintained by a broker-dealer, the broker-dealer shall erect a "fire wall" around the personnel who have access to information concerning changes and adjustments to the index and the index shall be calculated by a third party who is not a broker-dealer, and (iii) The current index value will be disseminated every 15 seconds over the *consolidated tape* [Consolidated Tape Association's Network B].

(c)-(i) No change

.03—.09 No change

#### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III 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 the Statutory Basis for, the Proposed Rule Change

##### 1. Purpose

Amex Rule 1000, Commentary .02 and Amex Rule 1000A, Commentary .03 provide generic listing standards for Portfolio Depositary Receipts ("PDRs") and Index Fund Shares ("IFSs"), respectively, to permit listing and trading of these securities pursuant to Rule 19b-4(e) under the Act.<sup>3</sup> Specifically, Amex Rule 1000, Commentary .03(b), and Amex Rule 1000A, Commentary .02(b) provide that the current index value for the index underlying a series of PDRs (in the case of Amex Rule 1000) and IFSs (in the case of Amex Rule 1000A) will be disseminated every 15 seconds over the Consolidated Tape Association's Network B. The Exchange proposes to change this requirement to provide that the underlying index values will be disseminated every 15 seconds over the consolidated tape. This proposed rule change is substantially similar to the generic listing standard relating to index value dissemination that is in place at the New York Stock Exchange ("NYSE"), which requires that underlying index values for Investment Company Units be disseminated over the "consolidated tape."<sup>4</sup> The Amex

<sup>3</sup> 17 CFR 240.19b-4(e). Rule 19b-4(e) provides that the listing and trading of a new derivative securities product by a self-regulatory organization shall not be deemed a proposed rule change, pursuant to paragraph (c)(1) of Rule 19b-4, if the Commission has approved, pursuant to Section 19(b) of the Act, the self-regulatory organization's trading rules, procedures and listing standards for the product class that would include the new derivative securities product and the self-regulatory organization has a surveillance program for the product class. See Securities Exchange Act Release No. 40761 (December 8, 1998), 63 FR 70952 (December 22, 1998).

<sup>4</sup> The NYSE's Rule 703.16 (B)(3) states in part: "If a series of Investment Company Units is listed for trading on the Exchange in reliance upon Rule 19b-4(e) under the Exchange Act, the current value of the underlying index must be disseminated every 15 seconds during trading hours over the consolidated tape." See Securities Exchange Act Release No. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000) (SR-NYSE-00-46). "Investment Company Units" is defined in NYSE Rule 703.16 to comprise the same securities that are covered by Amex Rule 1000 (PDRs) and Amex Rule 1000A (IFSs). Specifically, NYSE Rule 703.16 defines an "Investment Company Unit" as "a security that represents an interest in a registered investment company ("Investment Company") that could be organized as a unit investment trust, an open-end management investment company, or a similar entity." Amex Rule 1000 defines a PDR as (among other things) a security "that is based on a unit investment trust" and Amex Rule 1000A defines an IFS as a security "that is issued by an open-end management investment company." Telephone discussion between Marija Willen,

Continued

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

believes that the proposed rule change will provide additional flexibility in structuring IFSs or PDRs listed or traded pursuant to unlisted trading privileges under Rule 19b-4(e) by permitting the dissemination of underlying index values over any of the networks associated with the Consolidated Tape Association.

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>5</sup> in general, and with Section 6(b)(5) in particular,<sup>6</sup> in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

### B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

## III. 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. Comments may be submitted by any of the following methods:

### Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-Amex-2004-83 on the subject line.

### Paper Comments

- Send paper comments in triplicate to Jonathan G. Katz, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-0609.

Associate General Counsel, Amex, and Natasha Cowen, Attorney, Division of Market Regulation ("Division"), Commission, on October 7, 2004.

<sup>5</sup> 15 U.S.C. 78f(b).

<sup>6</sup> 15 U.S.C. 78f(b)(5).

All submissions should refer to File Number SR-Amex-2004-83. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). 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 also will be available for inspection and copying at the principal offices of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-Amex-2004-83 and should be submitted on or before November 8, 2004.

## IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.<sup>7</sup> In particular, the commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,<sup>8</sup> which requires that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national securities system, and protect investors and the public interest.

The Commission notes that the proposed rule change is similar to another proposed rule change that previously has been subject of a full comment period pursuant to Section 19b of the Act.<sup>9</sup> The Commission does

<sup>7</sup> In approving this proposal, the Commission has considered its impact of efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b). See Securities Exchange Act Release No. 43679 (December 5, 2000), 65 FR 77949 (December 13, 2000) (SR-NYSE-00-46).

not believe that proposed rule change raises any new regulatory issues.

Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,<sup>10</sup> for approving the proposed rule change prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**.

## V. Conclusion

*It is therefore ordered*, pursuant to Section 19(b)(2) of the Act,<sup>11</sup> that the proposed rule change (SR-Amex-2004-83), is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>12</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-2701 Filed 10-15-04; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50491; File No. SR-MSRB-2004-05]

### Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Municipal Securities Rulemaking Board To Offer New Historical Data Product

October 5, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 16, 2004, the Municipal Securities Rulemaking Board ("MSRB" or "Board") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the MSRB. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

#### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The MSRB proposes to offer a new transparency product containing historical trade data obtained through the MSRB's Transaction Reporting System (the "Historical Data Product"). The Historical Data Product will include information for each inter-dealer trade reported since January 24, 1995, and for

<sup>10</sup> 15 U.S.C. 78s(b)(2).

<sup>11</sup> *Id.*

<sup>12</sup> 17 CFR 200.30-3(a)(12).

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

each customer and inter-dealer trade reported since August 25, 1998, regardless of the number of times a particular issue traded (*i.e.*, the data will not be limited to “frequently traded” issues). The transaction information will be the same as that currently provided in the MSRB’s Comprehensive Transaction Report (“CT Report”), including the trade date, the CUSIP number of the issue traded, a short description of the issue, the size of the transaction (including the exact par amount reported to the MSRB on transactions in amounts greater than one million dollars), the time of trade as reported by the dealer, the price of the transaction, the dealer-reported yield (if any), and a designation as to whether the transaction is a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade.<sup>3</sup> The MSRB proposes to charge \$600 for a one-year collection of historical data to cover the administrative costs associated with providing this data. The Historical Data Product will be available, at the purchaser’s option, either on CD-ROM or by download over the Internet.

## 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 MSRB included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The MSRB has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

### A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

#### 1. Purpose

In October 2000, the MSRB began offering its Comprehensive Transaction Report to provide historical information on all municipal securities transactions that were effected from August 2000 forward. The information in the CT Report is a comprehensive listing of

<sup>3</sup> Currently, the CT Report is produced daily and provides historical transaction information on a one-week delayed basis. The information in the CT Report is derived from information submitted to the MSRB by brokers, dealers and municipal securities dealers pursuant to Rule G-14, on reports of sales and purchases, and each CT Report includes transactions reported by dealers as having been executed on a single day one week before the CT Report is produced. The MSRB will continue to produce the CT Report and will continue to offer it under its current subscription terms and rate.

trades derived from information that dealers are required to submit to the MSRB pursuant to Rule G-14, on reports of sales and purchases.<sup>4</sup> Prior MSRB transparency products provided information only on “frequently traded” issues—that is, issues in which multiple transactions occurred on a given trade date. Since the implementation of the first CT Report, the MSRB has enhanced the Report by making it available online and by making the data available more quickly after trade date.

The current CT Report is made available as a one-year subscription whereby data is delivered daily (with a one-week delay). The MSRB will continue to produce the CT Report on a one-week delayed basis with details about all transactions traded one-week prior, and will continue to offer it under its current subscription terms and rate. The proposed Historical Data Product would provide the same data as the CT Report but would make it available in another package; rather than having to subscribe to the CT Report, the Historical Data Product will enable a data user to make a one-time purchase of all available trade data for a specified time period in one-year increments. In contrast to the CT Report, the Historical Data Product will not provide a continuous (daily) stream of data and will not be available on a subscription basis. The MSRB proposes to charge \$600 for a one-year collection of historical data to cover the administrative costs associated with providing this data. The Historical Data Product will be available, at the purchaser’s option, either on CD-ROM or by download over the Internet.

#### 2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with section 15B(b)(2)(C) of the Act,<sup>5</sup> which requires that the rules of the MSRB shall “be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and

<sup>4</sup> Rule G-14 requires dealers to, among other things, report all inter-dealer and customer transactions in municipal securities to the MSRB by midnight of trade date. The CT Report contains both trades reported within this deadline as well as trades reported late or corrected by dealers after the initial report. The data elements included for each trade are the trade date, the CUSIP number of the issue traded, a short description of the issue, the size of the transaction (including the exact par amount reported to the MSRB on transactions in amounts greater than one million dollars), the time of trade as reported by the dealer, the price of the transaction, the dealer-reported yield (if any), and a designation as to whether the transaction is a sale by a dealer to a customer, a purchase from a customer, or an inter-dealer trade.

<sup>5</sup> 15 U.S.C. 78o-4(b)(2)(C).

coordination with persons engaged in regulating \* \* \* transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest \* \* \*<sup>6</sup> The MSRB has a long-standing policy to increase price transparency in the municipal securities market, with the ultimate goal of disseminating comprehensive and contemporaneous pricing data. Since 1995, the Board has expanded the scope of its public transparency reports in several steps, and each step has provided industry participants and the public with more information about municipal securities transactions. By providing more information on infrequently traded issues, the Historical Data Product represents another step in the Board’s efforts to increase transparency and facilitate the fair pricing of municipal securities transactions. The MSRB encourages the redistribution of the data contained in the Historical Data Product and believes that achieving the widest possible dissemination of transaction information will help ensure the fairest and most accurate pricing of municipal securities transactions.

### B. Self-Regulatory Organization’s Statement on Burden on Competition

The MSRB does not believe that the proposed rule change will result in any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

### C. Self-Regulatory Organization’s Statement on Comments Received From Members, Participants, or Others

Written comments were neither solicited nor received.

### Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

<sup>6</sup> *Id.*

#### 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. Comments may be submitted by any of the following methods:

##### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-MSRB-2004-05 on the subject line.

##### *Paper Comments*

- Send 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 Number SR-MSRB-2004-05. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the MSRB's offices. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-MSRB-2004-05 and should be submitted on or before November 8, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>7</sup>

**Margaret H. McFarland,**  
*Deputy Secretary.*

[FR Doc. E4-2703 Filed 10-15-04; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>7</sup> 17 CFR 200.30-3(a)(12).

#### SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-50518; File No. SR-OCC-2004-16]

#### Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Approved Depositories

October 12, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> notice is hereby given that on September 20, 2004, The Options Clearing Corporation ("OCC") 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 OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

##### **I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The proposed rule change amends the definition of the term "approved depositories"<sup>2</sup> to give the authority to approve depositories to designated officers.

##### **II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.<sup>3</sup>

##### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

The purpose of the proposed rule change is to permit the Chairman, the Management Vice Chairman, or the President of OCC to approve depositories which may hold

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> As modified, Article I, Section 1.A. (12) of OCC's By-Laws states, "the term 'approved depository' means a bank or trust company approved by the Chairman, the Management Vice Chairman or the President."

<sup>3</sup> The Commission has modified parts of these statements.

Government or other securities pledged by clearing members to meet their clearing fund and margin requirements. The rule change will avoid unnecessarily burdening the Board of Directors in the future and will permit more timely decisionmaking on whether a new depository should be an approved depository in response to requests by clearing members or prospective depositories.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act, as amended, because they are designed to assure the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

##### *(B) Self-Regulatory Organization's Statement on Burden on Competition*

OCC does not believe that the proposed rule change would impose any burden on competition.

##### *(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received.

#### **III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act<sup>4</sup> and Rule 19b-4(f)(4)<sup>5</sup> promulgated thereunder because the proposal effects a change in an existing service of OCC that (A) does not adversely affect the safeguarding of securities or funds in the custody or control of OCC or for which it is responsible and (B) does not significantly affect the respective rights or obligations of OCC or persons using the service. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

#### **IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

<sup>4</sup> 15 U.S.C. 78s(b)(3)(A)(iii).

<sup>5</sup> 17 CFR 240.19b-4(f)(4).

Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>) or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-OCC-2004-16 on the subject line.

*Paper Comments*

- Send 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 Number SR-OCC-2004-16. 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, please use only one method. The Commission will post all comments on the Commission's Internet web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC and on OCC's Web site at [www.optionsclearing.com](http://www.optionsclearing.com). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-OCC-2004-16 and should be submitted on or before November 8, 2004.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.<sup>6</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-2700 Filed 10-15-04; 8:45 am]

**BILLING CODE 8010-01-P**

<sup>6</sup> 17 CFR 200.30-3(a)(12).

**SECURITIES AND EXCHANGE COMMISSION**

[Release No. 34-50508; File No. SR-PCX-2004-86]

**Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Require Financial/Operations Principals of PCX OTP Firms To Successfully Complete the Series 27 Examination**

October 8, 2004.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),<sup>1</sup> and Rule 19b-4 thereunder,<sup>2</sup> notice is hereby given that on September 30, 2004, the Pacific Exchange, Inc. ("PCX" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. PCX filed this proposal pursuant to Section 19(b)(3)(A)<sup>3</sup> of the Act and Rule 19b-4(f)(6)<sup>4</sup> thereunder, which renders the proposal effective upon filing with the Commission.<sup>5</sup> The Commission is publishing this notice to solicit comments on the proposed rule change, from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The PCX is proposing to amend PCX Rule 4.5(a) to require all financial/operations principals of PCX OTP Firms to successfully complete the National Association of Securities Dealers, Inc.'s Limited Principal—Financial and Operations examination ("Series 27 Examination"). The text of the proposed rule change is below. Proposed new language is in italics; proposed deletions are in brackets.

3723 Reports To Be Filed by Certain OTP Holders and OTP Firms

Rule 4.5(a). Unless the Exchange determines otherwise, every OTP Holder or OTP Firm, except as otherwise provided in Rule 4.7, shall file with the Exchange the reports prescribed by this Section. *Each OTP Holder or OTP Firm subject to Exchange Act Rule 15c3-1 shall designate a Financial/Operations Principal. The*

<sup>1</sup> 15 U.S.C. 78s(b)(1).

<sup>2</sup> 17 CFR 240.19b-4.

<sup>3</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>4</sup> 17 CFR 240.19b-4(f)(6).

<sup>5</sup> The PCX provided the Commission with written notice of its intent to file this proposed rule on September 15, 2004. See September 15, 2004 letter from Steven B. Matlin, Regulatory Policy, PCX, to Nancy J. Sanow, Assistant Director, Division of Market Regulation, Commission.

*duties of a Financial/Operations Principal shall include taking appropriate actions to assure that the OTP Holder or OTP Firm complies with applicable financial and operational requirements under the Rules and the Exchange Act, including but not limited to those requirements relating to the submission of financial reports and the maintenance of books and records. Each Financial/Operations Principal is required to successfully complete the Financial and Operations Principal Examination (Series 27 Exam). Each Financial/Operations Principal designated by an OTP Holder or OTP Firm shall be registered in that capacity with the Exchange in a form and manner prescribed by the Exchange. A Financial/Operations Principal of an OTP Holder or OTP Firm may be a full-time employee of the OTP Holder or OTP Firm, or with the prior written approval of the Exchange, may be a part-time employee or independent contractor of the OTP Holder or OTP Firm. All OTP Holders and OTP Firms shall be in compliance with this Rule by March 31, 2005.*

Rule 4.5(b)-(f)—No Change.

\* \* \* \* \*

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the PCX included statements concerning the purpose of and basis for its proposal and discussed any comments it received regarding the proposal. The text of these statements may be examined at the places specified in Item IV below. The PCX has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange is proposing to amend PCX Rule 4.5(a) to require all financial/operations principals of PCX OTP Firms to successfully complete the Series 27 Examination. PCX believes that requiring these individuals to successfully complete the Series 27 Examination will ensure that those individuals who prepare the financial statements for PCX OTP Firms will be sufficiently qualified to prepare such statements. PCX also believes that it will also bring the PCX qualifications to perform such functions up to date with

the requirements of other self-regulatory organizations.<sup>6</sup>

## 2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act<sup>7</sup> in general, and furthers the objectives of Section 6(b)(5) of the Act<sup>8</sup> in particular, because 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 facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

### *B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

Written comments on the proposed rule change were neither solicited nor received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not:

- (i) Significantly affect the protection of investors or the public interest;
- (ii) impose any significant burden on competition; and
- (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act<sup>9</sup> and Rule 19b-4(f)(6) thereunder.<sup>10</sup> At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

<sup>6</sup> See, e.g., Chicago Board Options Exchange Rule 3.6A.(a) Financial/Operations Principal.

<sup>7</sup> 15 U.S.C. 78f(b).

<sup>8</sup> 15 U.S.C. 78f(b)(5).

<sup>9</sup> 15 U.S.C. 78s(b)(3)(A).

<sup>10</sup> 17 CFR 240.19b-4(f)(6).

## 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. Comments may be submitted by any of the following methods:

### *Electronic Comments*

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to [rule-comments@sec.gov](mailto:rule-comments@sec.gov). Please include File Number SR-PCX-2004-86 on the subject line.

### *Paper Comments*

- Send 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 Number SR-PCX-2004-86. 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, please use only one method. The Commission will post all comments on the Commission's Internet Web site (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the PCX. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR-PCX-2004-86 and should be submitted on or before November 8, 2004.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.<sup>11</sup>

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. E4-2702 Filed 10-15-04; 8:45 am]

BILLING CODE 8010-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3620]

#### State of Florida; Amendment #5

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective October 4, 2004, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to December 11, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is June 6, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23273 Filed 10-15-04; 8:45 am]

BILLING CODE 8025-01-P

## SMALL BUSINESS ADMINISTRATION

### [Declaration of Disaster #3615]

#### State of Florida; Amendment #3

In accordance with a notice received from the Department of Homeland Security—Federal Emergency Management Agency—effective October 3, 2004, the above numbered declaration is hereby amended to extend the deadline for filing applications for physical damages as a result of this disaster to December 11, 2004.

All other information remains the same, *i.e.*, the deadline for filing applications for economic injury is May 13, 2005.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23274 Filed 10-15-04; 8:45 am]

BILLING CODE 8025-01-P

<sup>11</sup> 17 CFR 200.30-3(a)(12).

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #P064]**

**State of Kansas**

As a result of the President's major disaster declaration for Public Assistance on September 30, 2004, the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a governmental nature. I find that Douglas and Wyandotte Counties in the State of Kansas constitute a disaster area due to damages caused by severe storms, flooding and tornadoes occurring on August 27-30, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 29, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 3 Office, 14925 Kingsport Road, Fort Worth, TX 76155-2243.

The interest rates are:

	Percent
For Physical Damage:	
Non-profit organizations without credit available elsewhere .....	2.900
Non-profit organizations with credit available elsewhere .....	4.875

The number assigned to this disaster for physical damage is P06406.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: October 8, 2004.

**Cheri L. Cannon,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23277 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3639]**

**State of Minnesota**

As a result of the President's major disaster declaration on October 7, 2004, I find that Dodge, Faribault, Freeborn, Mower, and Steele Counties in the State of Minnesota constitute a disaster area due to damages caused by severe storms and flooding occurring on September 14, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 6, 2004 and for economic injury until the close of business on July 7, 2005 at the address listed below or other locally announced locations: Small Business Administration, Disaster Area 2 Office,

One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Blue Earth, Fillmore, Goodhue, Martin, Olmstead, Rice, and Waseca in the State of Minnesota; and Howard, Kossuth, Mitchell, Winnebago, and Worth Counties in the State of Iowa.

Dodge, Faribault, Freeborn, Mower, and Steele Counties in the State of Minnesota are also eligible under Public Assistance and our disaster loan program is available for private non-profit organizations that provide essential services of a governmental nature in those counties.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere, .....	6.375
Homeowners without credit available elsewhere, .....	3.187
Businesses with credit available elsewhere, .....	5.800
Businesses and non-profit organizations without credit available elsewhere, .....	2.900
Others (including non-profit organizations) with credit available elsewhere, .....	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere, ....	2.900

The number assigned to this disaster for physical damage is 363906. For economic injury the number is 9AE800 for Minnesota; and 9AE900 for Iowa. The Public Assistance number assigned to Minnesota is P06606.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23275 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #P065]**

**State of New York**

As a result of the President's major disaster declaration for Public Assistance on October 1, 2004 the U.S. Small Business Administration is activating its disaster loan program only for private non-profit organizations that provide essential services of a

governmental nature. I find that Allegany, Broome, Columbia, Delaware, Monroe, Onondaga, Steuben, Sullivan, Ulster, and Warren Counties in the State of New York constitute a disaster area due to damages caused by severe storms and flooding occurring on August 29, 2004 and continuing through September 16, 2004. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on November 30, 2004 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 1 Office, 360 Rainbow Blvd., South, 3rd Floor, Niagara Falls, NY 14303.

The interest rates are:

	Percent
For Physical Damage:	
Non-profit organizations without credit available elsewhere .....	2.900
Non-profit organizations with credit available elsewhere .....	4.875

The number assigned to this disaster for physical damage is P06506.

(Catalog of Federal Domestic Assistance Program Nos. 59008)

Dated: October 8, 2004.

**Cheri L. Cannon,**

*Acting Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23278 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**[Declaration of Disaster #3638]**

**State of South Carolina**

As a result of the President's major disaster declaration on October 7, 2004, I find that Calhoun, Cherokee, Chester, Chesterfield, Clarendon, Darlington, Dillon, Fairfield, Florence, Greenville, Horry, Kershaw, Lancaster, Lee, Lexington, Marion, Marlboro, Newberry, Oconee, Pickens, Richland, Spartanburg, Sumter, Williamsburg, and York Counties in the State of South Carolina constitute a disaster area due to damages caused by Tropical Storm Frances occurring on September 6, 2004, and continuing. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 6, 2004 and for economic injury until the close of business on July 7, 2005 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

In addition, applications for economic injury loans from small businesses located in the following contiguous counties may be filed until the specified date at the above location: Abbeville, Aiken, Anderson, Berkeley, Georgetown, Greenwood, Laurens, Orangeburg, Saluda and Union in the State of South Carolina; Franklin, Habersham, Hart, Rabun, and Stephens Counties in the State of Georgia; Anson, Brunswick, Cleveland, Columbus, Gaston, Henderson, Jackson, Macon, Mecklenburg, Polk, Richmond, Robeson, Rutherford, Scotland, Transylvania, and Union Counties in the State of North Carolina.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere .....	6.375
Homeowners without credit available elsewhere .....	3.187
Businesses with credit available elsewhere .....	5.800
Businesses and non-profit organizations without credit available elsewhere .....	2.900
Others (including non-profit organizations) with credit available elsewhere .....	4.875
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere .....	2.900

The number assigned to this disaster for physical damage is 363808. For economic injury the number is 9AE500 for South Carolina; 9AE600 for Georgia; and 9AE700 for North Carolina.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 12, 2004.

**Herbert L. Mitchell,**

*Associate Administrator for Disaster Assistance.*

[FR Doc. 04-23276 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**Small Business Size Standards: Waiver of the Nonmanufacturer Rule**

**AGENCY:** Small Business Administration.

**ACTION:** Notice of intent to waive the Nonmanufacturer Rule for Small Arms Ammunition Manufacturing.

**SUMMARY:** The Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for Small Arms Ammunition Manufacturing. The basis for waivers is that no small business manufacturers are supplying these

classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA's 8(a) Business Development Program.

**DATES:** Comments and sources must be submitted on or before November 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by e-mail at *edith.butler@sba.gov*.

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product.

This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406 (b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code established by the Federal Procurement Data System.

The SBA received a request on September 7, 2004 to waive the Nonmanufacturer Rule for Small Arms Ammunition Manufacturing. In response, SBA is currently processing a request to waive the Nonmanufacturer Rule for Small Arms Ammunition Manufacturing, North American Industry Classification System (NAICS) 332992. The public is invited to comment or provide source information to SBA on the proposed waiver of the

nonmanufacturer rule for this NAICS code.

**Authority:** 15 U.S.C. 637(a)(17).

**Emily Murphy,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 04-23270 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

**SMALL BUSINESS ADMINISTRATION**

**Small Business Size Standards: Waiver of the Nonmanufacturer Rule**

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of intent to waive the Nonmanufacturer Rule for General Aviation Turboprop Aircraft With Six Or More Passenger Seats.

**SUMMARY:** The U. S. Small Business Administration (SBA) is considering granting a waiver of the Nonmanufacturer Rule for General Aviation Turboprop Aircraft With Six Or More Passenger Seats. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA's 8(a) Business Development Program.

**DATES:** Comments and sources must be submitted on or before November 5, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by email at *edith.butler@sba.gov*.

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product.

This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code established by the Federal Procurement Data System.

The SBA received a request on September 7, 2004 to waive the Nonmanufacturer Rule for General Aviation Turboprop Aircraft With Six Or More Passenger Seats. In response, SBA is currently processing a request to waive the Nonmanufacturer Rule for General Aviation Turboprop Aircraft With Six Or More Passenger Seats, North American Industry Classification System (NAICS) 336411. The public is invited to comment or provide source information to SBA on the proposed waiver of the nonmanufacturer rule for this NAICS code.

**Authority:** 15 U.S.C. 637(a)(17).

**Emily Murphy,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 04-23271 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

## SMALL BUSINESS ADMINISTRATION

### Small Business Size Standards: Waiver of the Nonmanufacturer Rule

**AGENCY:** U.S. Small Business Administration.

**ACTION:** Notice of Waiver of the Nonmanufacturer Rule for Miscellaneous Electrical Equipment and Components Manufacturing.

**SUMMARY:** The U.S. Small Business Administration (SBA) is granting a waiver of the Nonmanufacturer Rule for Miscellaneous Electrical Equipment and Components Manufacturing. The basis for waivers is that no small business manufacturers are supplying these classes of products to the Federal government. The effect of a waiver would be to allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses or awarded through the SBA's 8(a) Business Development Program.

**DATES:** This waiver is effective November 2, 2004.

**FOR FURTHER INFORMATION CONTACT:** Edith Butler, Program Analyst, by telephone at (202) 619-0422; by FAX at (202) 481-1788; or by email at *edith.butler@sba.gov*.

**SUPPLEMENTARY INFORMATION:** Section 8(a)(17) of the Small Business Act, (Act) 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any "class of products" for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1204, in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines "class of products" based on six digit coding systems. The first coding system is the Office of Management and Budget North American Industry Classification System (NAICS). The second is the Product and Service Code established by the Federal Procurement Data System.

The SBA received a request on June 29, 2004 to waive the Nonmanufacturer Rule for Miscellaneous Electrical Equipment and Components Manufacturing. In response, on July 28, 2004, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Miscellaneous Electrical Equipment and Components Manufacturing, North American Industry Classification System (NAICS) 335999.

SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to this notice, comments were received from interested parties. SBA has determined from these sources that there are no small business manufacturers of this class of products, and is therefore granting the waiver of the Nonmanufacturer Rule for

Miscellaneous Electrical Equipment and Components Manufacturing, NAICS 335999.

**Authority:** 15 U.S.C. 637(a)(17).

Dated: October 8, 2004.

**Emily Murphy,**

*Acting Associate Administrator for Government Contracting.*

[FR Doc. 04-23272 Filed 10-15-04; 8:45 am]

**BILLING CODE 8025-01-P**

## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

#### Notice on the Role of Air Charter Brokers in Arranging Air Transportation

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Notice on the role of air charter brokers in arranging air transportation.

**SUMMARY:** The Department is publishing the following notice to provide guidance to the aviation industry on the permissible role of air charter brokers in the provision of air transportation.

**FOR FURTHER INFORMATION CONTACT:** Dayton Lehman, Jr., Deputy Assistant General Counsel, or Jonathan Dols, Senior Attorney, Office of Aviation Enforcement and Proceedings (C-70), 400 7th Street, SW., Washington, DC 20590, (202) 366-9349.

#### Notice

The purpose of this notice is to provide guidance regarding the lawful role of air charter brokers (*i.e.*, entities, including persons, that link prospective charter customers with direct air carriers) in the provision of air transportation.<sup>1</sup> This guidance will be used by the Office of the Assistant General Counsel for Aviation Enforcement and Proceedings (Enforcement Office) in its compliance and enforcement activities associated with 49 U.S.C. 41101 and 41301, which establish the certificate and permit requirements for U.S. and foreign air carriers, respectively, and 49 U.S.C. 41712, which prohibits unfair and deceptive practices.

In order to hold out or otherwise engage in air transportation, either directly or indirectly, as a common carrier, a person is required to hold economic authority from the Department of Transportation pursuant to 49 U.S.C. 41101 or 41301, or an exemption from those provisions, such as that provided to air taxis under 14

<sup>1</sup> This notice does not apply to activities that are permitted under 14 CFR parts 296, 297, or 380.

CFR part 298, to certain indirect air carriers functioning as public charter operators pursuant to 14 CFR part 380, or to air freight forwarders pursuant to 14 CFR parts 296 and 297. (This economic authority is in addition to any safety authority necessary under applicable Federal Aviation Administration requirements.) Therefore, air charter brokers without appropriate economic authority may not hold out air transportation in their own right or enter as principals into contracts with customers to provide air transportation.<sup>2</sup> Rather, in entering into contracts to provide air transportation, these air charter brokers must act either as an agent of the direct air carrier or of the customer.<sup>3</sup>

The Enforcement Office has become aware that there are air charter brokers not holding economic authority from the Department who solicit and contract directly with a charter customer for air transportation and then solicit and separately contract directly with a direct air carrier to operate the air service promised to the charter customer under the charter broker's contract with that customer. With respect to payment for the proffered air transportation, two separate transactions commonly occur: (1) The air charter broker collects all of the monies paid by the charter customer pursuant to the broker's contract with the customer, and (2) the air charter broker then turns over a portion of these monies to the direct air carrier pursuant to the broker's separate contract with the carrier. In such instances, the air charter broker is not acting as an agent for the operating carrier or for the charter customer. Rather, the air charter broker is acting as a principal in both transactions, and, with respect to its relationship with the customer, is engaged in air transportation as an indirect air carrier without economic authority in contravention of the

<sup>2</sup> Under Department enforcement case precedent, violations of 49 U.S.C. 41101 and 41301 and the Department's licensing requirements constitute unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. 41712. See, e.g., *DB Air, Ltd.*, Violations of 49 U.S.C. 41101 and 41712, Order 2004-2-21 (Feb. 23, 2004); *Trans National Travel, Inc.*, Violations of the Public Charter Rules, 49 U.S.C. 41101 and 49 U.S.C. 41712, Order 94-8-17 (Aug. 12, 1994). Pursuant to 49 U.S.C. 46301, violations of these statutory provisions subject violators to the assessment of civil penalties of up to \$25,000 for each violation and \$25,000 for each day each such violation continues. The maximum amount is \$2,500 per violation per day for individuals or an entity that is a "small business" as defined in 15 U.S.C. 632.

<sup>3</sup> A broker would not be considered to be engaging in air transportation and thus would not need to be acting as an agent where, for example, it did not hold out air transportation and merely arranged for the charterer to sign a contract for air transportation directly with the airline.

statutory and Department licensing requirements described above.

In addition, the Enforcement Office has recently learned that certain air charter brokers that lack economic authority have arrangements with licensed air carriers, in which the brokers hold out in their own right and, as principals, sell charter flights on aircraft that they own or lease and have had placed on the operating certificates of the licensed carriers. In such situations, the Department has found that, to the extent that a direct air carrier knows or has reason to know of the broker's unlawful conduct, the direct air carrier is also engaged in an unfair and deceptive practice or unfair method of competition in violation of 49 U.S.C. 41712.<sup>4</sup> However, we recognize that air charter brokers can provide important public benefits in connection with air transportation, particularly when, akin to public charter operators, they assume the economic risk of such service and are also involved in purchasing and funding the operation of aircraft by certificated carriers. We note that this notice does not preclude brokers from seeking from the Department exemption authority that could permit them to offer services directly to the public in their own right, subject to their implementation of necessary consumer safeguards.

The Enforcement Office is particularly concerned about the unlawful practices described above pertaining to brokers that lack economic authority because they bypass the protections put in place by the Department to afford the public a measure of financial protection where charter flights are involved. In this regard, with respect to traditional single-entity charters using large aircraft,<sup>5</sup> section 212.8 of the

<sup>4</sup> See, e.g., *Frontier Airlines, Inc.*, Violations of 49 U.S.C. 41712 and 14 CFR part 212, Order 2004-8-19 (Aug. 18, 2004); *Miami Air International, Inc.*, Violations of 49 U.S.C. 41712, Order 2004-4-15 (Apr. 20, 2004); *Ryan International Airlines, Inc.*, Violations of 49 U.S.C. 41712 and 14 CFR part 212, Order 2003-12-15 (Dec. 15, 2003). We note that, pursuant to 14 CFR 212.3(d), a direct air carrier "must make a reasonable effort to verify that any charterer with which it contracts, and any charter it conducts, meets the applicable requirements of this chapter."

<sup>5</sup> A "large aircraft" means any aircraft designed to have a maximum passenger capacity of more than 60 seats or a maximum payload capacity of more than 18,000 pounds. 14 CFR 298.2. The Department and the Civil Aeronautics Board, which held jurisdiction over aviation licensing matters prior to the Department, have consistently used an aircraft's original design capacity as the test for determining whether an aircraft met this definition, rather than the number of seats or the payload capacity that the aircraft is configured to hold. Order 2003-7-7, issued July 7, 2003; Order 2002-9-4, issued September 5, 2002; See also Part 298 Weight Limitation Investigation, 60 CAB 142, 143 (1972); 44 FR 30081 (May 24, 1979).

Department's rules (14 CFR 212.8) requires a direct air carrier that engages in charter air transportation to maintain a bond, in an unlimited amount, to guarantee performance of all charter flights for which it has contracted, or to maintain an escrow account into which it must deposit immediately all payments received for charter flights until after the flight has been operated.<sup>6</sup> Where an air charter broker is the principal in the transaction with a charter customer and receives payment directly, its actions are not only unlawful, but also create the type of unacceptable risk to the public's funds that the economic licensing requirements of 49 U.S.C. 41101 and the Department's regulations, when followed, are designed to preclude.

Moreover, such arrangements by air charter brokers that do not hold economic authority from the Department also violate specific Department regulations designed to protect the public in other respects from unfair and deceptive practices and unfair methods of competition in violation of 49 U.S.C. 41712. In this regard, air charter brokers are ticket agents pursuant to 49 U.S.C. 40102(a)(40), which defines a ticket agent as a person, other than a carrier or its employee, who, "as a principal or agent sells, offers for sale, negotiates for, or holds itself out as selling, providing, or arranging for air transportation." Various provisions of 14 CFR part 399 state that the Department will regard it to be an unfair and deceptive practice or unfair method of competition for a ticket agent, among other things, to create the false impression that it is an air carrier, to advertise in certain ways that confuse the traveling public with respect to a ticket agent's status, and to enter into a contract for air transportation with a customer without first obtaining a binding commitment with an air carrier to perform the promised air transportation.<sup>7</sup> Accordingly, any advertising by an air charter broker without economic authority should clearly convey the fact that the broker is not a direct air carrier and that the air service advertised will be provided by a properly licensed carrier.<sup>8</sup>

<sup>6</sup> Similar protections exist for public charter flights, where the authorized indirect air carrier is required to have a bond or other security arrangement and to escrow payments from charter participants until payment is made to the direct air carrier's own escrow account. 14 CFR 380.34.

<sup>7</sup> 14 CFR 399.80(a), (b) and (j), respectively.

<sup>8</sup> Arrangements in which the air charter broker markets its own aircraft that it has paid a direct air carrier to place on the air carrier's operations specifications have raised issues when the broker seeks to use its livery on the aircraft. Bearing in

Although the proscriptions on deceptive and anticompetitive conduct found in Part 399 are written in general terms, at a minimum, air charter brokers without economic authority (or other ticket agents for that matter) should take care not to hold out as "airlines," "air carriers," "operators," "airways," or in any other way likely to create the false impression that they are direct air carriers in their own right. Toward this end, such entities should not refer to an aircraft used in the air services that they are marketing in a manner that conveys the false impression that they are an air carrier or the operator of the air transportation (e.g., "our fleet," or "our charters," "our charter service," "our jet operators," or "we operate a fleet of").

In the course of several recent enforcement investigations, the Enforcement Office has also become aware of the use of air charter brokers by operators of commercial service with large aircraft operated pursuant to 14 CFR part 125. Such operators may not hold out or provide air transportation to the public for compensation or hire, directly or indirectly through third parties.<sup>9</sup> Therefore, air charter brokers who offer transportation services to the public, regardless of whether they hold economic authority in their own right, may not act as an agent of a Part 125 operator with respect to the provision of air transportation. Such actions may be unfair and deceptive practices and unfair methods of competition on the part of the air charter broker, in violation of 49 U.S.C. 41712, and would subject the Part 125 operator to enforcement action for unlawfully engaging in common carriage.

Another area of interest regarding the relationship between Part 125 carriers and air charter brokers that has recently come to our attention involves the use of so-called Internet "bid bonds." The Enforcement Office understands that some air charter brokers, who often style themselves as "charter managers" or "logistics companies," manage the

mind the prohibition in 14 CFR 399.80(b) on a ticket agent displaying its name on aircraft in a manner that may mislead or confuse the traveling public as to the agency status of the ticket agent, the Enforcement Office has reviewed such matters on a case-by-case basis and has generally declined to take enforcement action where the name of the carrier is also displayed prominently on the aircraft and consumers are not otherwise misled into believing that the ticket agent is an airline.

<sup>9</sup> See, e.g., Premier Aircraft Management, Inc., Violations of 49 U.S.C. 41101 and 41712 and 14 CFR Part 375, Order 2004-5-11 (May 13, 2004); SportsJet, LLC, Violations of 49 U.S.C. 41101 and 41712, Order 2003-12-23 (Dec. 29, 2003). In addition, 14 CFR 125.11(b) provides that "[n]o certificate holder may conduct any operation which results directly or indirectly from any person's holding out to the public to furnish transportation."

transportation of cargo for the major auto manufacturers, as well as scores of other customers,<sup>10</sup> who may be the actual shippers of goods or air freight forwarders. These charter managers conduct business through an Internet bid-quote solicitation system that allows subscribing air carriers and Part 125 operators to see and bid on the transportation needed. With respect to such computerized bidding processes, a Part 125 carrier could contract with customers through the charter manager, with the charter manager being an agent for the customers to be served, so long as either (1) the charter manager represents only a few customers or (2) the contracts signed by the Part 125 carrier with the charter manager as agent are specific as to only a small number of delineated customers with whom the Part 125 carrier is dedicated to contracting.<sup>11</sup> The Enforcement Office would likely investigate for unlawful common carriage any situation where the number of different customers whose trips the Part 125 carrier bid on, or with whom the Part 125 carrier contracted through the charter manager, exceeded three.<sup>12</sup>

If there are any questions regarding this notice, please contact Dayton Lehman, Deputy Assistant General Counsel, or Jonathan Dols, Senior Attorney, Office of Aviation Enforcement and Proceedings (C-70),

<sup>10</sup> We understand that some charter managers may manage air services for up to 200 separate customers.

<sup>11</sup> A Part 125 carrier may only contract to transport goods through a charter manager if the charter manager is acting legally as the agent of the customer. A Part 125 carrier may not enter into a contract with a charter manager in which the Part 125 carrier's obligation is to the charter manager (not the customer) to perform the transportation and the charter manager has a separate agreement to provide the customer air transportation. This is the case because, if the charter manager is not acting as the lawful agent of the customer in its contract with an air carrier, it would be acting either as a direct air carrier, in effect sub-servicing the operation (some charter managers do, in fact, hold authority as direct air carriers), or as an indirect air carrier, i.e., freight forwarder, pursuant to 14 CFR Part 296. A Part 125 carrier can never lawfully carry the traffic of an air carrier (Part 135 or 121) or a freight forwarder since such transportation clearly would be in common carriage. Indeed, we would view seriously the actions of any charter manager acting as a direct or indirect air carrier that contracted in such a manner with a Part 125 carrier. Such actions could, at a minimum, constitute an unfair and deceptive practice and unfair method of competition in violation of 49 U.S.C. 41712.

<sup>12</sup> Presuming the Part 125 carrier signs a contract with a charter manager/agent representing three customers, the carrier should not participate in any other bid quote solicitation system operated by another charter manager/agent unless doing so involved only bidding on and operating trips for the same three customers. To do so would likely trigger an investigation by the Enforcement Office to determine whether the carrier is engaging in common carriage.

400 7th Street, SW., Washington, DC 20590, (202) 366-9349.

An electronic version of this document is available on the World Wide Web at <http://dms.dot.gov>

Dated: October 8, 2004.

**Samuel Podberesky,**

*Assistant General Counsel for Aviation Enforcement and Proceedings.*

[FR Doc. 04-23268 Filed 10-15-04; 8:45 am]

**BILLING CODE 4910-62-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

[Summary Notice No. PE-2004-78]

#### Petitions for Exemption; Dispositions of Petitions Issued

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

**ACTION:** Notice of dispositions of prior petitions.

**SUMMARY:** Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain dispositions of certain petitions previously received. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities.

**FOR FURTHER INFORMATION CONTACT:** Tim Adams (202) 267-8033, or Sandy Buchanan-Sumter (202) 267-7271, Office of Rulemaking (ARM-1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91.

Issued in Washington, DC, on October 12, 2004.

**Anthony F. Fazio,**

*Director, Office of Rulemaking.*

#### Dispositions of Petitions

*Docket No.:* FAA-2002-13180.

*Petitioner:* Ryan International Airlines, Inc.

*Section of 14 CFR Affected:* 14 CFR 91.203(a) and (b).

*Description of Relief Sought/Disposition:* To permit Ryan International Airlines, Inc., to operate temporarily its U.S.-registered aircraft following the incidental loss or mutilation of that aircraft's airworthiness certificate or registration certificate, or both.

*Grant, 10/1/2004, Exemption No. 6571D.*

*Docket No.:* FAA-2003-14252.

*Petitioner:* Mr. Jack Oliphant.  
*Section of 14 CFR Affected:* 14 CFR 91.109(a).

*Description of Relief Sought/Disposition:* To permit Mr. Jack Oliphant to conduct certain flight instruction in Beechcraft Bonanza aircraft equipped with a functioning throwover control wheel instead of functioning dual controls.

*Grant, 10/1/2004, Exemption No. 7991A.*

*Docket No.:* FAA–2002–13712.  
*Petitioner:* Mr. Kerrick R. Philleo.  
*Section of 14 CFR Affected:* 14 CFR 91.109(a).

*Description of Relief Sought/Disposition:* To permit Mr. Kerrick R. Philleo to conduct certain flight instruction in Beechcraft Bonanza and Beechcraft Debonair airplanes equipped with a functioning throwover control wheel in place of functioning dual controls.

*Grant, 10/1/2004, Exemption No. 7930A.*

*Docket No.:* FAA–2004–19150.  
*Petitioner:* Mr. Walter B. Atkinson.  
*Section of 14 CFR Affected:* 14 CFR 91.109(a).

*Description of Relief Sought/Disposition:* To permit Mr. Walter B. Atkinson to conduct certain flight training in certain Beechcraft Bonanza/Debonair/Baron airplanes that are equipped with a functioning throwover control wheel.

*Grant, 10/1/2004, Exemption No. 8416.*

*Docket No.:* FAA–2004–19178.  
*Petitioner:* Verticare.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Verticare to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/4/2004, Exemption No. 8418.*

*Docket No.:* FAA–2003–14366.  
*Petitioner:* Baby B'Air, Inc.  
*Section of 14 CFR Affected:* 14 CFR 91.107(a)(3)(iii)(B) and (C); 121.311(b)(2)(ii), (iii), and (c)(1); 125.211(b)(2)(ii), (iii), and (c)(1); and 135.128(a)(2)(ii), (iii), and (b)(1).

*Description of Relief Sought/Disposition:* To permit Baby B'Air Inc., to use the Baby B'Air Flight Vest, a vest-type, lap-held child restraint system during takeoff, landing, and movement on surface.

*Denial, 10/1/2004, Exemption No. 8417.*

*Docket No.:* FAA–2004–19145.  
*Petitioner:* Big Sioux Aviation, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Big Sioux Aviation, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 9/29/2004, Exemption No. 8412.*

*Docket No.:* FAA–2001–10509.  
*Petitioner:* Eagle Air Corporation.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Eagle Air Corporation to operate certain aircraft under part 135 without a TSO–C112 (Mode S) installed on those aircraft.

*Grant, 9/21/2004, Exemption No. 8410.*

*Docket No.:* FAA–2002–11575.  
*Petitioner:* Rhinelander Flying Service.

*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Rhinelander Flying Service to operation certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on their Piper PA31–310 N9149Z Serial No. 8112007 aircraft.

*Grant, 9/29/2004, Exemption No. 7793B.*

*Docket No.:* FAA–2004–19238.  
*Petitioner:* Air West, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Air West, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 8414.*

*Docket No.:* FAA–2004–19213.  
*Petitioner:* Helicopter Experts, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Helicopter Experts, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 8415.*

*Docket No.:* FAA–2003–15969.  
*Petitioner:* Northern Air Cargo, Inc.  
*Section of 14 CFR Affected:* 14 CFR 121.345(c)(2).

*Description of Relief Sought/Disposition:* To permit Northern Air Cargo, Inc., to operate certain aircraft under part 121 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 8121B.*

*Docket No.:* FAA–2002–17147.  
*Petitioner:* Helicorp, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Helicorp, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 7947A.*

*Docket No.:* FAA–2003–14251.  
*Petitioner:* Frontline Aviation, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Frontline Aviation, Inc., to operate certain aircraft, listed in the exemption, under part 135 with a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 7987A.*

*Docket No.:* FAA–2001–10414.  
*Petitioner:* Air Cargo Carriers, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Air Cargo Carriers, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 7124C.*

*Docket No.:* FAA–2003–14545.  
*Petitioner:* Temsco Helicopters, Inc.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Temsco Helicopters, Inc., to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 7993A.*

*Docket No.:* FAA–2000–8143.  
*Petitioner:* Peninsula Airways, Inc., d.b.a. PenAir.  
*Section of 14 CFR Affected:* 14 CFR 135.143(c)(2).

*Description of Relief Sought/Disposition:* To permit Peninsula Airways, Inc., d.b.a. PenAir to operate certain aircraft under part 135 without a TSO–C112 (Mode S) transponder installed on those aircraft.

*Grant, 10/1/2004, Exemption No. 7402B.*

*Docket No.:* FAA–2002–12892.  
*Petitioner:* Central Air Flight Training, LLC.

*Section of 14 CFR Affected:* 14 CFR 135.251, 135.255, and 135.353, and appendices I and J to part 121.

*Description of Relief Sought/Disposition:* To permit Central Air

Flight Training, LLC, to conduct local sightseeing flights at the Columbiana County Airport, Liverpool, Ohio, for the Wings-N-Wheels airlift on or about September 19, 2004, with a rain date on or about September 26, 2004, for compensation or hire, complying with certain anti-drug and alcohol misuse prevention requirements of part 135, subject to the conditions and limitations.

*Grant, 9/17/2004, Exemption No. 8411.*

[FR Doc. 04-23256 Filed 10-15-04; 8:45 am]

BILLING CODE 4910-13-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[U.S. DOT Docket Number NHTSA-2004-18665]

#### Reports, Forms, and Record Keeping Requirements

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Request for public comment on proposed collection of information.

**SUMMARY:** Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

This document describes one collection of information for which NHTSA intends to seek OMB approval. **DATES:** Comments must be received on or before December 17, 2004.

**ADDRESSES:** Comments must refer to the docket notice numbers cited at the beginning of this notice and be submitted to Docket Management, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB clearance Number. It is requested, but not required, that 2 copies of the comment be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m.

**FOR FURTHER INFORMATION ON THIS COLLECTION OF INFORMATION:** Dennis Flemons at the National Highway Traffic Safety Administration, National Center for Statistics and Analysis (NPO-103), 202-366-5389, 400 Seventh Street, SW., Room 6213, Washington, DC

20590. Please identify the relevant collection of information by referring to its OMB Control Number.

**SUPPLEMENTARY INFORMATION:** Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must first publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulation (at 5 CFR 1320.8(d), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

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

(iii) How to enhance the quality, utility, and clarity of the information to be collected;

(iv) How 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, e.g. permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks for public comments on the following proposed collections of information:

(1) *Title:* Fatal Accident Reporting System (FARS).

*OMB Control Number:* 2127-0006.

*Affected Public:* State, Local, or Tribal Government.

*Abstract:* Under both the Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966, the National Highway Traffic Safety Administration (NHTSA) has the responsibility to collect accident data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and the property damage associated with motor vehicle accidents. The Fatal Accident Reporting System (FARS) is a major system that acquires national fatality information directly from existing State files and documents. Since FARS is an on-going data acquisition system, reviews are conducted yearly to determine whether the data acquired are responsive to the

total user population needs. The total user population includes Federal and State agencies and the private sector. Annual changes in the forms are minor in terms of operation and method of data acquisition, and do not affect the reporting burden of the respondent (State employees utilize existing State accident files). The changes usually involve clarification adjustments to aid statisticians in conducting more precise analyses and to remove potential ambiguity for the respondents.

*Estimated Annual Burden:* 82,364 hours.

*Number of Respondents:* 52.

*Comments are invited on:* whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: July 20, 2004.

**Joseph Carra,**

*National Center for Statistics and Analysis.*

[FR Doc. 04-23253 Filed 10-15-04; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[Ex Parte No. 333]

#### Sunshine Act Meeting

**TIME AND DATE:** 10 a.m., October 20, 2004.

**PLACE:** The Board's Hearing Room, Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423.

**STATUS:** The Board will meet to discuss among themselves the following agenda items. Although the conference is open for public observation, no public participation is permitted.

**MATTERS TO BE CONSIDERED:** STB Docket No. 42069, *Duke Energy Corporation v. Norfolk Southern Railway Company.*

STB Docket No. 42070, *Duke Energy Corporation v. CSX Transportation, Inc.*

STB Docket No. 42072, *Carolina Power & Light Company v. Norfolk Southern Railway Company.*

STB Finance Docket No. 33388 (Sub-No. 91), *CSX Corporation and CSX Transportation, Inc., Norfolk Southern*

*Corporation and Norfolk Southern Railway Company—Control and Operation Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation [General Oversight].*

STB Finance Docket No. 34421, *HolRail LLC—Construction and Operation Exemption—in Orangeburg and Dorchester Counties, SC.*

*Embraced Case:* STB Finance Docket No. 34421 (Sub-No. 1), *HolRail LLC—Petition for Crossing Authority under 49 U.S.C. 10901(d).*

STB Finance Docket No. 34462, *MVC Transportation, LLC—Acquisition Exemption—P&LE Properties, Inc.*

*Embraced Case:* STB Finance Docket No. 34462 (Sub-No. 1), *MVC Transportation, LLC—Acquisition Exemption—P&LE Properties, Inc.*

STB Finance Docket No. 30186 (Sub-No. 3), *Tongue River Railroad Company, Inc.—Construction and Operation—Western Alignment.*

STB Docket No. AB-68 (Sub-No. 4X), *Lake Superior & Ishpeming Railroad Company—Abandonment Exemption—in Marquette County, MI.*

**FOR FURTHER INFORMATION CONTACT:** A. Dennis Watson, Office of Congressional and Public Services, Telephone: (202) 565-1596 FIRS: 1-800-877-8339.

Dated: October 13, 2004.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-23367 Filed 10-14-04; 11:51 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34559]

#### Illinois Railnet, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company

The Burlington Northern and Santa Fe Railway Company (BNSF) has agreed to grant to Illinois Railnet, Inc. (Illinois): (1) limited local trackage rights for the purpose of servicing customers on BNSF in and around Oregon, IL, and (2) limited overhead trackage rights for the purpose of interchanging traffic between BNSF and Illinois and accommodating light power moving over BNSF's lines between milepost 98.49 near Oregon, and milepost 86.57 near Flag Center, IL, and between milepost 43.36 near Zearing, IL, and milepost 40.73 near Montgomery, IL.

Illinois indicates that it expected to consummate the transaction on October 8, 2004.

The transaction is related to STB Finance Docket No. 34549, *Illinois*

*Railnet, Inc.—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein Illinois seeks to acquire from BNSF and operate two lines of railroad: (1) a portion of BNSF's Oregon Subdivision between milepost 98.75 at Oregon, and milepost 105.78 at Mt. Morris, IL, and (2) a portion of BNSF's La Salle Subdivision between milepost 25.7 at La Salle, IL, and milepost 43.36 at Zearing.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34559, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 12, 2004.

By the Board David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-23259 Filed 10-15-04; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34549]

#### Illinois Railnet, Inc.—Acquisition and Operation Exemption—The Burlington Northern and Santa Fe Railway Company

Illinois Railnet, Inc. (Illinois), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire from The Burlington Northern and Santa Fe Railway Company (BNSF), and operate two lines of railroad: (1) A portion of BNSF's Oregon Subdivision between milepost 98.75 at Oregon, IL, and milepost 105.78 at Mt. Morris, IL,

and (2) a portion of BNSF's La Salle Subdivision between milepost 25.7 at La Salle, IL, and milepost 43.36 at Zearing, IL, a distance of approximately 24.7 miles in Ogle, La Salle, and Bureau Counties, IL.

The transaction is related to STB Finance Docket No. 34559, *Illinois Railnet, Inc.—Trackage Rights Exemption—The Burlington Northern and Santa Fe Railway Company*, wherein BNSF will grant Illinois: (1) Limited local trackage rights for the purpose of servicing customers on BNSF in and around Oregon, and (2) limited overhead trackage rights for the purpose of interchanging traffic between BNSF and Illinois and accommodating light power moving over BNSF's lines between milepost 98.49 near Oregon, and milepost 86.57 near Flag Center, IL, and between milepost 43.36 near Zearing, and milepost 40.73 near Montgomery, IL.

Illinois certifies that its projected annual revenues as a result of this transaction will not result in the creation of a Class I or Class II rail carrier, and that its revenues will not exceed \$5 million.

Illinois indicates that it expected to consummate the transaction on October 8, 2004.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34549, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, one copy of each pleading must be served on John D. Heffner, 1920 N Street, NW., Suite 800, Washington, DC 20036.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 12, 2004.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-23260 Filed 10-15-04; 8:45 am]

**BILLING CODE 4915-01-P**

**DEPARTMENT OF TRANSPORTATION****Surface Transportation Board**

[STB Docket No. AB-812X]

**Stockton Terminal and Eastern Railroad—Abandonment Exemption—in San Joaquin County, CA**

Stockton Terminal and Eastern Railroad (STE) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon approximately 3,600 feet of rail line extending from the west edge of North Duncan Road to the end of the line near North Wall Road, in Linden, San Joaquin County, CA. The line traverses United States Postal Service Zip Code 95236.

STE has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 17, 2004, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail

<sup>1</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>2</sup> Effective October 31, 2004, the filing fee for an OFA will increase to \$1,200. See *Regulations*

use/rail banking requests under 49 CFR 1152.29 must be filed by October 28, 2004. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 8, 2004, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to STE's representative: Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604-1112.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

STE has filed an environmental report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by October 22, 2004. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), STE shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by STE's filing of a notice of consummation by October 18, 2005, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 8, 2004.

By the Board, David M. Konschnik,  
Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-23137 Filed 10-15-04; 8:45 am]

**BILLING CODE 4915-01-P**

*Governing Fees for Services Performed in Connection with Licensing and Related Services—2004 Update*, STB Ex Parte No. 542 (Sub-No. 11) (STB served Oct. 1, 2004).

**DEPARTMENT OF TREASURY****Office of the Secretary****Notice of Call for Redemption: 11¾ Percent Treasury Bonds of 2005-10; Washington, DC**

October 15, 2004.

1. Public notice is hereby given that all outstanding 11¾ percent Treasury Bonds of 2005-10 (CUSIP No. 912810 CM 8) dated February 15, 1980, due February 15, 2010, are hereby called for redemption at par on February 15, 2005, on which date interest on such bonds will cease.

2. Full information regarding the presentation and surrender of such bonds held in coupon and registered form for redemption under this call will be found in Department of the Treasury Circular No. 300 dated March 4, 1973, as amended (31 CFR part 306), and from the Definitives Section of the Bureau of the Public Debt (telephone (304) 480-7936), and on the Bureau of the Public Debt's Web site, <http://www.publicdebt.treas.gov>.

3. Redemption payments for such bonds held in book-entry form, whether on the books of the Federal Reserve Banks or in *Treasury-Direct* accounts, will be made automatically on February 15, 2005.

**Donald V. Hammond,**

*Fiscal Assistant Secretary.*

[FR Doc. 04-22978 Filed 10-15-04; 8:45 am]

**BILLING CODE 4810-40-M**

**DEPARTMENT OF THE TREASURY****Internal Revenue Service****Proposed Collection; Comment Request for the Statistics of Income (SOI) Corporate Survey**

**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 the Statistics of Income (SOI) Corporate Survey.

**DATES:** Written comments should be received on or before December 17, 2004 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Paul H. Finger, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the survey should be directed to Carol Savage at Internal Revenue Service, room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622-3945, or through the Internet at [CAROL.A.SAVAGE@irs.gov](mailto:CAROL.A.SAVAGE@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Statistics of Income (SOI) Corporate Survey.

*OMB Number:* 1545-1351.

*Abstract:* The SOI Corporate Survey is a yearly self-administered mail survey sent to a small select group of the very largest U.S. corporations. The survey is voluntary and requests specific line item tax return data. The survey data are used to supplement the SOI corporate files in order to produce corporate advance tax data estimates. Advance tax data has been requested by the Bureau of Economic Analysis in the Department of the Commerce, the Office of Tax Analysis in the Department of the Treasury, and the Joint Committee on Taxation in the U.S. Congress for tax analysis purposes.

*Current Actions:* There are no changes being made to the survey at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 175.

*Estimated Time per Respondent:* 30 minutes.

*Estimated Total Annual Burden Hours:* 88.

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: October 12, 2004.

**Paul H. Finger,**

*IRS Reports Clearance Officer.*

[FR Doc. 04-23289 Filed 10-15-04; 8:45 am]

**BILLING CODE 4830-01-P**

## DEPARTMENT OF VETERANS AFFAIRS

### Special Medical Advisory Group; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that the Special Medical Advisory Group will meet on November 12, 2004. The meeting will be held in Room 830, at VA Central Office, 810 Vermont Avenue, NW., Washington, DC, from 9 a.m. until 3 p.m. The meeting is open to the public.

The purpose of the Group is to advise the Secretary and Under Secretary for Health on the care and treatment of disabled veterans, and other matters pertinent to the Veterans Health Administration (VHA). The agenda for the meeting will include discussions on electronic health records, research, recruitment and compensation of health care professionals, special programs, care coordination and VA's Care Model.

Any member of the public wishing to attend should contact Juanita Leslie, Office of Administrative Operations (10B2), Veterans Health Administration, Department of Veterans Affairs at (202) 273-5882. No time will be set aside at this meeting for receiving oral presentations from the public. Statements, in written form, may be submitted to Juanita Leslie before the meeting or within 10 days after the meeting.

Dated: October 12, 2004.

By Direction of the Secretary of Veterans Affairs

**E. Philip Riggins,**

*Committee Management Officer.*

[FR Doc. 04-23227 Filed 10-15-04; 8:45 am]

**BILLING CODE 8320-01-M**

## DEPARTMENT OF VETERANS AFFAIRS

### Veterans' Advisory Committee on Rehabilitation (VACOR); Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92-463 (Federal Advisory Committee Act) that a meeting of the Veterans' Advisory Committee on Rehabilitation (VACOR) will be held on November 8-10, 2004, at the Department of Veterans Affairs Washington Regional Office, 1722 I Street NW., Washington, DC, 20421. The meeting sessions will be held in the third floor training room and will begin at 1 p.m. on November 8 and 8:30 a.m. on November 9 and 10. The meeting sessions will end at 4:30 p.m. on November 8 and 9 and at noon on November 10. The meeting is open to the public.

The purpose of the Committee is to provide recommendations to the Secretary of Veterans Affairs on the rehabilitation needs of veterans with disabilities and on the administration of VA's rehabilitation programs.

During the meeting, committee members will be briefed on various VA rehabilitation related initiatives. They will also receive updates on the Vocational Rehabilitation and Employment Task Force report and recommendations, the Spinal Cord Injury Research Project and Research Model, and other disability and rehabilitation issues related to veterans. Additionally, the Committee will receive a briefing from the Advisory Committee on Prosthetics and Special Disabilities. The Committee will also discuss recommendations for the 2004 report.

No time will be allocated at this meeting for oral presentations from the public. Any member of the public wishing to attend the meeting is requested to contact Ms. Carolyn Davis, Designated Federal Officer, at (202) 273-7433. The Committee will accept written comments. Comments can be addressed to Ms. Davis at the Department of Veterans Affairs, Veterans Benefits Administration (28), 810 Vermont Avenue, NW., Washington, DC 20420, or sent electronically to [VRECDAVI@VBA.VA.GOV](mailto:VRECDAVI@VBA.VA.GOV). In

communication with the Committee, writers must identify themselves and state the organizations, associations, or person(s) they represent.

Dated: October 6, 2004.

By Direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 04-23226 Filed 10-15-04; 8:45 am]

**BILLING CODE 8320-01-M**

## **DEPARTMENT OF VETERANS AFFAIRS**

### **Advisory Committee on Minority Veterans; Notice of Availability of Report**

In compliance with section 13 of Public Law 92-463 (Federal Advisory Committee Act) notice is hereby given that the 2004 Annual Report of the Department of Veterans Affairs (VA) Advisory Committee on Minority Veterans has been issued. The report summarizes activities and recommendations of the Committee on matters relative to VA programs and policies affecting minority veterans. It is available for public inspection at two locations:

Mr. Richard Yarnall, Federal Advisory Committee Desk, Library of Congress, Anglo-American Acquisition Division, Government Documents Section, Room LM-B42, 101 Independence Avenue, SE., Washington DC 20540-4172; and  
Department of Veterans Affairs, Center for Minority Veterans, Suite 435, 810 Vermont Avenue, NW., Washington DC 20420.

Dated: September 28, 2004.

By Direction of the Secretary.

**E. Philip Riggin,**

*Committee Management Officer.*

[FR Doc. 04-23198 Filed 10-15-04; 8:45 am]

**BILLING CODE 8320-01-M**

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# Corrections

Federal Register

Vol. 69, No. 200

Monday, October 18, 2004

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This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

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## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 150

[Docket No. FAA-2004-19158; Amendment No. 150-4]

RIN 2120-AI37

#### Airport Noise Compatibility Planning

##### *Correction*

In rule document 04-21298 beginning on page 57622 in the issue of Friday,

September 24, 2004, make the following correction:

#### Appendix A to Part 150—[Corrected]

On page 57626, in the third column, in Appendix A to Part 150, the heading “PART B—NOISE EXPOSURE MAY DEVELOPMENT” should read “PART B—NOISE EXPOSURE MAP DEVELOPMENT”.

[FR Doc. C4-21298 Filed 10-15-04; 8:45 am]

BILLING CODE 1505-01-D

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Federal Register

Vol. 69, No. 200

Monday, October 18, 2004

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## FEDERAL REGISTER PAGES AND DATE, OCTOBER

58799-59118.....	1
59119-59540.....	4
59541-59758.....	5
59759-60076.....	6
60077-60282.....	7
60283-60536.....	8
60537-60794.....	12
60795-60942.....	13
60943-61142.....	14
61143-61300.....	15
61301-61438.....	18

## CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

### 3 CFR

#### Proclamations:

7822.....	59539
7823.....	59759
7824.....	60275
7825.....	60277
7826.....	60279
7827.....	60789
7828.....	60793
7829.....	61135
7830.....	61137
7831.....	61141

#### Administrative Orders:

Presidential	
Determinations:	
No. 2004-53 of	
September 30,	
2004.....	60943
No. 2004-54 of	
September 30,	
2004.....	60945

### 5 CFR

591.....	59761
730.....	61143

#### Proposed Rules:

550.....	60097
----------	-------

### 7 CFR

6.....	59763
60.....	59708
301.....	59119, 60537
611.....	60283
987.....	60947
1206.....	59120
1730.....	60537
1776.....	59764
1783.....	59770

#### Proposed Rules:

304.....	60567
457.....	60320
923.....	59551
1032.....	61323
1280.....	61159
1776.....	59836
1783.....	59836
4280.....	59650

### 8 CFR

214.....	60939
----------	-------

### 9 CFR

52.....	60542
317.....	58799
381.....	58799

### 10 CFR

50.....	58804
73.....	58820

#### Proposed Rules:

110.....	60567
----------	-------

### 11 CFR

104.....	59775
110.....	59775

### 12 CFR

204.....	60543
308.....	61301
335.....	59780
747.....	60077

### 14 CFR

13.....	59490
23.....	58822
25.....	60795, 60797
39.....	58824, 58826, 58828,
	59541, 59788, 59790, 60081,
	60799, 60801, 60802, 60804,
	60807, 60809, 60949, 60952,
	60954, 61144, 61305
71.....	59129, 59303, 60284,
	60285, 60286, 60956
91.....	59752, 60534
97.....	61146
150.....	61438

#### Proposed Rules:

39.....	59147, 59148, 59151,
	59153, 59557, 59559, 59837,
	60098, 60100, 60104, 60106,
	60568, 60971
71.....	58859, 59756
73.....	58860
95.....	61128
97.....	59756

### 15 CFR

730.....	60545
734.....	60545
744.....	59303
746.....	60545
770.....	60545
772.....	60545
774.....	60545

#### Proposed Rules:

732.....	60829
736.....	60829
740.....	60829
744.....	60829
752.....	60829
764.....	60829
772.....	60829
904.....	60569
995.....	61165
996.....	61172

### 16 CFR

#### Proposed Rules:

642.....	58861
698.....	58861

### 17 CFR

1.....	59544
211.....	59130

232.....60287	1915.....59306	23.....60320	7.....59701
240.....60287	1917.....59306	52.....59572, 59839, 60328, 60974	11.....59700
249.....60287	1918.....59306	63.....60837	12.....59700
<b>Proposed Rules:</b>	1926.....59306	271.....60975	13.....59699, 59700, 59701
228.....59094	<b>30 CFR</b>	81.....60328	14.....59700, 59703
229.....59094	914.....58830	163.....60320	15.....59701
232.....59094	<b>Proposed Rules:</b>	177.....60320	17.....59700
240.....59094	906.....58873	178.....60320	19.....59699, 59700
249.....59094	<b>32 CFR</b>	179.....60320	22.....59700
270.....59094	199.....60547	180.....59843, 60320	25.....59700
<b>18 CFR</b>	706.....61311, 61312, 61313, 61314, 61316	261.....59156	33.....59700
<b>Proposed Rules:</b>		271.....59165, 60110, 60975	36.....59699
35.....61180		<b>42 CFR</b>	39.....59702
<b>19 CFR</b>	<b>33 CFR</b>	71.....59144	52.....59700, 59703, 60967
191.....60082	100.....59793, 59795, 59797	403.....60242	53.....59699
<b>Proposed Rules:</b>	117.....59135, 59136, 60555	412.....60242	1852.....60967
133.....59562, 60936	151.....60309	413.....60242	1853.....60967
<b>20 CFR</b>	165.....58833, 58834, 59136, 59799, 59801, 59803, 59806, 59808	418.....60242	1872.....60967
404.....60224	<b>Proposed Rules:</b>	460.....60242	<b>Proposed Rules:</b>
408.....60224	110.....60592	480.....60242	1511.....59843
416.....60224	117.....60595, 60597	482.....60242	1552.....59843
<b>21 CFR</b>	165.....60600	483.....60242	2101.....59166
74.....60307	<b>36 CFR</b>	485.....60242	2102.....59166
350.....61148	242.....60957	489.....60242	2103.....59166
510.....60811	<b>Proposed Rules:</b>	<b>44 CFR</b>	2104.....59166
520.....59131, 60547	1270.....58875	64.....60309	2105.....59166
522.....60308	<b>37 CFR</b>	<b>45 CFR</b>	2109.....59166
556.....60308	2.....59809	2251.....60094	2110.....59166
558.....60547	270.....59648	2252.....60094	2115.....59166
888.....59132	<b>Proposed Rules:</b>	2253.....60094	2116.....59166
<b>Proposed Rules:</b>	252.....61325	<b>Proposed Rules:</b>	2131.....59166
16.....60108	257.....61325	Ch. XXV.....60603	2132.....59166
118.....60108	259.....61325	<b>47 CFR</b>	2137.....59166
361.....59569	<b>38 CFR</b>	0.....59145	2144.....59166
<b>22 CFR</b>	1.....60083	1.....58840, 59145, 61317	2146.....59166
51.....60811	3.....60083	15.....59500	2149.....59166
<b>25 CFR</b>	<b>Proposed Rules:</b>	27.....59500	2152.....59166
170.....60957	5.....59072	54.....59145	<b>49 CFR</b>
<b>26 CFR</b>	<b>39 CFR</b>	64.....60311, 61152	1.....60562
1.....60222, 61309	20.....59545	73.....58840, 59500, 60316, 60560, 60561	171.....58841
602.....61309	111.....59139, 59545	90.....59500, 60561	173.....58841
<b>Proposed Rules:</b>	501.....60090, 61085	101.....59145	571.....58843, 59146, 60316, 60563, 60968, 61154, 61322
1.....58873	<b>40 CFR</b>	<b>Proposed Rules:</b>	1002.....58855
48.....59572	35.....59810	0.....59166	<b>50 CFR</b>
<b>28 CFR</b>	52.....59546, 59812, 60962	2.....59166	17.....59996
<b>Proposed Rules:</b>	63.....58837, 60813	54.....61334	100.....60957
16.....61323	180.....60820	64.....61184	222.....61155
<b>29 CFR</b>	261.....60557	73.....60344, 60346, 60604, 60605	223.....61155
4022.....611501	271.....59139, 60091, 60964	76.....61193	300.....59303
4044.....61150	300.....58839	101.....59166	648.....59550, 59815, 60565
<b>Proposed Rules:</b>	<b>Proposed Rules:</b>	<b>48 CFR</b>	660.....59816, 61157
1910.....59306	9.....60320	Ch. 1.....59698, 59699, 60967	679.....59834, 59835, 60566, 60828, 60970
		1.....59699	<b>Proposed Rules:</b>
		5.....59700	17.....58876, 59844, 59859, 60110, 60134, 60138, 60605, 60706

**REMINDERS**

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

**RULES GOING INTO EFFECT OCTOBER 18, 2004****ENVIRONMENTAL PROTECTION AGENCY**

Air quality implementation plans; approval and promulgation; various States:  
Kentucky; published 9-16-04  
Minnesota; published 8-18-04  
Utah; published 8-19-04

**FEDERAL COMMUNICATIONS COMMISSION**

Common carrier services:  
Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 and Telephone Consumer Protection Act of 1991; implementation—  
Consumer protection from unwanted mobile service commercial messages; published 9-16-04  
Consumer protection from unwanted mobile service commercial messages; correction; published 10-8-04

**HOMELAND SECURITY DEPARTMENT****Coast Guard**

Drawbridge operations:  
Massachusetts; published 10-4-04

**PERSONNEL MANAGEMENT OFFICE**

Pay administration:  
Premium pay limitations; published 9-17-04

**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

Airworthiness directives:  
Pratt & Whitney Canada; published 10-1-04

**COMMENTS DUE NEXT WEEK****AGRICULTURE DEPARTMENT****Agricultural Marketing Service**

Cotton classing, testing and standards:

Classification services to growers; 2004 user fees; Open for comments until further notice; published 5-28-04 [FR 04-12138]

**AGRICULTURE DEPARTMENT****Animal and Plant Health Inspection Service**

Exportation and importation of animals and animal products:  
Tuberculosis in cattle; import requirements; comments due by 10-25-04; published 8-24-04 [FR 04-19313]

Interstate transportation of animals and animal products (quarantine):

Sheep and goats; approved livestock facilities; identification and recordkeeping requirements; comments due by 10-25-04; published 8-26-04 [FR 04-19516]

**AGRICULTURE DEPARTMENT****Commodity Credit Corporation**

Loan and purchase programs:  
Honey; nonrecourse marketing assistance loan and loan deficiency payment regulations; comments due by 10-25-04; published 8-25-04 [FR 04-19401]

**COMMERCE DEPARTMENT****Economic Analysis Bureau**

International services surveys:  
BE-80; benchmark survey of financial services transactions between U.S. financial services providers and unaffiliated foreign persons; comments due by 10-26-04; published 8-27-04 [FR 04-19561]

**COMMERCE DEPARTMENT Industry and Security Bureau**

Export administration regulations:  
Agricultural commodities exported to Cuba; licensing procedures; comments due by 10-28-04; published 9-28-04 [FR 04-21733]

**COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA**

Semi-annual agenda; Open for comments until further notice; published 12-22-03 [FR 03-25121]

**ENERGY DEPARTMENT****Energy Efficiency and Renewable Energy Office**

Consumer products; energy conservation program:  
Energy conservation standards—  
Commercial packaged boilers; test procedures and efficiency standards; Open for comments until further notice; published 10-21-04 [FR 04-17730]

**ENERGY DEPARTMENT Federal Energy Regulatory Commission**

Electric rate and corporate regulation filings:  
Virginia Electric & Power Co. et al.; Open for comments until further notice; published 10-1-03 [FR 03-24818]

**ENVIRONMENTAL PROTECTION AGENCY**

Air pollution controls:  
Testing highway and nonroad engines; test procedures; omnibus technical amendments; comments due by 10-29-04; published 9-10-04 [FR 04-19223]

Air quality implementation plans; approval and promulgation; various States:  
New York; comments due by 10-25-04; published 9-24-04 [FR 04-21497]

Environmental statements; availability, etc.:  
Coastal nonpoint pollution control program—  
Minnesota and Texas; Open for comments until further notice; published 10-16-03 [FR 03-26087]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:  
Flumioxazin; comments due by 10-25-04; published 8-25-04 [FR 04-19034]

Folpet; comments due by 10-25-04; published 8-25-04 [FR 04-19036]

Pyrimethanil; comments due by 10-25-04; published 8-26-04 [FR 04-19525]

Superfund program:  
Landowner liability protection; standards for conducting appropriate inquiries into previous ownership, uses, and environmental conditions of property; comments due by 10-25-04;

published 8-26-04 [FR 04-19429]

National oil and hazardous substances contingency plan—

National priorities list update; comments due by 10-27-04; published 9-27-04 [FR 04-21493]

National priorities list update; comments due by 10-27-04; published 9-27-04 [FR 04-21494]

Water pollution; effluent guidelines for point source categories:

Meat and poultry products processing facilities; Open for comments until further notice; published 9-8-04 [FR 04-12017]

**FEDERAL COMMUNICATIONS COMMISSION**

Emergency Alert System; review; comments due by 10-29-04; published 8-30-04 [FR 04-19743]

Radio services, special:  
Fixed microwave services—  
37.0-38.6 GHz and 38.6-40.0 GHz bands; competitive bidding; comments due by 10-26-04; published 8-27-04 [FR 04-18807]

Radio stations; table of assignments:  
Various states; comments due by 10-25-04; published 9-15-04 [FR 04-20787]

Television broadcasting:  
Local television markets; joint sales agreements; attribution; comments due by 10-27-04; published 9-24-04 [FR 04-21504]

**FEDERAL TRADE COMMISSION**

Fair and Accurate Credit Transactions Act; implementation:  
Prescreen opt-out notices; comments due by 10-28-04; published 10-1-04 [FR 04-22039]

**HEALTH AND HUMAN SERVICES DEPARTMENT****Centers for Medicare & Medicaid Services**

State Children's Health Insurance Program:  
Allotments and grants to States—  
Payment error measurement rate; correction; comments due by 10-27-04; published 9-24-04 [FR 04-21198]

**HEALTH AND HUMAN SERVICES DEPARTMENT****Food and Drug Administration**

Reports and guidance documents; availability, etc.:  
Evaluating safety of antimicrobial new animal drugs with regard to their microbiological effects on bacteria of human health concern; Open for comments until further notice; published 10-27-03 [FR 03-27113]  
Medical devices—  
Dental noble metal alloys and base metal alloys; Class II special controls; Open for comments until further notice; published 8-23-04 [FR 04-19179]

**HOMELAND SECURITY DEPARTMENT****Coast Guard**

Anchorage regulations: Maryland; Open for comments until further notice; published 1-14-04 [FR 04-00749]  
Drawbridge operations: Virginia; comments due by 10-26-04; published 8-27-04 [FR 04-19564]

**INTERIOR DEPARTMENT****Fish and Wildlife Service**

Endangered and threatened species permit applications  
Recovery plans—  
Paiute cutthroat trout; Open for comments until further notice; published 9-10-04 [FR 04-20517]  
Endangered and threatened species:  
Critical habitat designations—  
Colorado butterfly plant; comments due by 10-25-04; published 9-24-04 [FR 04-21480]

**INTERIOR DEPARTMENT****Acquisition regulations:**

Woody biomass utilization; comments due by 10-26-04; published 8-27-04 [FR 04-19592]

**JUSTICE DEPARTMENT****Drug Enforcement Administration**

Controlled substances; manufacturers, distributors, and dispensers; registration: Pseudoephedrine, ephedrine, and phenylpropanolamine; security requirements; comments due by 10-28-

04; published 7-30-04 [FR 04-17356]

**NUCLEAR REGULATORY COMMISSION**

Environmental statements; availability, etc.:  
Fort Wayne State Developmental Center; Open for comments until further notice; published 5-10-04 [FR 04-10516]

**SMALL BUSINESS ADMINISTRATION**

Disaster loan areas: Maine; Open for comments until further notice; published 2-17-04 [FR 04-03374]

**OFFICE OF UNITED STATES TRADE REPRESENTATIVE****Trade Representative, Office of United States**

Generalized System of Preferences:  
2003 Annual Product Review, 2002 Annual Country Practices Review, and previously deferred product decisions; petitions disposition; Open for comments until further notice; published 7-6-04 [FR 04-15361]

**TRANSPORTATION DEPARTMENT****Federal Aviation Administration**

Airworthiness directives:  
Boeing; comments due by 10-28-04; published 9-13-04 [FR 04-20596]  
Dassault; comments due by 10-28-04; published 9-28-04 [FR 04-21643]  
Empresa Brasileira de Aeronautica S.A. (EMBRAER); comments due by 10-28-04; published 9-28-04 [FR 04-21644]  
Saab; comments due by 10-25-04; published 9-28-04 [FR 04-21645]

Class D and E airspace; comments due by 10-26-04; published 9-22-04 [FR 04-21226]

Class E airspace; comments due by 10-25-04; published 9-10-04 [FR 04-20486]

**TRANSPORTATION DEPARTMENT****Federal Highway Administration**

Engineering and traffic operations:  
Uniform Traffic Control Devices Manual—  
Traffic sign retroreflectivity;

maintenance methods; comments due by 10-28-04; published 7-30-04 [FR 04-17409]

**TREASURY DEPARTMENT****Internal Revenue Service**

Excise taxes:  
Taxable fuel entry; comments due by 10-28-04; published 7-30-04 [FR 04-17450]  
Income taxes:  
Charitable contributions; allocation and apportionment of deductions; comments due by 10-26-04; published 7-28-04 [FR 04-17080]

**TREASURY DEPARTMENT**

Government Securities Act regulations:  
Government securities; custodial holdings; comments due by 10-25-04; published 9-23-04 [FR 04-21334]

**VETERANS AFFAIRS DEPARTMENT**

Auditing requirements and contracting provisions:  
Audits of States and local governments, etc.; grants and agreements with higher education institutions, hospitals, and other non-profit organizations; comments due by 10-25-04; published 8-25-04 [FR 04-18748]

**LIST OF PUBLIC LAWS**

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202-741-6043. This list is also available online at [http://www.archives.gov/federal\\_register/public\\_laws/public\\_laws.html](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.

**H.R. 1308/P.L. 108-311**

Working Families Tax Relief Act of 2004 (Oct. 4, 2004; 118 Stat. 1166)

**H.R. 265/P.L. 108-312**

Mount Rainier National Park Boundary Adjustment Act of 2004 (Oct. 5, 2004; 118 Stat. 1194)

**H.R. 1521/P.L. 108-313**

Johnstown Flood National Memorial Boundary Adjustment Act of 2004 (Oct. 5, 2004; 118 Stat. 1196)

**H.R. 1616/P.L. 108-314**

Martin Luther King, Junior, National Historic Site Land Exchange Act (Oct. 5, 2004; 118 Stat. 1198)

**H.R. 1648/P.L. 108-315**

Carpenteria and Montecito Water Distribution Systems Conveyance Act of 2004 (Oct. 5, 2004; 118 Stat. 1200)

**H.R. 1732/P.L. 108-316**

To amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Williamson County, Texas, Water Recycling and Reuse Project, and for other purposes. (Oct. 5, 2004; 118 Stat. 1202)

**H.R. 2696/P.L. 108-317**

Southwest Forest Health and Wildfire Prevention Act of 2004 (Oct. 5, 2004; 118 Stat. 1204)

**H.R. 3209/P.L. 108-318**

To amend the Reclamation Project Authorization Act of 1972 to clarify the acreage for which the North Loup division is authorized to provide irrigation water under the Missouri River Basin project. (Oct. 5, 2004; 118 Stat. 1211)

**H.R. 3249/P.L. 108-319**

To extend the term of the Forest Counties Payments Committee. (Oct. 5, 2004; 118 Stat. 1212)

**H.R. 3389/P.L. 108-320**

To amend the Stevenson-Wylder Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations. (Oct. 5, 2004; 118 Stat. 1213)

**H.R. 3768/P.L. 108-321**

Timucuan Ecological and Historic Preserve Boundary Revision Act of 2004 (Oct. 5, 2004; 118 Stat. 1214)

**S.J. Res. 41/P.L. 108-322**

Commemorating the opening of the National Museum of the

American Indian. (Oct. 5, 2004; 118 Stat. 1216)

**H.R. 4654/P.L. 108-323**

To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007,

and for other purposes. (Oct. 6, 2004; 118 Stat. 1218)

Last List October 6, 2004

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**CFR CHECKLIST**

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

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Title	Stock Number	Price	Revision Date
<b>1, 2 (2 Reserved)</b>	(869-052-00001-9)	9.00	4Jan. 1, 2004
<b>3 (2003 Compilation and Parts 100 and 101)</b>	(869-052-00002-7)	35.00	1 Jan. 1, 2004
<b>4</b>	(869-052-00003-5)	10.00	Jan. 1, 2004
<b>5 Parts:</b>			
1-699	(869-052-00004-3)	60.00	Jan. 1, 2004
700-1199	(869-052-00005-1)	50.00	Jan. 1, 2004
1200-End	(869-052-00006-0)	61.00	Jan. 1, 2004
<b>6</b>	(869-052-00007-8)	10.50	Jan. 1, 2004
<b>7 Parts:</b>			
1-26	(869-052-00008-6)	44.00	Jan. 1, 2004
27-52	(869-052-00009-4)	49.00	Jan. 1, 2004
53-209	(869-052-00010-8)	37.00	Jan. 1, 2004
210-299	(869-052-00011-6)	62.00	Jan. 1, 2004
300-399	(869-052-00012-4)	46.00	Jan. 1, 2004
400-699	(869-052-00013-2)	42.00	Jan. 1, 2004
700-899	(869-052-00014-1)	43.00	Jan. 1, 2004
900-999	(869-052-00015-9)	60.00	Jan. 1, 2004
1000-1199	(869-052-00016-7)	22.00	Jan. 1, 2004
1200-1599	(869-052-00017-5)	61.00	Jan. 1, 2004
1600-1899	(869-052-00018-3)	64.00	Jan. 1, 2004
1900-1939	(869-052-00019-1)	31.00	Jan. 1, 2004
1940-1949	(869-052-00020-5)	50.00	Jan. 1, 2004
1950-1999	(869-052-00021-3)	46.00	Jan. 1, 2004
2000-End	(869-052-00022-1)	50.00	Jan. 1, 2004
<b>8</b>	(869-052-00023-0)	63.00	Jan. 1, 2004
<b>9 Parts:</b>			
1-199	(869-052-00024-8)	61.00	Jan. 1, 2004
200-End	(869-052-00025-6)	58.00	Jan. 1, 2004
<b>10 Parts:</b>			
1-50	(869-052-00026-4)	61.00	Jan. 1, 2004
51-199	(869-052-00027-2)	58.00	Jan. 1, 2004
200-499	(869-052-00028-1)	46.00	Jan. 1, 2004
500-End	(869-052-00029-9)	62.00	Jan. 1, 2004
<b>11</b>	(869-052-00030-2)	41.00	Feb. 3, 2004
<b>12 Parts:</b>			
1-199	(869-052-00031-1)	34.00	Jan. 1, 2004
200-219	(869-052-00032-9)	37.00	Jan. 1, 2004
220-299	(869-052-00033-7)	61.00	Jan. 1, 2004
300-499	(869-052-00034-5)	47.00	Jan. 1, 2004
500-599	(869-052-00035-3)	39.00	Jan. 1, 2004
600-899	(869-052-00036-1)	56.00	Jan. 1, 2004
900-End	(869-052-00037-0)	50.00	Jan. 1, 2004

Title	Stock Number	Price	Revision Date
<b>13</b>	(869-052-00038-8)	55.00	Jan. 1, 2004
<b>14 Parts:</b>			
1-59	(869-052-00039-6)	63.00	Jan. 1, 2004
60-139	(869-052-00040-0)	61.00	Jan. 1, 2004
140-199	(869-052-00041-8)	30.00	Jan. 1, 2004
200-1199	(869-052-00042-6)	50.00	Jan. 1, 2004
1200-End	(869-052-00043-4)	45.00	Jan. 1, 2004
<b>15 Parts:</b>			
0-299	(869-052-00044-2)	40.00	Jan. 1, 2004
300-799	(869-052-00045-1)	60.00	Jan. 1, 2004
800-End	(869-052-00046-9)	42.00	Jan. 1, 2004
<b>16 Parts:</b>			
0-999	(869-052-00047-7)	50.00	Jan. 1, 2004
1000-End	(869-052-00048-5)	60.00	Jan. 1, 2004
<b>17 Parts:</b>			
1-199	(869-052-00050-7)	50.00	Apr. 1, 2004
200-239	(869-052-00051-5)	58.00	Apr. 1, 2004
240-End	(869-052-00052-3)	62.00	Apr. 1, 2004
<b>18 Parts:</b>			
1-399	(869-052-00053-1)	62.00	Apr. 1, 2004
400-End	(869-052-00054-0)	26.00	Apr. 1, 2004
<b>19 Parts:</b>			
1-140	(869-052-00055-8)	61.00	Apr. 1, 2004
141-199	(869-052-00056-6)	58.00	Apr. 1, 2004
200-End	(869-052-00057-4)	31.00	Apr. 1, 2004
<b>20 Parts:</b>			
1-399	(869-052-00058-2)	50.00	Apr. 1, 2004
400-499	(869-052-00059-1)	64.00	Apr. 1, 2004
500-End	(869-052-00060-9)	63.00	Apr. 1, 2004
<b>21 Parts:</b>			
1-99	(869-052-00061-2)	42.00	Apr. 1, 2004
100-169	(869-052-00062-1)	49.00	Apr. 1, 2004
170-199	(869-052-00063-9)	50.00	Apr. 1, 2004
200-299	(869-052-00064-7)	17.00	Apr. 1, 2004
300-499	(869-052-00065-5)	31.00	Apr. 1, 2004
500-599	(869-052-00066-3)	47.00	Apr. 1, 2004
600-799	(869-052-00067-1)	15.00	Apr. 1, 2004
800-1299	(869-052-00068-0)	58.00	Apr. 1, 2004
1300-End	(869-052-00069-8)	24.00	Apr. 1, 2004
<b>22 Parts:</b>			
1-299	(869-052-00070-1)	63.00	Apr. 1, 2004
300-End	(869-052-00071-0)	45.00	Apr. 1, 2004
<b>23</b>	(869-052-00072-8)	45.00	Apr. 1, 2004
<b>24 Parts:</b>			
0-199	(869-052-00073-6)	60.00	Apr. 1, 2004
200-499	(869-052-00074-4)	50.00	Apr. 1, 2004
500-699	(869-052-00075-2)	30.00	Apr. 1, 2004
700-1699	(869-052-00076-1)	61.00	Apr. 1, 2004
1700-End	(869-052-00077-9)	30.00	Apr. 1, 2004
<b>25</b>	(869-052-00078-7)	63.00	Apr. 1, 2004
<b>26 Parts:</b>			
§§ 1.0-1-1.60	(869-052-00079-5)	49.00	Apr. 1, 2004
§§ 1.61-1.169	(869-052-00080-9)	63.00	Apr. 1, 2004
§§ 1.170-1.300	(869-052-00081-7)	60.00	Apr. 1, 2004
§§ 1.301-1.400	(869-052-00082-5)	46.00	Apr. 1, 2004
§§ 1.401-1.440	(869-052-00083-3)	62.00	Apr. 1, 2004
§§ 1.441-1.500	(869-052-00084-1)	57.00	Apr. 1, 2004
§§ 1.501-1.640	(869-052-00085-0)	49.00	Apr. 1, 2004
§§ 1.641-1.850	(869-052-00086-8)	60.00	Apr. 1, 2004
§§ 1.851-1.907	(869-052-00087-6)	61.00	Apr. 1, 2004
§§ 1.908-1.1000	(869-052-00088-4)	60.00	Apr. 1, 2004
§§ 1.1001-1.1400	(869-052-00089-2)	61.00	Apr. 1, 2004
§§ 1.1401-1.1503-2A	(869-052-00090-6)	55.00	Apr. 1, 2004
§§ 1.1551-End	(869-052-00091-4)	55.00	Apr. 1, 2004
2-29	(869-052-00092-2)	60.00	Apr. 1, 2004
30-39	(869-052-00093-1)	41.00	Apr. 1, 2004
40-49	(869-052-00094-9)	28.00	Apr. 1, 2004
50-299	(869-052-00095-7)	41.00	Apr. 1, 2004
300-499	(869-052-00096-5)	61.00	Apr. 1, 2004

Title	Stock Number	Price	Revision Date	Title	Stock Number	Price	Revision Date
500-599	(869-052-00097-3)	12.00	<sup>5</sup> Apr. 1, 2004	72-80	(869-052-00151-1)	62.00	July 1, 2004
600-End	(869-052-00098-1)	17.00	Apr. 1, 2004	81-85	(869-052-00152-0)	60.00	July 1, 2004
<b>27 Parts:</b>				86 (86.1-86.599-99)	(869-052-00153-8)	58.00	July 1, 2004
1-199	(869-052-00099-0)	64.00	Apr. 1, 2004	86 (86.600-1-End)	(869-052-00154-6)	50.00	July 1, 2004
200-End	(869-052-00100-7)	21.00	Apr. 1, 2004	87-99	(869-052-00155-4)	60.00	July 1, 2004
<b>28 Parts:</b>				100-135	(869-050-00154-3)	43.00	July 1, 2003
0-42	(869-052-00101-5)	61.00	July 1, 2004	136-149	(869-150-00155-1)	61.00	July 1, 2003
43-End	(869-052-00102-3)	60.00	July 1, 2004	150-189	(869-050-00156-0)	49.00	July 1, 2003
<b>29 Parts:</b>				190-259	(869-050-00157-8)	39.00	July 1, 2003
0-99	(869-052-00103-1)	50.00	July 1, 2004	260-265	(869-052-00160-1)	50.00	July 1, 2004
100-499	(869-052-00104-0)	23.00	July 1, 2004	266-299	(869-052-00161-9)	50.00	July 1, 2004
500-899	(869-052-00105-8)	61.00	July 1, 2004	300-399	(869-052-00162-7)	42.00	July 1, 2004
900-1899	(869-052-00106-6)	36.00	July 1, 2004	400-424	(869-052-00163-5)	56.00	<sup>8</sup> July 1, 2004
1900-1910 (§§ 1900 to 1910.999)	(869-052-00107-4)	61.00	July 1, 2004	425-699	(869-052-00164-3)	61.00	July 1, 2004
1910 (§§ 1910.1000 to end)	(869-052-00108-2)	46.00	<sup>8</sup> July 1, 2004	700-789	(869-052-00165-1)	61.00	July 1, 2004
1911-1925	(869-052-00109-1)	30.00	July 1, 2004	790-End	(869-050-00164-1)	58.00	July 1, 2003
1926	(869-052-00110-4)	50.00	July 1, 2004	<b>41 Chapters:</b>			
1927-End	(869-052-00111-2)	62.00	July 1, 2004	1, 1-1 to 1-10		13.00	<sup>3</sup> July 1, 1984
<b>30 Parts:</b>				1, 1-11 to Appendix, 2 (2 Reserved)		13.00	<sup>3</sup> July 1, 1984
1-199	(869-052-00112-1)	57.00	July 1, 2004	3-6		14.00	<sup>3</sup> July 1, 1984
200-699	(869-052-00113-9)	50.00	July 1, 2004	7		6.00	<sup>3</sup> July 1, 1984
700-End	(869-052-00114-7)	58.00	July 1, 2004	8		4.50	<sup>3</sup> July 1, 1984
<b>31 Parts:</b>				9		13.00	<sup>3</sup> July 1, 1984
0-199	(869-052-00115-5)	41.00	July 1, 2004	10-17		9.50	<sup>3</sup> July 1, 1984
200-End	(869-052-00116-3)	65.00	July 1, 2004	18, Vol. I, Parts 1-5		13.00	<sup>3</sup> July 1, 1984
<b>32 Parts:</b>				18, Vol. II, Parts 6-19		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. I		15.00	<sup>2</sup> July 1, 1984	18, Vol. III, Parts 20-52		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. II		19.00	<sup>2</sup> July 1, 1984	19-100		13.00	<sup>3</sup> July 1, 1984
1-39, Vol. III		18.00	<sup>2</sup> July 1, 1984	1-100	(869-052-00167-8)	24.00	July 1, 2004
1-190	(869-052-00117-1)	61.00	July 1, 2004	101	(869-052-00168-6)	21.00	July 1, 2004
191-399	(869-052-00118-0)	63.00	July 1, 2004	102-200	(869-050-00167-5)	50.00	July 1, 2003
400-629	(869-052-00119-8)	50.00	<sup>8</sup> July 1, 2004	201-End	(869-052-00170-8)	24.00	July 1, 2004
630-699	(869-052-00120-1)	37.00	<sup>7</sup> July 1, 2004	<b>42 Parts:</b>			
700-799	(869-052-00121-0)	46.00	July 1, 2004	1-399	(869-050-00169-1)	60.00	Oct. 1, 2003
800-End	(869-052-00122-8)	47.00	July 1, 2004	400-429	(869-050-00170-5)	62.00	Oct. 1, 2003
<b>33 Parts:</b>				430-End	(869-050-00171-3)	64.00	Oct. 1, 2003
1-124	(869-050-00122-5)	55.00	July 1, 2003	<b>43 Parts:</b>			
125-199	(869-050-00123-3)	61.00	July 1, 2003	1-999	(869-050-00172-1)	55.00	Oct. 1, 2003
200-End	(869-052-00125-2)	57.00	July 1, 2004	1000-end	(869-050-00173-0)	62.00	Oct. 1, 2003
<b>34 Parts:</b>				<b>44</b>	(869-050-00174-8)	50.00	Oct. 1, 2003
1-299	(869-050-00125-0)	49.00	July 1, 2003	<b>45 Parts:</b>			
300-399	(869-052-00127-9)	40.00	July 1, 2004	1-199	(869-050-00175-6)	60.00	Oct. 1, 2003
400-End	(869-052-00128-7)	61.00	July 1, 2004	200-499	(869-050-00176-4)	33.00	Oct. 1, 2003
<b>35</b>	(869-052-00129-5)	10.00	<sup>6</sup> July 1, 2004	500-1199	(869-050-00177-2)	50.00	Oct. 1, 2003
<b>36 Parts:</b>				1200-End	(869-050-00178-1)	60.00	Oct. 1, 2003
1-199	(869-052-00130-9)	37.00	July 1, 2004	<b>46 Parts:</b>			
200-299	(869-052-00131-7)	37.00	July 1, 2004	1-40	(869-050-00179-9)	46.00	Oct. 1, 2003
300-End	(869-050-00131-4)	61.00	July 1, 2003	41-69	(869-050-00180-2)	39.00	Oct. 1, 2003
<b>37</b>	(869-050-00132-2)	50.00	July 1, 2003	70-89	(869-050-00181-1)	14.00	Oct. 1, 2003
<b>38 Parts:</b>				90-139	(869-050-00182-9)	44.00	Oct. 1, 2003
0-17	(869-052-00134-1)	60.00	July 1, 2004	140-155	(869-050-00183-7)	25.00	Oct. 1, 2003
18-End	(869-052-00135-0)	62.00	July 1, 2004	156-165	(869-050-00184-5)	34.00	Oct. 1, 2003
<b>39</b>	(869-052-00136-8)	42.00	July 1, 2004	166-199	(869-050-00185-3)	46.00	Oct. 1, 2003
<b>40 Parts:</b>				200-499	(869-050-00186-1)	39.00	Oct. 1, 2003
1-49	(869-052-00137-6)	60.00	July 1, 2004	500-End	(869-050-00187-0)	25.00	Oct. 1, 2003
50-51	(869-052-00138-4)	45.00	July 1, 2004	<b>47 Parts:</b>			
52 (52.01-52.1018)	(869-050-00138-1)	58.00	July 1, 2003	0-19	(869-050-00188-8)	61.00	Oct. 1, 2003
52 (52.1019-End)	(869-050-00139-0)	61.00	July 1, 2003	20-39	(869-050-00189-6)	45.00	Oct. 1, 2003
53-59	(869-052-00141-4)	31.00	July 1, 2004	40-69	(869-050-00190-0)	39.00	Oct. 1, 2003
*60 (60.1-End)	(869-052-00142-2)	58.00	July 1, 2004	70-79	(869-050-00191-8)	61.00	Oct. 1, 2003
60 (Apps)	(869-050-00142-0)	51.00	<sup>8</sup> July 1, 2003	80-End	(869-050-00192-6)	61.00	Oct. 1, 2003
61-62	(869-050-00143-8)	43.00	July 1, 2003	<b>48 Chapters:</b>			
63 (63.1-63.599)	(869-050-00144-6)	58.00	July 1, 2003	1 (Parts 1-51)	(869-050-00193-4)	63.00	Oct. 1, 2003
63 (63.600-63.1199)	(869-052-00146-5)	50.00	July 1, 2004	1 (Parts 52-99)	(869-050-00194-2)	50.00	Oct. 1, 2003
63 (63.1200-63.1439)	(869-050-00146-2)	50.00	July 1, 2003	2 (Parts 201-299)	(869-050-00195-1)	55.00	Oct. 1, 2003
63 (63.1440-End)	(869-050-00147-1)	64.00	July 1, 2003	3-6	(869-050-00196-9)	33.00	Oct. 1, 2003
64-71	(869-052-00150-3)	29.00	July 1, 2004	7-14	(869-050-00197-7)	61.00	Oct. 1, 2003
				15-28	(869-050-00198-5)	57.00	Oct. 1, 2003
				29-End	(869-050-00199-3)	38.00	<sup>9</sup> Oct. 1, 2003
				<b>49 Parts:</b>			
				1-99	(869-050-00200-1)	60.00	Oct. 1, 2003

Title	Stock Number	Price	Revision Date
100-185 .....	(869-050-00201-9) .....	63.00	Oct. 1, 2003
186-199 .....	(869-050-00202-7) .....	20.00	Oct. 1, 2003
200-399 .....	(869-050-00203-5) .....	64.00	Oct. 1, 2003
400-599 .....	(869-050-00204-3) .....	63.00	Oct. 1, 2003
600-999 .....	(869-050-00205-1) .....	22.00	Oct. 1, 2003
1000-1199 .....	(869-050-00206-0) .....	26.00	Oct. 1, 2003
1200-End .....	(869-048-00207-8) .....	33.00	Oct. 1, 2003
<b>50 Parts:</b>			
1-16 .....	(869-050-00208-6) .....	11.00	Oct. 1, 2003
17.1-17.95 .....	(869-050-00209-4) .....	62.00	Oct. 1, 2003
17.96-17.99(h) .....	(869-050-00210-8) .....	61.00	Oct. 1, 2003
17.99(i)-end .....	(869-050-00211-6) .....	50.00	Oct. 1, 2003
18-199 .....	(869-050-00212-4) .....	42.00	Oct. 1, 2003
200-599 .....	(869-050-00213-2) .....	44.00	Oct. 1, 2003
600-End .....	(869-050-00214-1) .....	61.00	Oct. 1, 2003
CFR Index and Findings			
Aids .....	(869-052-00049-3) .....	62.00	Jan. 1, 2004
Complete 2004 CFR set .....	1,342.00		2004
Microfiche CFR Edition:			
Subscription (mailed as issued) .....	325.00		2004
Individual copies .....	2.00		2004
Complete set (one-time mailing) .....	298.00		2003
Complete set (one-time mailing) .....	298.00		2002

<sup>1</sup> Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

<sup>2</sup> The July 1, 1985 edition of 32 CFR Parts 1-189 contains a note only for Parts 1-39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1-39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

<sup>3</sup> The July 1, 1985 edition of 41 CFR Chapters 1-100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

<sup>4</sup> No amendments to this volume were promulgated during the period January 1, 2003, through January 1, 2004. The CFR volume issued as of January 1, 2002 should be retained.

<sup>5</sup> No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2004. The CFR volume issued as of April 1, 2000 should be retained.

<sup>6</sup> No amendments to this volume were promulgated during the period July 1, 2000, through July 1, 2004. The CFR volume issued as of July 1, 2000 should be retained.

<sup>7</sup> No amendments to this volume were promulgated during the period July 1, 2002, through July 1, 2004. The CFR volume issued as of July 1, 2002 should be retained.

<sup>8</sup> No amendments to this volume were promulgated during the period July 1, 2003, through July 1, 2004. The CFR volume issued as of July 1, 2003 should be retained.

<sup>9</sup> No amendments to this volume were promulgated during the period October 1, 2001, through October 1, 2003. The CFR volume issued as of October 1, 2001 should be retained.